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

Reporting Period – Third Quarter 2019

Chief (Ret.) Robert S. Warshaw
Independent Monitor

February 7, 2020

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Section 1: Introduction

This is the twenty-second 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 third quarter of 2019, July 1-September 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 26 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 September 9, 2019, MCSO asserted Full and Effective Compliance with two additional Paragraphs, Paragraphs 31 and 84. On October 2, 2019, I agreed with MCSO's assertions, granting MCSO in Full and Effective Compliance with 28 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, among other changes. During our October site visit, we held our first community meeting, at the Maryvale Community Center, in Phoenix. We were pleased with the meeting turnout, which we attributed in part to the efforts of Community Advisory Board (CAB) members to invite Plaintiffs' class members to participate. Per the June 3, 2019 Order, the Sheriff is required to inform the Monitor at least 30 days prior to a community meeting if he is unable to attend. We did not receive any such notification from the Sheriff or his office in advance of the meeting. The Sheriff attended the meeting, but he left early, disappointing the community members who attended and wished to hear from him directly about the progress

made by MCSO with the *Melendres* reforms. The Sheriff's failure to participate in the community meeting was a topic of the November 26, 2019 status conference.

At the close of the reporting period, on September 30, 2019, MCSO filed its Fourth Annual Traffic Stop Report (TSAR). This was the first TSAR conducted by MCSO's new contract vendor, CNA. Similar to the reports provided by MCSO's previous vendor, ASU, CNA's report identified disparities in the treatment of Latinos during traffic stops when compared to White drivers. While these findings were clearly articulated, the report lacked conclusions regarding what these findings meant – specifically as it pertains to systemic issues – which MCSO, the Parties and we agreed is to be the focus of these annual reports. We advised the Office that absent some official statement, which states MCSO's conclusions regarding the TSAR, we would deem the report non-compliant with relevant Paragraphs. On October 28, MCSO filed a statement with the Court, which indicated that the findings in the Fourth TSAR are warning signs of potential racial bias in MCSO's patrol function, and that they may be indicative of a systemic problem. The Sheriff indicated that this has been and continues to be a major concern for the Office. The Fourth TSAR was one of the main topics of the November 26, 2019 status conference.

If evidence of systemic problems is found in the TSAR, MCSO is obligated to address them. Since 2017, the focal point of the Office's efforts in this regard has been its Constitutional Policing Plan (CPP). The Parties stipulated to the contents of the plan; and on October 12, 2017, the Court approved the plan. MCSO made limited progress in implementing the Plan. After several delays, in February 2019, MCSO filed a motion with the Court seeking to modify its Plan; yet the Court denied that motion in June 2019. MCSO's progress continues to be slow; and during our October site visit, we met with the Parties to discuss potential strategies to speed up the Plan's implementation. While the dialogue was candid and productive, to date, there has been little follow-through. This topic was also discussed during the above-referenced status conference.

Prior to the end of the last reporting period, we saw ongoing improvement in the overall quality of administrative misconduct investigations conducted by MCSO. For this and the past several reporting periods, those cases investigated by PSB have consistently remained over 92% compliant. However, compliance by District personnel dropped from 77% to 58% during the last reporting period, and to 56% for this reporting period. Overall, District and Division cases investigated outside of PSB were 55% compliant during this reporting period. Compliance for all administrative investigations conducted by MCSO dropped from 84% to 73% during the last reporting period and an additional 2% this reporting period. It continues to be the District investigations that have had the largest adverse impact on overall compliance. Given the amount of training that has been provided, along with the several years of experience MCSO supervisors have working with the requirements for properly completing and reviewing investigations, the substantive and administrative errors we are finding simply should not be occurring. While we did note six instances this reporting period where MCSO executive staff addressed deficient investigations by meeting to discuss them with District Commanders, additional actions may be necessary if compliance does not improve.

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 thirteenth 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** remained the same as the last reporting period, at 96%. MCSO's Phase 1 compliance rate with the **Second Order** also remained the same as the last reporting period, at 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** increased by one percentage point, from 76% to 77%. 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** decreased by one percentage point, from 91% to 90%.

Twenty-Second Quarterly Status Report **First Order Summary**		
Compliance Status	**Phase 1**	**Phase 2**
Not Applicable	20	6
Deferred	0	2
Not in Compliance	3	20
In Compliance	77	72[2]
Percent in Compliance	**96%**	**77%**

Twenty-Second Quarterly Status Report **Second Order Summary**		
Compliance Status	**Phase 1**	**Phase 2**
Not Applicable	20	10
Deferred	0	2
Not in Compliance	0	9
In Compliance	103	102
Percent in Compliance	**100%**	**90%**

[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	**Report 22**								
Phase 1	96%	96%								
Phase 2	76%	77%								

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	**Report 22**								
Phase 1	100%	100%								
Phase 2	91%	90%								

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
31	9/9/19	Concurred on 10/2/19
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
84	9/9/19	Concurred on 10/2/19
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 has not been updated to state that the community meeting responsibilities have been returned to 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 audits the work products of the Office, particularly in the areas that directly affect compliance with the requirements of the Orders. In many instances, BIO will review the same material we request in our samples, and BIO frequently notes – and addresses – the same deficiencies we identify in our reviews.

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 22nd Quarterly Compliance Report on December 9, 2019. The report covers the steps MCSO has taken to implement the Court's Orders during the third quarter of 2019. The report also includes any plans to correct difficulties encountered during the quarter and responses to concerns raised in our 21st quarterly status report, filed on November 12, 2019.

In its latest quarterly report, MCSO asserted Full and Effective Compliance (FAEC), as defined in the Court Order, with Paragraphs 45, 46, 61, and 89. The first two Paragraphs involve incorporating adult-learning methods into training and providing all training curricula for review. Paragraph 61 involves issuing functional video and audio recording equipment to all Patrol deputies and sergeants who make traffic stops, and its maintenance. Paragraph 89

involves the notice given by a deputy to a supervisor before the initiation of any immigration status investigation or an arrest following any immigration-related investigation.

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 16, 2019 (September 15 fell on a Sunday), MCSO filed with the Court its 2018 Annual Compliance Report covering the period of July 1, 2018-June 30, 2019.

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 October 25, 2019.
- 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 October 25, 2019.

Phase 2: Not in compliance

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. During our July site visit, MCSO presented us with a draft audit that 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 requested that MCSO inspect appropriate sample sizes for all employees and volunteers.

In October, MCSO submitted a memorandum affirming that the CP-8 training video had not been completed in the first six months of 2019, and that the agency had reverted to discussions between supervisors and deputies on CP-8. Pursuant to our request for an audit of a larger sample size of Blue Team notes documenting the CP-8 discussions, MCSO provided the Monitoring Team with rosters of employees and volunteers. From these, we selected a sample of 62 sworn deputies, 29 Reserve deputies, 66 Detention Officers, 54 Posse volunteers, and 63 civilian personnel. To determine compliance for the first six months of 2019, we reviewed the 2019 Semi-Annual Bias-Free Policing Inspection Report (BI2019-0079), which utilized our selections for the inspection. According to the inspection report, the compliance for sworn deputies was 98.36%, Reserve deputies was 78.57%, Detention Officers was 98.48%, civilian personnel was 96.77%, and Posse volunteers was 0%. The overall compliance rate for the first six months of 2019 was 83.75%.

In October, we approved a video by the Sheriff that introduces the CP-8 training to employees. The video will be placed in the HUB. Employees will be required to view the video, review the policy, answer test questions, and attest to completion of the training in the HUB. In November, MCSO published a Briefing Board that directed employees to complete the mandatory training within 30 days of publication. The video and the CP-8 review will fulfill the training requirements for the second half of 2019, if completed. For the first six months of 2019, we find that MCSO was not in compliance with the requirements of this Paragraph.

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 audits. We observed the processes BIO uses to conduct CAD and email audits, to ensure that we thoroughly understand the mechanics involved in conducting

these audits. For CAD and email audits, we receive copies of the audits completed by BIO, the details of any violations found, and copies of the memoranda of concern or BIO Action Forms that are completed.

During our October site visit, MCSO proposed changing the Email and CAD/Alpha Paging Inspections to a quarterly schedule. We agreed with the quarterly inspections. For Email inspections, MCSO will inspect 50 employees per quarter, and for CAD/Alpha Paging, MCSO will inspect 15 days per quarter. The new methodology will become effective in the fourth quarter of 2019, for the months of October, November, and December, and the inspection will be published no later than February 15, 2020. We will continue to hold MCSO in compliance based on MCSO's previous record of compliance, and will resume compliance assessments with Report 24.

During this reporting period, MCSO submitted three CAD and Alpha Paging inspection reports as proof of compliance. BIO inspected 18,641 CAD/Alpha Paging messages for the July inspection, and reported a 100% compliance rate (BI2019-0103). BIO inspected 20,639 CAD/Alpha Paging messages for the August inspection, and reported a 100% compliance rate (BI2019-0118). BIO inspected 20,633 CAD/Alpha paging messages for the September inspection, and reported a 100% compliance rate (BI2019-0134).

During this reporting period, MCSO submitted three email inspection reports as proof of compliance. 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 July, the BIO inspection report (BI2019-0102) states that there was a total of 20,656 emails, of which BIO reviewed 11,982. The inspection found that 100% of the inspected emails were in compliance. For August, there were 25,818 emails generated, of which BIO inspected 16,036 (Inspection Report BI2019-0127). The inspection found that 100% of the inspected emails were in compliance. For September, there were 10,004 emails generated, of which BIO inspected 7,612 (Inspection report BI2019-0143). The inspection found that 100% of the inspected emails were in compliance.

During this reporting period, BIO conducted facility inspections of the Transportation Division, Patrol District 3, and the Inmate Medical Services Division. On July 30, 2019, BIO conducted an inspection of the Transportation Division, inspection report BI2019-0097. The Transportation Division is responsible for transporting pre-trial inmates form the various MCSO jail facilities to the Courts. Division employees also transfer pre-trial and sentenced inmates between facilities. The Transportation Division also transports prisoners from state prisons to MCSO jails. The Division transfers between 1,500 and 2,000 inmates on a daily basis. The Division has a fleet of 25 vehicles and operates on a 24-hour, 365-day basis. The inspection resulted in an overall compliance rating of 100%. No deficiencies were noted during this inspection.

On August 28, 2019, BIO conducted an inspection of Patrol District 3. District 3 consists of 67 employees, and covers an area of 1,600 miles. The inspection consisted of a review of the District 3 office, equipment, property, and evidence. The inspection resulted in a 100% compliance rating.

On September 19, 2019, BIO conducted an inspection of the Inmate Medical Services Division. (IMSD). The Inmate Medical Services Division is located within the Lower Buckeye Jail facility, but is an independent entity under a different chain of command. IMSD has three primary areas of control: the Mental Health Unit; the Infirmary; and staff administrative offices. IMSD is staffed by 15 supervisors and commanders, 80 Detention Officers, two Field Training Officers, and an office assistant. The Division, at the time of inspection, was housing 178 inmates. One area of the facility was found to be non-compliant. The deficiency found was that daily inspections of areas occupied by inmates were not documented, as per policy. The inspection also found that the Operations Journal did not include records of one noteworthy incident that occurred in Housing Unit P3. The inspection noted that there was no record, in the Operations Journal, that barbering kits had been properly inventoried and accounted for. The inspection resulted in a 95.52% compliance rating, with three deficiencies being documented on one BIO Action Form.

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 October visits to Districts 1 and 2, we observed no evidence to indicate a violation 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 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 239 tips submitted for July, 290 tips submitted for August, and 258 tips submitted for September. We reviewed a total of 787 tips, which were classified and recorded according to the type of alleged violation or service requested. Our reviews for this reporting period continue to indicate that warrants comprise the largest category of tips. Drugs, animal crimes, and suspicious activity follow as the most common types of tips received. In August and September, we noted residents reported a number of scams. As with previous reports, we noted that a high number of tips were classified as "information only" and "other." During this reporting period there were no tips closed due to bias.

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 October 25, 2019.
- 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.

We normally review a sample of 105 traffic stops each reporting period in relation to this requirement; however, in one instance, a deputy made a traffic stop of two vehicles at the same time. MCSO provided us with the information on both vehicles and vehicle occupants, bringing the number of traffic stops reviewed to 106. Our review of the sample of 106 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 October 2019 site visit, we met with the commanding officers from Districts 1 and 2, who advised us that the Districts had not received any complaints during this reporting period from Latino drivers alleging racial profiling. We interviewed the District Commanders and inquired if the District had received any complaints alleging selective enforcement targeting specific communities or enforcement based on race. The District Commanders were 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: 61 stops for speed above the posted limit (58%); 10 stops for failure to obey official traffic control devices (9%); 13 stops for failure to possess valid registrations or tags (12%); 10 stops for equipment violations (9%); three stops for failure to maintain a lane of traffic (3%); and nine stops for other moving violations (8%).

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 October 2019 visits to District 1 and 2, we inquired if the District Commanders 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.) Eighteen (30%) of the 60 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 23 of the 106 stops occurred during nighttime hours. During our visits to Districts 1 and 2 in October, 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 recordings revealed that deputies were not making traffic stops using tactics based on race or ethnicity.

MCSO remains in compliance with this Subparagraph.

Paragraph 25.f. requires deputies at the beginning of each stop, before making contact with the vehicle, to verbally contact dispatch and state the reason for the stop unless exigent circumstances make it unsafe for the deputy to contact Communications. When the deputy advises Communications of the location, tag number, and reason for the stop, this information is digitally logged on the CAD printout and it is audio recorded. (See Paragraph 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 106 traffic stops, we determined that MCSO documented a response to at least one of the series of five questions in six of the stops. Our review of those stops revealed that in two instances, the deputies indicated that they experienced a technological difficulty. The duration of those two stops ranged from 15 minutes to 18 minutes. The particulars of the remaining four stops are as follows:

- A White male driver was stopped for failing to maintain a lane of traffic. The vehicle was occupied by two White female passengers and a Black female passenger. The

VSCF indicated that the stop involved a driving under the influence investigation and that the driver was determined to not be impaired. The driver was issued a warning. The duration of the stop was 11 minutes.

- A White male driver was stopped for failing to maintain a lane of traffic. The VSCF indicated that the stop involved a driving under the influence investigation and that the driver was determined to not be impaired. The driver was issued a warning. The duration of the stop was 19 minutes.
- A Latina driver was stopped for a speeding violation. The vehicle was occupied by a Latino passenger and a Latina passenger. The VSCF indicated that the driver had never obtained a driver's license. The vehicle was towed and impounded. The driver was issued a citation for driving without having obtained a driver's license. The duration of the stop was one hour and two minutes.
- A White male driver was investigated after he was observed driving a golf cart with license plate and no operable tail-lights. The golf cart was occupied by a White female passenger. The deputies approached the golf cart after the driver had stopped the vehicle. The driver's license was revoked. The passenger was arrested for an outstanding warrant. The golf cart was towed and impounded. The driver was issued a citation for driving with a revoked driver's license and failure to have insurance. The driver was issued a warning. The duration of the stop was one hour and 19 minutes.

During our review, we noted five 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 five stops are as follows:

- A White female driver was stopped for a speeding violation. The vehicle was occupied by a White female passenger. During the stop, the deputy investigated the passenger, who was under the age of 21, for possession of alcohol and possession of narcotic paraphernalia. The deputy seized the alcohol and narcotic paraphernalia and placed the items into evidence. The driver was issued a warning and the passenger was issued a citation. The duration of the stop was 35 minutes.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a Latina passenger. The driver was arrested for an outstanding warrant. The driver was issued a citation for speeding and failure to produce the vehicle's registration. The duration of the stop was one hour and nine minutes.
- A White male was stopped for a speeding violation. The license plate on the vehicle was suspended. The deputy seized the license plate and placed it into evidence. The deputy also prepared an Incident Report. The driver was issued a citation for speeding and driving with a suspended license plate. The duration of the stop was 26 minutes.
- A Black female was stopped for driving with a suspended license plate. The deputy seized the license plate and placed it into evidence. The deputy also prepared an

Incident Report. The driver was issued a citation for driving with a suspended license plate and failure to produce evidence of insurance. The duration of the stop was 24 minutes.

- A White female was stopped for driving with an expired registration. The vehicle was occupied by a White male passenger. The deputy seized the license plate and prepared an Incident Report. The driver was issued citation for driving with a suspended driver's license, driving with a suspended license plate and failure to produce insurance. The duration of the stop was 29 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 106 of the 106 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 106 traffic stops, there were four drivers who did not present a valid driver's license to deputies. The cases are described in detail below:

- A White male driver was investigated after he was observed driving a golf cart with license plate and no operable tail-lights. The golf cart was occupied by a White female passenger. The deputies approached the golf cart after the driver had stopped the vehicle. The driver produced an Arizona identification card. The driver's license was revoked. The passenger was arrested for an outstanding warrant. The golf cart was towed and impounded. The driver was issued a citation for driving with a revoked driver's license and failure to have insurance.
- A Black male driver was stopped for a speeding violation. The driver produced a driver's license. The deputy determined, via a records check, that the driver's license was in a suspended status. The deputy seized the driver's license and placed it into evidence. The driver was issued a citation for speeding, driving on a suspended driver's license, and traveling in a high occupancy vehicle lane with less than two persons in a vehicle.

- A White female driver was stopped for driving with a suspended license plate. The vehicle was occupied by a White male passenger. The driver produced a driver's license. The deputy determined, via a records check, that the driver's license was in a suspended status. The deputy seized the license plate. The driver was issued a citation for driving with a suspended license plate, driving with a suspended driver's license, and failure to produce evidence of insurance.
- A Latina driver was stopped for a speeding violation. The vehicle was occupied by a Latina passenger and a Latino passenger. The driver provided a Mexican passport for identification purposes. The driver stated that she had never obtained a driver's license. The driver was issued a citation for driving without a driver's license in her possession.

In our review of the sample of cases in relation to Paragraph 54.k., searches of persons, we identified 29 cases where the drivers did not present a valid driver's license to the deputies. The cases are described in detail below:

- A Latina driver was stopped for a following too closely violation. The vehicle was occupied by a Latino passenger. The driver produced an Arizona identification card and stated that her driver's license was in a suspended status. The deputy investigated the passenger along with a police officer from a local law enforcement agency. The deputy obtained the name of the passenger and conducted a wants/warrant check, which revealed an outstanding arrest warrant for the passenger. The assisting police officer arrested the passenger. The deputy arrested and processed the driver for driving under the influence. The vehicle was towed and impounded. The driver was issued a citation for following too closely, driving with a suspended driver's license, failure to provide evidence of insurance, and possession of narcotic paraphernalia. The deputy prepared a report for the review of the Maricopa County Attorney's Office for possible charges for driving under the influence.
- A Latino driver was stopped for a speeding violation. The driver did not have any identification on his person and stated that his driver's license may be suspended. The deputy determined that the driver had an outstanding warrant for his arrest. The driver was arrested. The deputy determined, via a records check, that the driver's license was in a revoked status. The license plate was also in a suspended status. The deputy seized the license plate and placed it into evidence. The vehicle was towed and impounded. The driver was issued a citation for speeding, driving with a revoked driver's license, and driving with a suspended license plate.
- A Latino driver was stopped for failing to maintain a lane of traffic. The vehicle was occupied by a Latino passenger. The driver presented an Arizona identification card and stated that his driver's license was not valid. The driver was arrested and processed for driving under the influence. The deputy determined, via a records check, that the driver's license was in a suspended status. The deputy later located the driver's license as the driver was being processed. The driver's license was seized and placed into evidence. The driver was issued a warning for the traffic violation. The deputy

prepared a report for the review of the Maricopa County Attorney's Office for possible charges for driving under the influence.

- A Black male driver was stopped for a speeding violation. The driver presented an Arizona identification card to the deputy. The deputy determined, via a records check, that the driver did not have a driver's license. The driver was wanted on an outstanding warrant. The driver was arrested. The vehicle was towed and impounded. The license plate was seized and placed into evidence. The driver was issued a citation for speeding, driving with a suspended license plate, and driving with no valid driver's license.
- A White female driver was stopped for making an illegal right turn at a red light. The deputy determined, via a records check, that the driver's license was in a suspended status. The driver had two outstanding warrants for her arrest. The license plate was found to be in a suspended status. The deputy seized the license plate and the driver's license and placed both items into evidence. The driver was issued a citation for driving with a suspended driver's license, making an illegal left turn at a red light, and driving with a suspended license plate.
- A Latino driver was stopped for a stop sign violation. The vehicle was occupied by a Latino passenger. The deputy determined, via a records check, that the driver's license was in a suspended status. The driver's license was seized and placed into evidence. The driver was issued a citation for the stop sign violation, failure to produce evidence of insurance, and for driving with a suspended driver's license.
- A White male driver was stopped for driving with an unregistered license plate. The deputy determined, via a records check, that the driver's license was in a suspended status. The deputy seized the driver's license and placed it into evidence. The driver had an outstanding warrant for his arrest. The driver was arrested. The driver was issued a citation for driving with a suspended license and failure to produce evidence of insurance.
- A Latino driver was stopped for driving with an expired registration. The driver did not have any identification and stated that he had never obtained a driver's license. The driver was arrested for failing to produce identification. Shortly afterward, a Latina arrived to the stop location and identified herself as the driver's wife. The Latina stated that the driver has an arrest warrant out of the state of California. The Latina provided a different date of birth to the deputy than what was provided by the driver. A wants/warrant check revealed that the driver was wanted on a felony warrant from the state of California. The records check also revealed that the driver was a convicted felon. A search of the driver revealed he was in possession of narcotic paraphernalia. A search of the vehicle revealed the presence of a handgun and narcotic paraphernalia. The deputy placed the items into evidence. The driver was issued a citation for failure to produce a valid registration and failure to produce evidence of insurance. The deputy prepared a report for the review of the Maricopa County Attorney's Office for possible charges in relation to possession of narcotic paraphernalia, providing false information

to a law enforcement officer, failure to produce identification, and a felon being in possession of a firearm.

- A Black male driver was stopped for a speeding violation. The driver produced an Arizona identification card. 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 admitted that there was marijuana in the vehicle and that he did not have a medical marijuana card. The driver was arrested. During a search of the driver, suspected marijuana and another white powdery substance were located on his person. The driver was issued a citation for the speeding violation, driving with a suspended driver's license, and driving under the influence. The deputy prepared a report for the review of the Maricopa County Attorney's Office for possible charges in relation to the driver being in possession of narcotics.
- An American Indian/Alaskan Native male driver was stopped for a speeding violation. The vehicle was occupied by an American Indian/Alaskan Native male and a Latina passenger. 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 driver was arrested. Initially, the deputy advised the passengers that they were free to leave; however, the deputy located a handgun and a knife in the vehicle and both passengers were detained and handcuffed while the deputy investigated further. The deputy conducted a further search of the vehicle and found narcotic paraphernalia, which was placed into evidence. A records check revealed that the firearm was stolen. The two passengers were questioned. A wants/warrant check on the male passenger revealed that he was wanted on an outstanding warrant. The male passenger was arrested. The female passenger was released. The driver was issued a citation for speeding. The deputy prepared a report for review of the Maricopa County Attorney's Office for potential charges in relation to the possession of the stolen firearm and narcotic paraphernalia.
- A Latino driver was stopped for driving with one headlight. The vehicle was occupied by a White female passenger. The driver's license was in a suspended status. The deputy obtained the identity of the passenger to determine if she had a valid driver's license. Upon verifying that the passenger had a valid driver's license, the vehicle was released to her. The driver was issued a citation for driving with a suspended driver's license.
- A Black male driver was stopped for a speeding violation. The driver produced an Arizona identification card. The deputy determined, via a records check, that the driver's license was suspended and that the license plate on the motorcycle that the driver was operating was improper and belonged to another vehicle. The vehicle was towed and impounded. The deputy seized the license plate and placed it into evidence. The driver was issued a citation for speeding, driving with a fictitious license plate, failure to produce evidence of insurance, and driving with a suspended driver's license.

- A White female driver was stopped for driving with an expired registration. The driver produced an Arizona identification card. The deputy determined, via a records check, that the driver had a suspended driver's license and that she had an outstanding warrant for her arrest. As the deputy re-approached the driver, she complained of experiencing back spasms and appeared to be in pain. The deputy informed her that she was under arrest for the warrant and requested medics to the scene of the traffic stop. The driver was transported to a medical facility and, after being evaluated and treated, transported to a MCSO facility. The driver was issued a citation for driving with a suspended driver's license.
- A Latina driver was stopped for a speeding violation. The driver's license was in a suspended status. The driver was also in violation of her license restriction that required any vehicle that she drives to be equipped with an interlock device. The driver was issued a citation for speeding, driving with a suspended driver's license, and driving without an interlock device installed. The deputy towed and impounded the vehicle and seized the license plate and placed it into evidence.
- An American Indian/Alaskan Native male driver was stopped for making an improper right turn. The vehicle was occupied by an American Indian/Alaskan Native male passenger and a White male passenger. After the deputy stopped the vehicle the driver exited the vehicle. The deputy then instructed the driver to stay in the vehicle. The driver complied; however, as the deputy approached the vehicle the driver again exited the vehicle. It was at this time the deputy, while speaking to the driver, conducted a pat-and-frisk of the driver. No weapons were found. The driver did not have a driver's license in his possession and produced an identification card. A records check revealed that the driver's license was in a suspended status. The White male passenger stated that he was the registered owner of the vehicle. The deputy verified that the passenger had a valid driver's license, and released the vehicle to the passenger. The passenger was issued an Incidental Contact Receipt. The driver was issued a citation for making an improper turn and driving with a suspended driver's license.
- A White female driver was stopped for driving with one headlight. The vehicle was occupied by a White female passenger. The driver produced an Arizona driver's license. The deputy determined, via a records check, that the driver's license was suspended. The deputy seized the driver's license and placed it into evidence. The deputy detected the odor of marijuana and asked the vehicle occupants if either of them had a valid medical marijuana card. The occupants stated that they did not. The deputy conducted a search of the vehicle and located marijuana and narcotic paraphernalia. The driver claimed that the items were hers. The deputy seized the items and placed them into evidence. The driver was issued a warning for the driving with one headlight violation. The deputy prepared a report for the review of the Maricopa County Attorney's Office for possible charges for the possession of narcotics and narcotic paraphernalia. The passenger was issued an Incidental Contact Receipt.

- A Latino driver was stopped for driving with no headlights on. The driver did not have any identification on his person. The deputy obtained the driver's identity from the driver. The deputy determined, via a records check, that the driver's license was revoked and that a warrant existed for the driver's arrest. The deputy arrested the driver and impounded the vehicle. The driver was issued a citation.
- A White male, operating a motorcycle, was stopped for improper lane usage. The driver produced an Arizona identification card. The deputy determined, via a records check, that the driver's license was suspended. The deputy arrested the driver for driving with a suspended driver's license. The driver was issued a citation for driving with a suspended driver's license, no motorcycle endorsement, and no evidence of insurance.
- A Latino driver was stopped for a stop sign violation. The driver did not have any identification on his person. The deputy attempted to obtain the driver's identity from the driver, who stated he had a valid driver's license from the state of Colorado. The deputy was unable to determine, via a records check, that the driver had a Colorado driver's license. The deputy then arrested the driver for driving without a driver's license. During an inventory search of the vehicle, the deputy located paperwork with a different name than what the driver had provided the deputy. The driver later admitted that he had provided a false name to the deputy initially and that the name on the paperwork was accurate. The deputy determined that driver's license was suspended and that two arrest warrants existed for the driver. During the inventory search of the vehicle, the deputy located and seized a smoking pipe, which contained a green leafy substance. The deputy seized the items and placed them into evidence. The driver was issued a citation for the stop sign violation, fail to provide a driver's license or identification, and for providing false information to law enforcement. The deputy prepared a report for the review of the Maricopa County Attorney's Office for possible charges for the possession of narcotics and narcotic paraphernalia.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by two Latina passengers and two Latino passengers. The driver did not have any identification on his person. The driver stated that he had never obtained a driver's license. One of the passengers identified herself as the wife of the driver. The deputy obtained her name and determined that her driver's license was in a suspended status. The passenger was provided with an Incidental Contact Receipt. The driver was arrested for driving without a driver's license. The deputy seized the license plate from the vehicle, as it was in a suspended status. The vehicle was impounded. The driver was issued a citation for the speeding violation and for driving without a driver's license.
- A White male driver was stopped for a speeding violation. The driver stated that he did not have any identification on his person. The deputy determined that driver's license was suspended and that an arrest warrant existed for the driver. The driver was arrested. The vehicle was impounded. During the inventory search of the vehicle, the deputy located an Arizona identification card that belonged to the driver. The identification

card was provided to the driver. The driver was issued a citation for the speeding violation and for driving with a suspended driver's license.

- A White male driver was stopped for a reckless driving violation. The vehicle was occupied by an Asian or Pacific Islander male passenger. The deputy arrested the driver for the reckless driving offense. The deputy determined that the driver's license was in a suspended status. The vehicle was impounded. The deputy asked the passenger if he had a valid driver's license and the passenger's response was that he did not have a driver's license. The passenger was provided with an Incidental Contact Receipt. The driver was issued a citation for driving with a suspended driver's license and reckless driving.
- A White male driver was stopped for a speeding violation. The driver produced a California driver's license. The deputy determined that the driver's license was in a suspended status. The driver's license also included a restriction that required the driver to have an interlock device installed in any vehicle that the driver operates. The vehicle, which did not have an interlock device installed, was impounded. The driver was arrested. The driver was issued a citation for speeding, driving with a suspended driver's license, violation of license restriction, and no evidence of insurance.
- A White female driver was stopped for a speeding violation. The vehicle was occupied by a White female passenger and a Latino passenger. The driver produced an Arizona identification card and stated that she had never obtained a driver's license. The deputy detected the odor of alcohol on the driver's breath; however, he determined that the driver was not impaired. The deputy detected the odor of burnt marijuana. A search of the vehicle was conducted. A backpack was located in the vehicle that contained narcotic paraphernalia. The White female passenger admitted that the item was hers. The narcotic paraphernalia was placed into evidence. The deputy determined that an arrest warrant existed for the driver. The names of the passengers were obtained and a records check revealed that the White female passenger was wanted on a warrant. The passenger was arrested. The Latino passenger was searched after being requested to consent to the search and he agreed to the search. The vehicle was impounded. The driver was issued a citation for speeding and driving without a driver's license. The White female passenger was issued a citation for possession of narcotic paraphernalia. The Latino passenger was provided with an Incidental Contact Receipt.
- A White female driver was stopped for driving toward oncoming traffic. The driver produced an Indiana identification card. The deputy determined that the driver's license was in a suspended status. The deputy arrested and processed the driver for driving under the influence. Based on the results of the investigation, the deputy issued a citation for Aggravated Driving Under the Influence. The vehicle was impounded.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a White female passenger. The driver did not have any identification on his person. The deputy was initially unable to locate the subject's information via a records check. The

driver was arrested for failing to provide identification. The driver then admitted he had provided an incorrect date of birth to the deputy. A records check revealed that the driver's license was in a revoked status and that an arrest warrant existed. The driver was arrested. The driver was issued a citation for driving with a revoked driver's license. The vehicle was impounded. The passenger was provided with an Incidental Contact Receipt.

- A Black male driver was stopped for driving with an improper rear stop lamp. The vehicle was occupied by a Latina passenger. The deputy detected the odor of marijuana. The driver stated that he possessed a medical marijuana card. The deputy conducted a search of the vehicle and located portions of previously smoked marijuana cigarettes. The items were seized and placed into evidence. The deputy determined that the driver's license was in a suspended status. The driver was arrested. The driver's license was seized and placed into evidence. The driver was issued a citation for driving with a suspended driver's license and possession of narcotic paraphernalia. The deputy obtained the passenger's name and provided her with an Incidental Contact Receipt.
- A White male driver was stopped for a speeding violation. The deputy determined that the driver's license was in a suspended status and that an arrest warrant existed. The driver was arrested. The vehicle was impounded. The deputy seized the driver's license and placed it into evidence. The driver was issued a warning for the speeding violation.
- A Latino driver was stopped for driving with an expired registration. The vehicle was occupied by a Latino passenger. The driver did not have any identification on his person. A records check revealed that the driver's license was in a suspended status and that an arrest warrant from another state existed. The driver was arrested. The passenger was provided with a courtesy ride from the stop location. The passenger was provided with an Incidental Contact Receipt.

In our review of the sample of cases in relation to Paragraphs 25.d. and 54.g., passenger contacts, we identified 17 cases where the drivers did not present a valid driver's license to the deputies. In five of the cases, the deputies were able to confirm that the drivers' licenses were, in fact, valid. The remaining 12 cases are described in detail below:

- A Black male driver was stopped for a stop sign violation and a littering violation. The vehicle was occupied by a White male passenger. The driver did not have any identification on his person. After making contact with the driver, the deputy made contact with the passenger, having observed that the litter was thrown from the passenger side of the vehicle. The passenger admitted to tossing firecrackers out of the vehicle's passenger side window. The deputy advised the passenger to refrain from littering. No further action was taken regarding the passenger. The deputy obtained the identity of the driver and the passenger. A records check revealed that the driver's license was valid. The driver was issued a citation for the stop sign violation and for driving without a driver's license in his possession.

- A Latino driver was stopped for failure to maintain a lane of traffic. The vehicle was occupied by a Latino passenger. The driver presented the deputy with a Mexican passport for identification purposes. The deputy determined, after running a records check, that the driver had never obtained an Arizona driver's license. The deputy contacted the passenger, obtained his name, and ran a records check to determine if he had a valid driver's license. The passenger did not have a valid driver's license. The vehicle was towed and impounded. The deputy did not provide the passenger with an Incidental Contact Receipt, a citation, or a warning as required.
- A Latina driver was stopped for a speeding violation. The vehicle was occupied by a Latina passenger and a Latino passenger. The driver did not have any identification on her person. The deputy determined, via a records check, that the driver had never obtained an Arizona driver's license. The deputy contacted the Latino passenger and obtained his name to determine if he had a valid driver's license. After a records check revealed the passenger had a valid driver's license, the vehicle was released to the passenger. The passenger was then issued an Incidental Contact Receipt.
- A Latino driver was stopped for a stop sign violation. The vehicle was occupied by a Latino passenger and a Latina passenger. The driver informed the deputy that he did not have an Arizona driver's license but that he previously had a Mexican driver's license; however, it was expired. The deputy issued a citation to the driver for driving without a driver's license.
- A White male driver was stopped for driving with one headlight. The vehicle was occupied by an Asian or Pacific Islander female passenger and a White male passenger. The driver did not have any identification on his person. The deputy determined, after running a records check, that the driver had a suspended driver's license and that he had an outstanding warrant for his arrest. The driver was arrested for the outstanding warrant. The deputy contacted the female passenger and obtained her name to determine if she had a valid driver's license. After a records check revealed the passenger had a valid driver's license, the vehicle was released to the passenger. The passenger was issued an Incidental Contact Receipt.
- A Black male driver was stopped for a stop sign violation. The vehicle was occupied by an Asian or Pacific Islander female and an unknown ethnicity and unknown gender infant child. The driver presented the deputy with a California driver's license. The deputy determined, via a records check, that the driver's license was in a suspended status. The deputy obtained the passenger's driver's license and verified it was valid via a records check. The passenger was allowed to drive the vehicle from the stop location. The driver was issued a citation for driving with a suspended driver's license and given a verbal warning for the stop sign violation. The passenger was provided with an Incidental Contact Receipt.

- A Latino driver was stopped for driving with no tail-lights. The vehicle was occupied by two Latina passengers. The driver produced an Arizona identification card. He stated that he had never obtained a driver's license. The vehicle was impounded. The driver was issued a citation for driving without a driver's license and a warning for driving with no tail-lights.
- 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's license was determined to be in a suspended status. The driver was issued a citation for driving with a suspended driver's license. The vehicle was released to the passenger, who was the registered owner of the vehicle. After the traffic stop concluded, the deputy contacted the passenger via telephone to advise him that he would be mailing him an Incidental Contact Receipt.
- A White male driver was stopped for driving with no visible license plate. The vehicle was occupied by a White female passenger. The driver did not have any identification on his person. The driver's license was determined to be in a suspended status. The driver was issued a citation for driving with no visible license plate, driving with a suspended driver's license, and no evidence of insurance. The deputy determined, via a records check, that the passenger had a valid driver's license. The vehicle was released to the passenger. The passenger was issued an Incidental Contact Receipt.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a Latina passenger. The driver produced a Mexican driver's license. A records check revealed that the driver had a suspended Arizona driver's license and that an arrest warrant existed. The driver was arrested. The deputy determined that the passenger had a valid driver's license and the vehicle was released to her. The passenger was issued an Incidental Contact Receipt. The driver was issued a citation for speeding and driving with a suspended driver's license.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by one Latino passenger and four Latina passengers. The driver did not have any identification on his person. The driver stated that he had never obtained a driver's license. A records check revealed that the driver did not have any record of having obtained an Arizona driver's license. The driver was arrested. The deputy determined that the passenger had a valid driver's license and the vehicle was released to her. The passenger was issued an Incidental Contact Receipt. The driver was issued a citation for speeding and driving without a driver's license.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a Latino passenger. The driver produced a Mexican driver's license. A records check revealed that the driver did not have any record of having obtained an Arizona driver's license. The driver was arrested. The deputy asked the passenger if he had a valid driver's license. It was determined that the passenger did not have a driver's license. The passenger was issued an Incidental Contact Receipt. The driver was issued a citation for speeding and driving without a 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 106 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., we identified that deputies requested a driver's Social Security Number in incidents that either involved the arrest of the driver for the purpose of completing an Incident Report, or incidents where the driver did not produce a valid form of identification, both of which are permissible 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 the third quarter of 2019. 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 40 incidents resulting in arrest and 50 incidents in which criminal citations were issued. In addition, we reviewed 285 Incident Reports. All of the documentation we reviewed during this reporting period indicates that 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.

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 40 Arrest Reports, 50 criminal citations, 167 traffic stops, 74 NTCFs, and 285 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.*

In Full and Effective 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) seven Order-related policies: GC-4 (Employee Performance Appraisals); GF-5 (Incident Report Guidelines); GG-1 (Peace Officer Training Administration); GG-2 (Detention/Civilian Training Administration); GJ-2 (Critical Incident Response); GJ-3 (Search and Seizure); and GJ-5 (Crime Scene Management). 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; as well as the Office's Critical Incident Investigation Protocol. MCSO did not publish any Order-related operations manuals during this reporting period.

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.

On September 9, 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 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 900 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 shown a significant decrease in compliance during this and the last 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 they have found.

Until the last reporting period, we had noted continuing 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 the last reporting period, we saw a disturbing decline in the number of compliant cases investigated by District personnel. Compliance dropped from 77% to 58%. This reporting period, compliance for District investigations dropped to 56%. This continues to be concerning, especially given the amount of 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 again 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 1 and 2 in October 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. Personnel in both Districts spoke highly of the most recent 8-hour training on Misconduct Investigations and believe the scenario-based training provided much needed hands-on experience. The Captain in one District noted that he has asked PSB to update the investigation checklist with additional information to help with the consistency needed in investigations. In the other District that we visited, supervisory personnel told us that one of the problems with the completion of investigations is the lack of experience of new sergeants assigned to the District.

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 observed in these reports that District Command personnel have identified and addressed some concerns with the completion of these investigations. We have noted that MCSO has employed intervention strategies, 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 the last 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 were surprised, however, that none of the investigations reviewed by District command personnel during the last 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 this reporting period, we noted six instances where Deputy Chiefs met with District Commanders to discuss deficient investigations or concerns with investigations conducted by their personnel and not addressed prior to forwarding the cases to PSB. We also noted one instance where a District Commander identified and addressed a deficient investigation prior to forwarding it to PSB. In all these cases, one-on-one discussions occurred; and Blue Team entries were made. We will continue to closely monitor these interventions to ensure that appropriate corrective actions are being taken to address any ongoing deficiencies that are found.

We noted four instances during 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. PSB continues to track the deficiencies and the outcomes of any interventions.

During the last reporting period, we reviewed all 53 administrative misconduct investigations submitted for compliance with this Paragraph. District supervisors completed 45, and PSB completed eight of the investigations. All the investigations completed by PSB were in compliance with investigative and administrative requirements. Of the 45 conducted by Districts, 58% were in compliance with Order requirements. This was a decrease of 19% from the previous reporting period.

During this reporting period, we reviewed all 49 administrative misconduct investigations submitted for compliance with this Paragraph. PSB conducted 12 of these investigations, and District personnel conducted the remaining 37. Sworn supervisors with the rank of sergeant or higher completed all the investigations conducted at the District level. There were 85 potential

policy violations included in the 49 cases. Forty-one of the investigations resulted from external complainants, and eight were internally generated. All of the 49 investigations were completed after July 20, 2016. Forty-five of the 49 cases were both initiated and completed after the new investigation and discipline policies became effective in May 2017. Thirty-nine of the 49 were both initiated and concluded after the completion of the 40-hour Misconduct Investigative Training that was completed in late 2017.

Of the 49 administrative investigations we reviewed for this Paragraph, 14 resulted in sustained findings against one or more employees. We concur with the sustained findings in all 14 of the investigations. In one additional investigation, however, we believe that findings of sustained should have been made and were not. In two of the 14 cases, the employee left MCSO employment prior to the completion of the investigation or discipline process. Discipline for the remaining 12 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 did not aggravate the discipline, despite having identified aggravating factors in his justification documents. We disagree with his decision in both. In one additional case, the Appointing Authority disagreed with the findings of the PSB Commander and sustained misconduct that PSB had exonerated. We agree with his justification for doing so.

All of the 49 cases we reviewed for this Paragraph were completed on or after July 20, 2016. Of the 12 investigations conducted by PSB, 10 were not completed within the 85-day timeframe. All but one contained a request for, and an authorization of, an extension. Twenty-six of the 37 investigations conducted at the District level were not initially completed and submitted to PSB for review within the required 60-day timeframe. One of these investigations lacked an appropriate request for, and an authorization of, an extension.

District personnel outside of PSB conducted 37 of the investigations MCSO submitted for review for this Paragraph. All were completed after July 20, 2016. We found 21 (57%) in compliance with all investigative and documentation requirements. We have concerns with 16 of the investigations. The concerns include: improper findings; investigation incomplete or lacks detail; all interviews not conducted; 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 four cases, PSB changed the findings of the investigation after review; we agree with their decision to do so. District personnel completed six of the 37 investigations prior to the completion of the 40-hour Misconduct Investigative Training. Only one of the six was in compliance with all requirements for the completion of administrative misconduct investigations. Of the 31 cases conducted at the District level after the 40-Hour Misconduct Investigative training, 20 (65%) were found in compliance. This is a decrease of 2% from the last reporting period. We note that in one of these 20 cases, the non-compliant finding was based on a decision made by PSB, not the District.

In addition to those investigations submitted for review under the requirements of Paragraph 32, District supervisors conducted three additional investigations that were submitted under Paragraphs 183.c and 249 of the Second Order. Two involved Detention Officers assigned to Districts, and one involved a sworn deputy. Two of these were initiated prior to the 40-hour Misconduct Investigative training; one was initiated after the training. All three were submitted to PSB for review after the training was completed. Two of the three were not compliant – one due to inappropriate findings and one for administrative reasons. Of the total 40 investigations conducted by District personnel, 55% were in compliance with the requirements of the Second Order of the Court.

Prior to the last reporting period, we had observed 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 had expected to note additional ongoing improvement. That has not been the case. We are concerned with the overall decline in compliance, 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 ongoing overall compliance in those investigations conducted by PSB. Of the 12 investigations they conducted in compliance with this Paragraph, 92% were compliant. One investigation was not compliant due only to the lack of an approved extension memo. District investigations, however, showed a significant drop in compliance for the last reporting period, from 77% to 58%, and this reporting period, compliance is 55%. As is our practice, we will discuss those cases that we 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.

During the last reporting period, we reviewed two investigations submitted in compliance with this Paragraph. Both cases were compliant with the requirements of this Paragraph.

During this reporting period, we reviewed two investigations alleging bias. One alleged bias toward a person for playing loud music that contained profanity and racial slurs in a public place; and after investigation, was properly unfounded. The second involved an allegation that an MCSO employee had sent a personal text to a family member from a private phone that contained a reference to ethnicity. There was no derogatory content in the text and the allegation was properly exonerated.

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 that MCSO did not complete any investigations for this reporting period that were determined to be Class Remedial Matters.

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 annually reviews all critical policies and all policies relevant to the Court Orders for consistency with Constitutional policing, current law, and professional standards.

During this reporting period, 13 (27%) of the 48 required policies received their annual review. These policies included: CP-8 (Preventing Racial and Bias-Based Policing); EB-1 (Traffic Enforcement, Violator Contacts and Citation Issuance); ED-3 (Review of Cases Declined for Prosecution); GC-7 (Transfer of Personnel); GF-5 (Incident Report Guidelines); GG-1 (Peace Officer Training Administration); GG-2 (Detention/Civilian Training Administration); GI-5 (Voiance Language Services); GJ-27 (Sheriff's Posse Program); GJ-3 (Search and Seizure); GJ-5 (Incident Report Guidelines); GJ-33 (Significant Operations); 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 instructor folders for individual instructors assigned to the Training Division as full-time Training Division staff, all Office instructors who deliver Order-related training, and all Field Training Officers (FTOs). We ensure that instructor folders include specific requirements such as annual CVs, General Instructor (GI) certificates, and annual or 30-day Misconduct and Disciplinary Reviews as applicable. Additionally, we review Waivers of Presumptive Ineligibility submitted by the employees or their commanders to the Training Commander. A waiver request is intended to provide sufficient justification to overcome presumptive ineligibility to be an Office instructor. There are written justifications by the Training Commander outlining his approval or denial of the application of waiver supplementing these waivers; these documents are maintained in the instructors' folders.

During our October site visit, we discussed an improved method for conducting Misconduct and Disciplinary Reviews. The Training Commander informed us that the time required to conduct these reviews had been significantly reduced. The commander and a member of his staff now conduct these reviews at the Training Academy. The confidential information is kept within his office. Now direct communication between the Training and PSB Commanders ensures effective and informed reviews. At the Academy, we reviewed 13 new instructor folders. Each required a waiver request and determination by the Training Commander. Of the 13 instructors requesting a waiver, 11 were granted by the Training Commander and placed on the GI list. Two were denied because of supplemental information provided by the PSB Commander.

The Training Division accepted 23 new GIs into their ranks. The file provided during our October site visit indicates a total of 126 GIs. We will continue to check all instructor folders during each site visit.

The Training Division did not appoint any new FTOs during this reporting period.

Training Division personnel conducted a single random instructor evaluation during the Professional Standards Bureau external eight-hour annual in-service (PSB8 External). Two PSB personnel instructed the class. The instructor evaluation process described by the Training Division remains subjective and judgmental, and lacking consistency. During our October site visit, we discussed this process further for both Office and vendor instructors. During this reporting period, we noted an increase in the quality of the students' instructor reviews. We continue to recommend that a more uniform observation and evaluation process would benefit instructors, the Training Division, and deputies in general. If used consistently, the review would supply credible information related to instructor development, continued use of specific instructors, and annual employee performance assessments of personnel. The Training Lieutenant has indicated that instructor evaluations are not the most pressing priority for his Unit. We believe that devoting appropriate attention to them can have a positive impact on training overall.

During this reporting period, the Training Division did not provide advanced notice of instructors for approval by the Monitoring Team and the Parties before scheduling train-the-trainer and classroom sessions. We noted that one instructor who had not received a review had been utilized to deliver a Blue Team (BT) class. Prior to delivery of the class, we had not been provided with a Misconduct and Disciplinary review and a complete instructor folder. This instructor had been approved by the EIU to instruct the class, independent of the Training Division. We remind MCSO that the Training Division has overall responsibility to ensure that instructors providing Order-related training have been properly vetted and approved prior to delivery of the class. The review should not be pre-empted by the premature scheduling of a class. All instructors are required to receive a current review and approval.

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; failure remediation efforts, and test analyses by training class; for both live and online Order-related training.

During this reporting period, the Training Division delivered the following programs: Bias-Free Policing, Fourth and Fourteenth Amendment Training, 2015 Blue Team (BT), 2019 Body-Worn Camera (BWC); 2019 BWC HUB; and the 2018 Traffic and Criminal Software (TraCS).

Bias-Free Policing and Fourth and Fourteenth Amendment training were delivered in August to 22 personnel (14 sworn, eight Posse). No personnel required remediation.

In August, MCSO delivered the eight-hour BT training to 16 personnel (14 sworn, two civilians). One sworn person required test remediation. One civilian had previously failed the test and was required to retake the entire class and test. The lesson plan and the test questions are currently under revision.

MCSO continued delivery of the 2019 BWC HUB course to personnel that previously attended the classroom delivery for BWC training. During our October site visit, we discussed two questions that appear on both the HUB training and classroom test. Test results indicated that students taking both the classroom and HUB courses were confused about two critical knowledge areas related to activation of the BWC, and activations in response to calls for service requiring interactions with the public. The Training Division, after analysis, believes that the confusion was a result of poorly worded test language. They stated that new test questions would be provided for review during the next reporting period.

One 2019 BWC was delivered during this reporting period to 14 sworn personnel. No one required test remediation. The 2018 TraCS Training was delivered once in August to 14 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. Previously, we reported that Training Division personnel update the calendar weekly to ensure accurate scheduling. During this reporting period, we observed that these updates have begun to exceed the weekly review; on November 1, 2019, we noted that the calendar was last updated on October 1, 2019. The extended review period caused scheduling inaccuracies and date changes for Order-related training programs.

The Training Division has begun to implement our previous recommendation to employ an expanded internal calendar. We and the Parties also recommended incorporating a multi-year project plan. The use of a multi-year plan should include specific deadlines for completion and identify specific individuals to be accountable for specific developmental milestones. During our October site visit, Training Division personnel stated that they had purchased a planning tool to assist in the multi-year scheduling of training development and delivery. After review of several applications, they secured a tool called Smart Sheet. The Training Commander projects that implementation of this tool will assist the Division in reducing the end-of-year time crunch they have continued to experience annually. We will continue to monitor the implementation and use of this tool.

Master Personnel Rosters determine the number of personnel requiring Order-related training. At the end of this reporting period, MCSO reports that 670 sworn members; 21 Reserve members; 27 retired Reserve members; 252 Posse members; 1,822 Detention members; and 771 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

The Training Division expanded its use of interactive training videos during this reporting period. MCSO included in the 2019 SRELE several videos developed in-house, addressing leadership traits, an EIS alert supervisory process, and a BWC recording review. The 2019 ACT also included the use of five interactive videos related to search and seizure of persons and vehicles. We recommend that the Training Division continue to expand the use of adult-learning methods in all courses. Roleplaying and interactive exercises should be increased. Addressing these types of demanding situations in a controlled training environment would prove beneficial.

During our October site visit, we discussed the status of Order-required training.

We approved the curriculum for the PSB8 (External) annual in-service training program for members external to PSB (District supervisors). The curriculum was practicum-based and incorporated a sole case study.

The Training Division continued developing the 2019 Supervisor Responsibilities Effective Law Enforcement (SRELE) throughout this reporting period. In September, this curriculum was approved for delivery.

Development of the ACT had initially taken two independent tracks: Fourth and Fourteenth Amendment Training to be developed in-house in concert with MCAO, and Bias-Free Policing to be developed by a vendor. However, MCSO was unable to secure its preferred vendor. Ultimately the Bias-Free Policing content used was previously developed by the Training Division for the 2017 ACT.

MCSO continues to have difficulties with selecting and securing vendors to provide Order-required training. MCSO had attempted to secure a vendor to provide the Bias-Free Policing content of the 2019 ACT. The vendor was reluctant to provide materials in advance for review by us and the Parties, and an agreement was never reached with the vendor in time to deliver the training.

On September 5, 2019, we received MCSO's 2019 Bias-Free Policing lesson plan. We recognized this material as previously reviewed and approved for delivery as the 2017 ACT. We were critical of this approach and questioned the wisdom of recycling training material for use in two of the last three years. The lesson plan provided for review had not received any revisions or updates since our previous review and approval. We voiced a strong concern that not providing updated or refreshed information to deputies will lead to a lack of attention and participation to this annual training which is the foundation of the Order. We recommended that new material – or at a minimum, updated material – be incorporated to gain and keep the interest of the attending personnel. We do not think it wise to provide the same training material year after year. Despite our concerns, the lesson plan content was not in conflict with Order requirements, and the 2019 Bias-Free content was approved for delivery on October 23.

The Fourth and Fourteenth Amendment content was approved for delivery on October 9. The Training Division and MCAO jointly developed this content.

We did not review any revisions to the Constitutional Policing Plan training film script during this reporting period.

The EIS lesson plan continues to be revised by a working group of EIU and Training personnel. Training anticipates revisions during the next reporting period.

The EPA lesson plan received minor revisions during this reporting period. The EPA program is undergoing review and beta testing. MCSO anticipates a complete revision to this lesson plan in 2020, once the program is modified.

Training Division personnel 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. During our October site visit, the Training Division advised us that it was seeking assistance from the Community Advisory Board (CAB) to identify possible lecturers for the FTO annual refresher and to provide lesson plan content. We will follow up with this initiative as developments dictate.

TraCS for Supervisors was approved during this reporting period.

2019 TraCS was revised and approved. Revisions included new learning activities consistent with current case law.

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

During this reporting period, we experienced several occasions where curriculum and supporting documents, and instructor qualification information, were not provided in advance of the scheduling of training delivery. Additionally, newer versions of curriculum were provided midway through a review period, while the previous versions were still under review. We advised the Training Division to wait for our and the Parties' comments before circulating updated documents to avoid confusion. The adoption of a multi-year project plan consistent with previous recommendations would aid in reducing impediments to training review and approval. During our October site visit, we continued to recommend the inclusion of specific work plans to address Implicit Bias, Cultural Competency, Understanding Community Perspectives, and Fair and Impartial Decision Making.

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 made recommendations and approved the 2019 ACT, PSB40, 2019 SRELE, and the 2019 TraCS for Supervisors.

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.

Also during this reporting period, the Training Division conducted two District ride-alongs, at Districts 1 and 6. These were the same Districts utilized during the previous reporting period. When properly developed, these direct evaluations could help MCSO determine whether their training and policies are contributing to their law enforcement mission. They will also provide information on how to adjust training to achieve greater effectiveness.

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. This class was delivered once during this reporting period (August) to 22 personnel (14 sworn, eight Posse).

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

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

a. definitions of racial profiling and Discriminatory Policing;

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

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

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

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

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

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

h. police and community perspectives related to Discriminatory Policing;

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

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

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

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

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

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

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

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

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

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

Phase 1: Not applicable

Phase 2: In compliance

During this reporting period, the Training Division continued its review of the Bias-Free Policing Training curriculum. These annual reviews ensure compliance with developments in the law, regulations, and policy changes. 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. This class was delivered once during this reporting period (in August) to 22 personnel (14 sworn, eight Posse).

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 Training Division continued its review of the Detentions, Arrests, and the Enforcement of Immigration-Related Laws curriculum. These annual reviews ensure compliance with developments in the law, regulations, and policy changes. We did not review any proposed curriculum changes.

The 2019 ACT was being developed 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 continued development of the 2019 SRELE during this reporting period. The review of the curriculum was completed and approved during this reporting period, in late September.

No 2019 SRELE classes were delivered during this reporting period.

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

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

b. how to conduct regular reviews of subordinates;

c. operation of Supervisory tools such as EIS;

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

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

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

g. incorporating integrity-related data into COMSTAT reporting;

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

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

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

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

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

Phase 1: Not applicable

Phase 2: In compliance

The 2019 SRELE curriculum was approved in late September.

In October, the train-the-trainer was convened for this course. Although the train-the-trainer is not standardized at this point, the Training Division has consistently improved upon the process to be utilized for these sessions. Consistent with past practice, the Training Division advised us they had disseminated the course materials to the instructors prior to this training session. The lead instructor was one of 19 attending and was the Chief Deputy of MCSO. This was the first time that an Executive Officer of the organization led a trainer session. The advantage of engaging high-ranking officers in training for instructors was evident. He was clearly versed in the curriculum; but most importantly, he was able to convey an emphasis on important organizational needs and requirements. Consistent with the train-the-trainer process, the cadre of instructors identified curriculum and test issues that required change. Additionally, an issue was discovered with the HUB system that did not allow for students to select multiple responses for a single question. This required drafting a completely new test and re-entering the document into the HUB. The system required a deactivation of the original test in order to obtain an analysis of the more recent test results. Standardizing preparation for instructors will improve consistency of curriculum delivery in the classroom.

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 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). As noted earlier in this report, under Subparagraph 25.a., during this reporting period, we reviewed 106 traffic stops.

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 October 25, 2019.
- 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 106 traffic stops conducted by deputies from July 1-September 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 106 vehicle traffic stops, we identified 12 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 12 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 80 cases we reviewed for passenger contacts under Subparagraph 54.g., there were 25 cases where there were multiple units or deputies on a stop. In 23 of the 25 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 two instances, a deputy who was on the scene of a traffic stop and the information was not properly documented on the VSCF, the Assisting Deputy, and Body-Worn Camera Log. In the 80 cases we reviewed for searches of persons under Subparagraph 54.k., there were 61 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 59 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 presence of a Posse member at the scene of a traffic stop was not properly documented on the VSCF.

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%. During the last reporting period, MCSO was required to attain a compliance rating of greater than 94% to remain in compliance with this requirement. MCSO attained a compliance rating of 99% in the last reporting period and remained in compliance with this requirement. During this reporting period, MCSO attained a compliance rating of 96%. 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 106 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 42% of the cases. In a separate spreadsheet, MCSO provided GPS coordinates for all 106 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 inconsistencies did not affect MCSO's rate of compliance.

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 monthly audits 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 106 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 37 of the 106 traffic stops we reviewed, the driver had one or more passengers in the vehicle (57 total passengers). In all 37 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 37 of the 106 stops from the traffic stop data sample, there was more than one occupant in the vehicle (57 total passengers).

Seventy-five, or 71%, of the 106 traffic stops involved White drivers. Twenty-one, or 20%, of the 106 stops involved Latino drivers. Nine, or 8%, of the 106 traffic stops involved Black drivers. One, or 1%, of the 106 traffic stops involved Asian or Pacific Islander drivers. Sixty traffic stops, or 57%, resulted in citations. The breakdown of those motorists issued citations is as follows: 45 White drivers (75% of drivers who were issued citations); nine Latino drivers (15% of drivers who were issued citations); five Black drivers (8% of drivers who were issued citations); and one Asian or Pacific Islander driver (2% of drivers who were issued citations). Forty-six, or 43%, of the 106 traffic stops we reviewed resulted in a written warning. The breakdown of those motorists issued warnings is as follows: 30 White drivers (65% of the total who were issued warnings); 12 Latino drivers (26% of the drivers who were issued warnings); and four Black drivers (9% 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 driver was stopped for a speeding sign violation. The driver's race/ethnicity and gender was listed as a White female 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 Latina. We will discuss this case with MCSO during our January 2020 site visit.
- A driver was stopped for a speeding 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 will discuss this case with MCSO during our January 2020 site visit.

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

- A White male driver was stopped for a red light violation. The VSCF indicated that only two White male passengers were in the vehicle. Based on a review of the body-

worn camera recording of the stop, we determined that there were three White male passengers in the vehicle. We discussed this case with MCSO during our October 2019 site visit.

- A White male was stopped for driving with no license plate. The VSCF indicated that the passenger was a White male. Based on a review of the body-worn camera recording of the stop, we determined that the passenger appeared to be a White female. We will discuss this case with MCSO during our January 2020 site visit.

In our review of cases in relation to Paragraph 54.k., in relation searches of persons, we identified one case relevant to this requirement.

- A White male driver was stopped for a speeding violation. The VSCF indicated that the driver was a White female; however, a review of the Incident Report prepared regarding the stop, the driver was listed as a White male. Based on our review of the body-worn camera recording of the stop, we determined that the driver should have been listed as a White male. We will discuss this case with MCSO during our January 2020 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 during the second quarter of 2019, AIU commenced conducting the Post-Stop Perceived Ethnicity Inspection. 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.

MCSO policy requires that during each traffic stop, deputies are to conduct a records check on the license plate and a wants/warrant check on each driver. For this reporting period, we found that of the 106 traffic stops we reviewed, 106 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 106 traffic stop cases per quarter, we pulled an additional sample of 10 cases for July 2019. During this quarter, MCSO requested that we increase the number of cases reviewed in an effort to identify additional stops that fit the criteria of this Paragraph. The sample size of cases to be reviewed was increased from 10 stops each month to 35 stops each month, commencing with August 2019.

During our October site visit, we discussed with supervisors at District 2 the issue of deputies oftentimes selecting the check box indicating a "passenger contact" on the VSCF even if the interaction with the passengers simply involved general conversation or a child saying hello. The supervisors indicated that it is likely that deputies are noting such events as passenger contacts in an overly cautious effort to comply with policy. The supervisors stated that they were aware that such events do not require the issuance of Incidental Contact Receipts. The issue of deputies issuing Incidental Contact Receipts when required by policy has been ongoing.

During our assessment, we specifically review traffic stops that include any instance where the deputy asks any questions of a passenger beyond a greeting, including asking passengers to identify themselves for any reason. In such instances, we determine if the passenger was issued one of the following: Incidental Contact Receipt, citation, or a warning. If the passenger was not issued any one of the following documents, it adversely impacts MCSO's compliance with this requirement. It is also important to note that in such instances where a deputy fails to issue one of the required documents after being involved in a passenger contact, it is a violation of MCSO's policy.

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. We also review the deputies' notes on the VSCF, the Arizona Citation, and the CAD printout for any information involving the passengers. We review 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.

All passenger contacts in the traffic stops we reviewed for Paragraphs 25.d. and 54.g were noted in the VSCFs. For this reporting period, we identified 36 traffic stops where the deputy had interaction with one or more passengers; which required the issuance of either an Incidental Contact Receipt, a citation, or a warning. The remaining 44 stops did not meet the criteria for a passenger contact requiring the issuance of any one of the three aforementioned documents. In 10 of the traffic stops, the driver was a Latino. Each passenger contact is described in detail below.

- A Black male driver was stopped for a red light violation. The vehicle was occupied by a White female passenger. The deputy conducted field sobriety tests on the driver, and found no signs of impairment. During the stop, a state trooper arrived with a drug detection canine. The canine was deployed to sniff the vehicle. As a result of the canine's actions, a search of the vehicle was conducted. An opened beer can was located under the front passenger's seat, and three small bags with what appeared to be traces of marijuana were located in the vehicle. The driver was issued a citation for the red-light violation. The passenger, who the deputy identified by obtaining her identification and also by performing a warrant check, was issued a citation for open alcohol in a motor vehicle.
- A White female driver was stopped for failure to maintain lane of traffic. The vehicle was occupied by a White female passenger. The driver was arrested for driving under the influence. The deputy contacted the passenger and inquired if she had been drinking then requested that the passenger take a preliminary breath test. After taking the preliminary breath test, which indicated no alcohol use, the passenger was allowed to drive the vehicle from the stop location. In this instance, the passenger was not provided with an Incidental Contact Receipt.
- A White male driver was stopped for a red light violation. The vehicle was occupied by three White male passengers. The driver was arrested for outstanding warrants. One of the passengers was contacted after he stated that he had rented the vehicle; the deputy obtained his name and ran a records check to verify if he had a valid driver's license. After verification of a valid driver's license, the deputy released the vehicle to the passenger. The passenger was then issued an Incidental Contact Receipt.
- A Black male driver was stopped for a stop sign violation and a littering violation. The driver did not have any identification on his person. After making contact with the driver, the deputy made contact with the passenger, having observed that the litter was thrown from the passenger side of the vehicle. The deputy obtained the identity of the driver and the passenger. A records check revealed that the driver's license was valid. The driver was issued a citation for the stop sign violation and for driving without a driver's license in his possession. The deputy conducted a wants/warrant check on the passenger; however, the deputy did not provide the passenger with an Incidental Contact Receipt, a citation, or a warning, as required.

- A White male driver was stopped for a speeding violation. The vehicle was occupied by a White female passenger. The driver was arrested for a warrant. The deputy obtained the passenger's driver's license and ran her name for wants/warrants. The passenger was not provided with an Incidental Contact Receipt as required.
- A Latino driver was stopped failure to maintain a lane of traffic. The vehicle was occupied by a Latino passenger. The driver presented the deputy with a Mexican passport for identification purposes. The deputy determined, after running a records check, that the driver had never obtained an Arizona driver's license. The deputy contacted the passenger, obtained his name, and ran a records check to determine if he had a valid driver's license. The passenger did not have a valid driver's license. The vehicle was towed and impounded. The deputy did not provide the passenger with an Incidental Contact Receipt, a citation, or a warning as required.
- A White female driver was stopped for a speeding violation. The vehicle was occupied by a White female passenger. The passenger, who was under the age of 21, was investigated for being in possession of alcohol and narcotic paraphernalia. The deputy issued the driver a warning for the speeding violation. The deputy issued the passenger a citation for being in possession of alcohol and narcotic paraphernalia.
- A Latina driver was stopped for a speeding violation. The vehicle was occupied by a Latina passenger and a Latino passenger. The driver did not have a valid driver's license. The deputy contacted the Latino passenger and obtained his name to determine if he had a valid driver's license. After a records check revealed the passenger had a valid driver's license, the vehicle was released to the passenger. The passenger was issued an Incidental Contact Receipt.
- A White male driver was stopped for driving with one headlight. The vehicle was occupied by an Asian or Pacific Islander female passenger and a White male passenger. The driver was arrested for an outstanding warrant. The deputy contacted the female passenger and obtained her name to determine if she had a valid driver's license. After a records check revealed the passenger had a valid driver's license, the vehicle was released to the passenger. The passenger was issued an Incidental Contact Receipt.
- A Latino driver was stopped after the deputy observed litter being thrown from the passenger side of the vehicle. The vehicle was occupied by a Latino passenger. The deputy determined that the passenger was throwing beer cans from the vehicle. The deputy also determined that the driver, who was under the age of 21, had been consuming alcohol. The deputy arrested and processed the driver for driving under the influence. The passenger was issued a citation for littering.
- A Latina driver was stopped for a speeding violation. The vehicle was occupied by a Latino passenger. The deputy detected a strong odor of marijuana and asked the vehicle occupants if either one had a medical marijuana card. The passenger stated he did have a medical marijuana card and provided it to the deputy. The deputy reviewed the card,

determined it was valid, and handed it back to the passenger. The driver was issued a citation for speeding and failure to provide evidence of insurance. The passenger was issued an Incidental Contact Receipt.

- A White female driver was stopped for a speeding violation. The vehicle was occupied by a White male passenger. The deputy engaged in general conversation with the passenger and requested and obtained the passenger's identification. The deputy conducted a want/warrants check on the passenger, with negative results. The driver was issued a warning. The passenger was provided with an Incidental Contact Receipt.
- A White male driver was stopped for a speeding violation. The vehicle was occupied by a White male passenger. The deputy noted that the driver and passenger were not wearing seat belts. The driver and passenger were both issued a citation for failing to fasten seat belt.
- A White female driver was stopped for driving with no license plate light. The vehicle was occupied by a White female passenger, who was a juvenile. The deputy requested the passenger's driver's license, while informing her that she had a right not to provide it to the deputy. The passenger responded that she did not have a driver's license due to her age. The driver was issued a warning. The passenger was provided with an Incidental Contact Receipt.
- A Black male driver was stopped for a stop sign violation. The vehicle was occupied by an Asian or Pacific Islander female and an unknown ethnicity and unknown gender infant child. The deputy determined that the driver's license was in a suspended status. The deputy obtained the passenger's driver's license and verified it was valid via a records check. The passenger was allowed to drive the vehicle from the stop location. The driver was issued a citation for driving with a suspended driver's license and given a verbal warning for the stop sign violation. The passenger was provided with an Incidental Contact Receipt.
- A White male driver was stopped for driving with no operable license plate light. The vehicle was occupied by a White female passenger and a White male passenger. During the stop the deputy requested the identification of the two passengers. The deputy obtained the identification of the White male passenger and ran a records check. The deputy provided the White male with an Incidental Contact Receipt. The White female passenger was a juvenile and stated that she did not have any identification on her person. The deputy did not obtain her identity; however, the deputy provided the White female passenger with an Incidental Contact Receipt. The driver was issued a warning for the light plate light violation.
- A White male driver was stopped after a deputy was informed that the vehicle was occupied by a person involved in an assault. The vehicle was occupied by a White female passenger. The deputy obtained the identity of the driver and passenger. A records check was conducted on the driver and passenger. After further investigation,

the driver and passenger were released, and both were provided with Incidental Contact Receipts.

- 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's license was determined to be in a suspended status. The driver was issued a citation for driving with a suspended driver's license. The vehicle was released to the passenger, who was the registered owner of the vehicle. After the traffic stop concluded, the deputy contacted the passenger via telephone to advise him that he would be mailing him an Incidental Contact Receipt.
- A White male driver was stopped for failure to maintain a lane of traffic. The vehicle was occupied by two White female passengers. The deputy conducted field sobriety tests and determined that the driver showed no signs of impairment. The deputy investigated the passengers in relation to possible alcohol consumption, both of whom were determined to be under the age of 21. The deputy requested that the passengers submit to a preliminary breath test. It was determined that one of the passengers had consumed alcohol and one of the passengers showed no signs of alcohol consumption. One passenger was issued a citation for consumption of liquor while under the age of 21. The other passenger was not provided with an Incidental Contact Receipt. The driver was issued a warning for the failure to maintain a lane of traffic violation.
- A White male driver was stopped for driving with one headlight. The vehicle was occupied by a White female passenger. The deputy requested the passenger's identification. The passenger was provided with an Incidental Contact Receipt. The driver was issued a warning for the one headlight violation.
- A White female driver was stopped for failure to maintain a lane of traffic. The vehicle was occupied by a White female passenger and a Latina passenger. The driver was under the age of 21 and the deputy determined that she had consumed alcohol. The deputy made contact with the White female passenger in an effort to release the vehicle to a sober driver. The White female passenger consented to taking a preliminary breath test. The deputy determined that the White female passenger showed no signs of alcohol consumption and the vehicle was released to her. The White female passenger was not provided with an Incidental Contact Receipt. The driver was issued a citation for consumption of liquor while under the age of 21.
- A White male driver was stopped for failure to maintain a lane of traffic. The vehicle was occupied by a White male passenger. The deputy detected the odor of alcohol and marijuana emanating from the vehicle. The driver was arrested and processed for driving under the influence. The passenger was investigated and was subsequently issued a citation for possession of narcotic paraphernalia. The vehicle was impounded. The driver was issued a citation for failure to maintain a lane of traffic, driving under the influence, and no evidence of insurance.

- A White male driver was stopped for driving with no visible license plate. The vehicle was occupied by a White female passenger. The driver did not have any identification on his person. The driver's license was determined to be in a suspended status. The driver was issued a citation for driving with no visible license plate, driving with a suspended driver's license, and no evidence of insurance. The deputy determined, via a records check, that the passenger had a valid driver's license. The vehicle was released to the passenger. The passenger was provided with an Incidental Contact Receipt.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a Latina passenger. A records check revealed that the driver's license was in a suspended status and that the driver had an outstanding warrant. The driver was arrested. The deputy made contact with the passenger to obtain her identity to determine if she had a valid driver's license. Upon verifying that the passenger had a valid driver's license, the vehicle was released to her. The passenger was not provided with an Incidental Contact Receipt.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a Latina passenger. The driver produced a Mexican driver's license. A records check revealed that the driver's Arizona driver's license was in a suspended status and that the driver had an outstanding warrant. The driver was arrested. The deputy asked the passenger if she had a valid driver's license. It was determined that the passenger did have a driver's license and the vehicle was released to her. The passenger was provided with an Incidental Contact Receipt.
- A White female driver was stopped for driving with an expired registration. The vehicle was occupied by a White male passenger. The passenger obtained the identification of the passenger and conducted a records check. The passenger was provided with an Incidental Contact Receipt. The driver was issued a warning for the expired registration violation.
- A White male driver was being stopped for driving with an expired registration. The driver then was observed driving recklessly as he fled from the deputy. The vehicle was occupied by a White female passenger. Once the deputy located the vehicle and the occupants, the driver was arrested. The passenger was detained. The driver was found to have a warrant for his arrest. A report was prepared for review of the Maricopa County Attorney's Office regarding potential charges in relation to the driver for unlawful flight from a law enforcement officer and reckless driving. The driver was issued a citation for the expired registration violation. The passenger's identity was obtained and a records check was conducted. The passenger was later released at the scene. The passenger was not provided with an Incidental Contact Receipt.
- A White male driver was stopped for a speeding violation. In addition, the deputy observed that the driver was smoking a cigarette with the driver's side window down in an area where a fire ban was in effect by the United States Forest Service. The deputy also observed that the passenger was smoking a cigarette with the passenger side

window rolled down. The deputy issued the driver a citation for speeding and smoking in violation of the fire ban. The passenger was issued a citation for smoking in violation of the fire ban.

- A Latino driver was stopped for a speeding violation. The vehicle was occupied by one Latino passenger and four Latina passengers. The driver did not have any identification on his person. The driver stated that he had never obtained a driver's license. A records check revealed that the driver did not have any record of having obtained an Arizona driver's license. The driver was arrested. The deputy determined that the passenger had a valid driver's license and the vehicle was released to her. The passenger was provided with an Incidental Contact Receipt. The driver was issued a citation for speeding and driving without a driver's license.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a Latino passenger. The driver presented the deputy with a Mexican passport for identification purposes. The deputy determined, after running a records check, that the driver had never obtained an Arizona driver's license. The vehicle was impounded. The deputy contacted the passenger and asked him if had a valid driver's license. The passenger did not have a valid driver's license. The passenger was provided with an Incidental Contact Receipt.
- A Black female driver was stopped for a speeding violation. The vehicle was occupied by a Black male passenger. The deputy detected the odor of marijuana emanating from the vehicle. The passenger admitted that there was a bag in the vehicle that belonged to him that contained marijuana. The deputy seized the marijuana and narcotic paraphernalia that was contained in the bag. A report was prepared for review of the Maricopa County Attorney's Office regarding potential charges in relation to the passenger for possession of narcotics and narcotic paraphernalia. The driver was issued a citation for the speeding violation. The passenger was provided with a property receipt for the items that were seized; however, the passenger was not provided with an Incidental Contact Receipt.
- A White male driver was stopped for a speeding violation. The vehicle was occupied by a White female passenger. The deputy obtained the name of the passenger and conducted a records check. The driver was issued a warning for the speeding violation. The passenger was provided with an Incidental Contact Receipt.
- A White female driver was stopped for a speeding violation. The vehicle was occupied by a two White male passengers, one of which was a juvenile, and a White female passenger. The deputy obtained the name of the two adult passengers, a White male and a White female, and conducted a records check. The driver was issued a warning for the speeding violation. The adult passengers were provided with Incidental Contact Receipts.

- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a White male passenger. The deputy determined, after running a records check, that the driver's license was in a suspended status and that the license plate was not valid. The deputy contacted the passenger to determine if had a valid driver's license. The passenger did have a valid driver's license and the vehicle was released to him. The passenger was provided with an Incidental Contact Receipt. The driver was issued a citation for speeding, driving with a suspended driver's license, and failure to produce a valid registration.
- A Latino driver was stopped for an equipment violation, tint on windshield. The vehicle was occupied by two Latina passengers. One of the Latina passengers assisted with translation between the deputy and the driver. The deputy obtained one of the Latina passenger's name and conducted a records check. The passenger was provided with an Incidental Contact Receipt. The driver was issued a warning for the equipment violation.
- A White male driver was stopped for making an improper lane usage violation. The vehicle was occupied by three White male passengers, all of whom were juveniles. The deputy informed the passengers of the curfew and obtained their identification information. The deputy issued all of the passengers with Incidental Contact Receipts. The driver was issued a warning for the traffic violation.

There were 23 cases identified in the stops that we reviewed for Paragraph 54.k. in which the passengers were contacted which required the issuance of either an Incidental Contact Receipt, a citation, or a warning. In eight of the traffic stops, the driver was a Latino. Each passenger contact is described in detail below.

- A Black female driver was stopped for failure to maintain a lane of traffic. The vehicle was occupied by a Black male passenger. During the stop, the deputy observed what appeared to be a handgun in the glove box. The deputy and an assisting deputy investigated and determined that it was a replica handgun. Prior to determining whether the handgun was a replica, the deputy conducted a pat-and-frisk search of the passenger. The passenger voluntarily provided his identification to the assisting deputy. The deputy ran the passenger's name for wants/warrants, with negative results. The driver was issued a warning for the traffic violation. The passenger was provided with an Incidental Contact Receipt.
- A Black male driver was stopped for failure to maintain a lane of traffic. The vehicle was occupied by a Latino passenger and four Latina passengers. The driver was arrested and processed for driving under the influence. The deputy obtained the name of a Latina passenger to determine if she had a valid driver's license. The deputy ran the passenger's name for wants/warrants, with negative results. The driver was issued a citation for the traffic violation. The passenger was not provided with an Incidental Contact Receipt.

- An American Indian/Alaskan Native male driver was stopped for a speeding violation. The vehicle was occupied by an American Indian/Alaskan Native male and a Latina passenger. The driver was arrested for an outstanding warrant. Initially, the deputy advised the passengers that they were free to leave; however, the deputy located a handgun and a knife in the vehicle, and both passengers were detained and handcuffed while the deputy investigated further. The deputy conducted a further search of the vehicle and found narcotic paraphernalia, which was placed into evidence. A records check revealed that the firearm was stolen. The deputy questioned the two passengers. A wants/warrant check on the male passenger revealed that he was wanted on an outstanding warrant. The male passenger was arrested. The driver was issued a citation for speeding. The deputy prepared a report for review by the Maricopa County Attorney's Office for potential charges in relation to the possession of the stolen firearm and narcotic paraphernalia. The female passenger was not provided with an Incidental Contact Receipt.
- A Latino driver was stopped for a stop sign violation. The vehicle was occupied by a White female passenger. The driver was arrested and processed for driving under the influence. The deputy obtained the identity of the passenger to determine if she had a valid driver's license. Upon verifying that the passenger had a valid driver's license, the vehicle was released to her and she was provided with an Incidental Contact Receipt.
- A Latino driver was stopped for driving with one headlight. The vehicle was occupied by a White female passenger. The driver's license was in a suspended status. The deputy obtained the identity of the passenger to determine if she had a valid driver's license. Upon verifying that the passenger had a valid driver's license, the vehicle was released to her. The deputy noted on the Incident Report that he mailed an Incidental Contact Receipt to the passenger. The driver was issued a citation for driving with a suspended driver's license.
- A White female driver was stopped for driving with a suspended license plate. The vehicle was occupied by a Latino passenger and a Latina passenger. A wants/warrant check revealed that the driver had an outstanding warrant. The driver was arrested. The deputy made contact with the Latino passenger to obtain his identity to determine if he had a valid driver's license. Upon verifying that the passenger had a valid driver's license, the vehicle was released to him and he was provided with an Incidental Contact Receipt.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a Latina passenger. A wants/warrant check revealed that the driver had an outstanding warrant. The driver was arrested. The deputy made contact with the passenger to obtain her identity to determine if she had a valid driver's license. Upon verifying that the passenger had a valid driver's license, the vehicle was released to her and she was provided with an Incidental Contact Receipt.

- An American Indian/Alaskan Native male driver was stopped for making an improper right turn. The vehicle was occupied by an American Indian/Alaskan Native male passenger and a White male passenger. The driver did not have a driver's license in his possession and produced an identification card. A records check revealed that the driver's license was in a suspended status. The White male passenger stated that he was the registered owner of the vehicle. The deputy verified that the passenger had a valid driver's license, and then released the vehicle to the passenger. The passenger was issued an Incidental Contact Receipt. The driver was issued a citation for making an improper turn and driving with a suspended driver's license.
- A White male driver was stopped for a speeding violation. The vehicle was occupied by a Latino passenger. The driver was arrested and processed for driving under the influence. The deputy also recovered marijuana and narcotic paraphernalia from the vehicle. The deputy made contact with the passenger to obtain his identification. A wants/warrant check was conducted on the passenger, with negative results. The passenger was also briefly detained and handcuffed while being investigated for open alcohol in a motor vehicle. The passenger was released and provided with a MCSO business card. Based on our review of the body-worn camera recordings, the supervisor on the scene advised the deputy to provide the passenger with a MCSO business card due to the inability to print out an Incidental Contact Receipt in a timely manner. The deputy's computer was running slowly, and it was taking an extended period of time to print any documents. This information was contained on the CAD printout.
- A White female driver was stopped for driving with one headlight. The vehicle was occupied by a White female passenger. The driver produced an Arizona driver's license. The deputy determined, via a records check, that the driver's license was suspended. The deputy seized the driver's license and placed it into evidence. The deputy detected the odor of marijuana and asked the vehicle occupants if either of them had a valid medical marijuana card. Both occupants stated that they did not have a medical marijuana card. The deputy conducted a search of the vehicle, and located marijuana and narcotic paraphernalia. The driver claimed that the items were hers. The deputy seized the items and placed them into evidence. The driver was issued a warning for the driving with one headlight violation. The deputy prepared a report for the review of the Maricopa County Attorney's Office for possible charges for the possession of narcotics and narcotic paraphernalia. The deputy provided the passenger with an Incidental Contact Receipt.
- A White male driver was stopped for driving with no headlights. The vehicle was occupied by a White female passenger and three White male passengers. The driver was arrested and processed for driving under the influence. The deputy obtained the driver's license of the White female passenger to determine if she had a valid driver's license. The vehicle was then released to the White female passenger. The deputy provided her with an Incidental Contact Receipt.

- A Black female driver was stopped for driving with a suspended license plate. The vehicle was occupied by a Latina passenger, a Black female passenger and a passenger listed on the VSCF as unknown, vision obstructed. The deputy approached on the passenger side of the vehicle. The Latina passenger stated that she was the registered owner of the vehicle. The deputy obtained the passenger's identity and conducted a records check. The deputy arrested the Latina passenger after determining that she was wanted on an outstanding warrant. The deputy issued the passenger a citation for displaying a suspended license plate. The driver was provided with an Incidental Contact Receipt.
- A Latina driver was stopped for a stop sign violation. The vehicle was occupied by a White male passenger and a Latino passenger. The deputy detected the odor of marijuana emanating from the vehicle. The White male passenger stated that he possessed a medical marijuana card and that he was in possession of marijuana. The deputy conducted a records check of the White male passenger and it was determined that he had three outstanding arrest warrants. The deputy arrested the White male passenger. The deputy conducted a records check of the Latino passenger. The deputy did not provide the Latino passenger with an Incidental Contact Receipt. The driver was issued a citation for the stop sign violation and for no current registration.
- A Latino driver was stopped for failure to maintain a lane of traffic. The vehicle was occupied by a Latino passenger. The driver was arrested and processed for driving under the influence. The deputy obtained the name of a Latina passenger to determine if she had a valid driver's license. The passenger was provided with an Incidental Contact Receipt.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by two Latina passengers and two Latino passengers and a Latino infant, with an unknown gender. The driver did not have any identification on his person. The driver stated that he had never obtained a driver's license. One of the passengers identified herself as the wife of the driver. The deputy obtained her name and determined that her driver's license was in a suspended status. The passenger was provided with an Incidental Contact Receipt. The driver was arrested for driving without a driver's license. The deputy seized the license plate from the vehicle, as it was in a suspended status. The vehicle was impounded. The driver was issued a citation for the speeding violation and for driving without a driver's license.
- A White male driver was stopped for a reckless driving violation. The vehicle was occupied by an Asian or Pacific Islander male passenger. The deputy arrested the driver for the reckless driving offense. The deputy determined that the driver's license was in a suspended status. The vehicle was impounded. The deputy asked the passenger if he had a valid driver's license and the passenger's response was that he did not have a driver's license. The deputy provided the passenger with an Incidental Contact Receipt.

The driver was issued a citation for driving with a suspended driver's license and reckless driving.

- A White male driver was stopped for a reckless driving violation. The vehicle was occupied by three White male passengers. The deputy detected the odor of marijuana. The deputy had all of the occupants exit the vehicle. After further investigation, the deputy located marijuana and narcotic paraphernalia in the vehicle. One of the passengers was arrested for possession of the marijuana and narcotic paraphernalia. The driver was issued a citation for the reckless driving offense. The deputy provided the two other passengers with Incidental Contact Receipts.
- A White female driver was stopped for a speeding violation. The vehicle was occupied by a White female passenger and a Latino passenger. The driver produced an Arizona identification card and stated that she had never obtained a driver's license. The deputy detected the odor of alcohol on the driver's breath; however, he determined that the driver was not impaired. The deputy detected the odor of burnt marijuana. A search of the vehicle was conducted. A backpack was located in the vehicle that contained narcotic paraphernalia. The White female passenger admitted that the item was hers. The narcotic paraphernalia was placed into evidence. The deputy determined that an arrest warrant existed for the driver. The names of the passengers were obtained and a records check revealed that the White female passenger was wanted on a warrant. The passenger was arrested. The Latino passenger was searched after being requested to consent to the search and he agreed to the search. The vehicle was impounded. The driver was issued a citation for speeding and driving without a driver's license. The White female passenger was issued a citation for possession of narcotic paraphernalia. The Latino passenger was provided with an Incidental Contact Receipt.
- A Latino driver was stopped for a speeding violation. The vehicle was occupied by a White female passenger. The driver did not have any identification on his person. The deputy was initially unable to locate the subject's information via a records check. The driver was arrested for failing to provide identification. The driver then admitted he had provided an incorrect date of birth to the deputy. A records check revealed that the driver's license was in a revoked status and that an arrest warrant existed. The driver was issued a citation for driving with a revoked driver's license. The vehicle was impounded. The passenger was provided with an Incidental Contact Receipt.
- A Black male driver was stopped for driving with an improper rear stop lamp. The vehicle was occupied by a Latina passenger. The deputy detected the odor of marijuana. The driver stated that he possessed a medical marijuana card. The deputy conducted a search of the vehicle and located portions of previously smoked marijuana cigarettes. The items were seized and placed into evidence. The deputy determined that the driver's license was in a suspended status. The driver was arrested. The driver's license was seized and placed into evidence. The driver was issued a citation for driving with a

suspended driver's license and possession of narcotic paraphernalia. The deputy obtained the passenger's name and provided her with an Incidental Contact Receipt.

- A White female driver was observed stopped in the roadway. The deputy investigated and the driver was arrested and processed for driving under the influence. The vehicle was occupied by three White female passengers. In an effort to identify a sober driver, the deputy requested that two of the passengers submit to a preliminary breath test. The passengers agreed to submit to the preliminary breath test and it was determined that both of the passengers had been consuming alcohol. The two passengers were not provided with Incidental Contact Receipts.
- A White female driver was stopped for a speeding violation. The vehicle was occupied by a White male passenger and two White female passengers. The driver was arrested and processed for driving under the influence. One of the White female passengers was investigated for possession of open alcohol in a motor vehicle. The passenger was issued a citation for the violation. The driver was issued a citation for speeding and driving under the influence violations.
- A Latino driver was stopped for driving with an expired registration. The vehicle was occupied by a Latino passenger. The driver did not have any identification on his person. A records check revealed that the driver's license was in a suspended status and that an arrest warrant from another state existed. The driver was arrested. The passenger was provided with a courtesy ride from the stop location. 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 White male driver was investigated after he was observed driving a golf cart with license plate and no operable tail-lights. The golf cart was occupied by a White female passenger. The deputies approached the golf cart after the driver had stopped the vehicle. The driver's license was revoked. The passenger was arrested for an outstanding warrant. The golf cart was towed and impounded. The driver was issued a citation for driving with a revoked driver's license and failure to have insurance.

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, a citation, or a warning, when required in 36% of the cases. During the last reporting period of 2018, MCSO provided the Incidental Contact Receipt, a citation, or a warning, when required in 13% of the cases. During the first and second reporting periods of 2019, MCSO provided the Incidental Contact Receipt, a citation, or a warning, when required in 40% and 45% of the cases, respectively. MCSO has improved in this area of compliance during this reporting period. MCSO provided the Incidental Contact Receipt, a citation, or a warning, when required in 81% 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 106 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 106 of the 106 VSCFs reviewed. Deputies accurately entered beginning and ending times of traffic stops in 106 of the 106 cases that we reviewed. MCSO accurately entered the time citations and warnings were issued in all 106 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 106 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 our review of a traffic stops in relation to Paragraphs 25.d. and 54.g., we identified one stop where the deputy noted on the VSCF that a Latino driver was asked by the deputy why he did not have a driver's license. The deputy noted that as the driver explained the issue he also declared his immigration status, although the deputy did not request such information. The deputy did not list the driver's immigration status and took no action in regards to any immigration status information that was provided. The driver was issued a citation for driving without a driver's license and released. 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.

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. MCSO's Compliance Report for the 21st Quarter reporting period indicates that MCSO continues to enforce this Subparagraph requirement and the need for thorough supervisory reviews. 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 was identified, a random sample of 10 traffic stops from July was identified for review. At the request of MCSO, commencing with August and September, a random sample of 35 traffic stops was identified for review for each of those months. 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 traffic stops reviewed in relation to Subparagraphs 25.d. and 54.g. 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 traffic stops reviewed in relation to Subparagraph 54.k, there were seven stops identified that met the criteria of this Subparagraph:

- A Black female driver was stopped for failure to maintain a lane of traffic. The vehicle was occupied by a Black male passenger. During the stop, what appeared to be a handgun was observed in the glove box. The deputy and an assisting deputy investigated and determined that it was a replica handgun. Prior to determining whether the handgun was a replica, the deputy conducted a pat-and-frisk search of the passenger. The passenger voluntarily provided his identification to the assisting deputy. The deputy ran the passenger's name for wants/warrants, with negative results. The driver was issued a warning for the traffic violation. The passenger was provided with an Incidental Contact Receipt.
- A Latino driver was stopped for driving with one headlight. The vehicle was occupied by a White female passenger. The driver's license was in a suspended status. The deputy requested that the driver exit the vehicle at which time the deputy detained the driver, conducted a pat-and-frisk search and placed him in handcuffs. On the VSCF, the deputy incorrectly indicated that a protective sweep search of the driver was conducted. The driver was then released and issued a citation for driving with a suspended driver's license.
- A Latina driver was stopped for a speeding violation. The driver's license was in a suspended status. The driver was also in violation her license restriction that required any vehicle that she drives to be equipped with an interlock device. The driver was issued a citation for speeding, driving with a suspended driver's license, and driving without an interlock device installed. The deputy towed and impounded the vehicle and seized the license plate and placed it into evidence. The deputy conducted a pat-and-frisk search of the driver prior to providing a courtesy ride.
- An American Indian/Alaskan Native male driver was stopped for making an improper right turn. The vehicle was occupied by an American Indian/Alaskan Native male

passenger and a White male passenger. After the deputy stopped the vehicle the driver exited the vehicle. The deputy then instructed the driver to stay in the vehicle. The driver complied; however, as the deputy approached the vehicle the driver again exited the vehicle. It was at this time the deputy, while speaking to the driver, conducted a pat-and-frisk search of the driver. No weapons were found. The driver did not have a driver's license in his possession and produced an identification card. A records check revealed that the driver's license was in a suspended status. The White male passenger stated that he was the registered owner of the vehicle. The deputy verified that the passenger had a valid driver's license, and then released the vehicle to the passenger. The passenger was issued an Incidental Contact Receipt. The driver was issued a citation for making an improper turn and driving with a suspended driver's license.

- A White male driver was being stopped for driving with an expired registration. The driver then was observed driving recklessly as he fled from the deputy. The vehicle was occupied by a White female passenger. Once the deputy located the vehicle and the occupants, the driver was arrested. The driver was searched incident to the arrest. The passenger was detained and a pat-and-frisk search of her person was conducted. The driver was found to have a warrant for his arrest. A report was prepared for review of the Maricopa County Attorney's Office regarding potential charges in relation to the driver for unlawful flight from a law enforcement officer and reckless driving. The driver was issued a citation for the expired registration violation. The passenger's identity was obtained and a records check was conducted. The passenger was later released at the scene. The passenger was not provided with an Incidental Contact Receipt.
- A White female driver was stopped for a speeding violation. The vehicle was occupied by a White female passenger and a Latino passenger. The driver produced an Arizona identification card and stated that she had never obtained a driver's license. The deputy detected the odor of alcohol on the driver's breath; however, it was determined that the driver was not impaired. The deputy detected the odor of burnt marijuana. A search of the vehicle was conducted. A backpack was located in the vehicle that contained narcotic paraphernalia. The White female passenger admitted that the item was hers. The narcotic paraphernalia was placed into evidence. The deputy determined that an arrest warrant existed for the driver. The names of the passengers were obtained and a records check revealed that the White female passenger was wanted on a warrant. The passenger was arrested. The Latino passenger was searched after being requested to consent to the search and he agreed to the search. The deputy did not inform the passenger that he had a right to refuse or revoke the consent to search at any time, as required by MCSO policy. The vehicle was impounded. The driver was issued a citation for speeding and driving without a driver's license. The White female passenger was issued a citation for possession of narcotic paraphernalia. The Latino passenger was provided with an Incidental Contact Receipt.

- A Black male was stopped for a stop sign violation. The deputy detected the odor of marijuana emanating from the vehicle. The driver stated he did not have a medical marijuana card. The deputy indicated on the VSCF that he had requested and obtained consent to search the driver as well as listing the type of search as being a pat-and-frisk search. The primary deputy's body-worn camera did not capture the traffic stop event. An assisting deputy arrived to the stop location and a review of his body-worn camera recording revealed that he arrived after the driver had exited the vehicle and was in handcuffs standing next to the driver's side door of the stopped vehicle. The body-worn camera recording does not capture the primary deputy's request to search the driver's person nor the driver's consent to conduct the search. The body-worn camera recording did capture the primary deputy's request and the driver's consent to conduct a search of the vehicle. However, based on or review of the body-worn camera recording, the primary deputy did not inform the driver of his right to refuse or revoke consent at any time, as required by MCSO policy. There was no documentation on the VSCF indicating that the primary deputy's body-worn camera malfunctioned. The deputy did not locate any contraband during the search of the driver and the search of the vehicle. The driver was issued a citation for the stop sign violation.

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

- A Latino driver was stopped after the deputy observed litter being thrown from the passenger side of the vehicle. The vehicle was occupied by a Latino passenger. The deputy determined that the passenger was throwing beer cans from the vehicle. The deputy also determined that the driver, who was under the age of 21, had been consuming alcohol. During the stop the deputy requested the driver and passenger to exit the vehicle. The deputy conducted pat-and-frisk searches of the driver and passenger. The VSCF prepared in relation to the stop indicates that the search of the driver and the passenger was conducted after requesting and obtaining consent. However, a review of the body-worn camera recordings reveal that the deputy requested and obtained consent from the driver to conduct a search of his person; however, the deputy did not inform the driver of his right to refuse or revoke consent at any time, as required by MCSO policy. In relation to the search of the passenger, a review of the body-worn camera recordings reveal that the deputy did not request or obtain consent from the passenger to conduct a search of his person. The deputy arrested and processed the driver for driving under the influence. The passenger was issued a citation for littering.

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 and second reporting periods of 2019, we deferred our compliance assessment with this Subparagraph during those reporting periods. During this this reporting period, we determined that MCSO attained a compliance rate of 78%. MCSO is not in compliance with this requirement.

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. A summary of the cases is listed below.

During our review of the collected traffic stop data (our sample of 106) during this reporting period, we identified seven cases where items were seized and documented on the VSCFs. In one case, a deputy seized a driver's license and placed the item into evidence. In four cases, the deputies seized license plates and placed the items into evidence. In one case, a deputy seized alcohol and narcotics paraphernalia and placed the items into evidence. In one case, a deputy seized a driver's license and narcotics paraphernalia and placed the items into evidence

In the cases we reviewed for searches of individuals under Subparagraph 54.k., several items were seized by deputies and placed into evidence. In 15 cases, deputies seized driver's licenses and placed the items into evidence; however, in two of those cases, the deputies did not document the seizure of the drivers' licenses on the VSCFs. In seven cases, deputies seized license plates and placed the items into evidence. In two cases, the deputies seized narcotics and placed the items into evidence. In two cases, the deputy seized narcotic paraphernalia and placed the items into evidence. In five cases, deputies seized narcotics and narcotic paraphernalia and placed the items into evidence. In one case, a deputy seized a driver's license, narcotics and narcotic paraphernalia and placed the items into evidence. In one case, a

deputy seized an open alcoholic beverage and narcotic paraphernalia and placed the items into evidence. In one case, a deputy seized a driver's license and narcotic paraphernalia and placed the items into evidence; however, the seizure of the driver's license was not listed on the VSCF. In one case, a deputy seized a driver's license and a liquor bottle and placed the items into evidence. In two cases, the deputies seized narcotics paraphernalia, a handgun, and ammunition; and placed the items into evidence.

In the cases we reviewed for passenger contacts under Subparagraph 54.g., we identified one in which a deputy seized a driver's license and placed it into evidence; however, the deputy did not document the seizure on the VSCF. In one case, a deputy seized a license plate and placed the item into evidence. In one case, a deputy seized narcotics and a soda can with a hidden storage area where the narcotics were stored and placed the items into evidence. In one case, a deputy seized empty bags that appeared to have been used to store narcotics and a beer bottle and placed the items into evidence. In one case, a deputy seized a pint of beer and narcotic paraphernalia and placed the items into evidence. In one case, a deputy seized narcotic paraphernalia and placed the items into evidence. In one case, a deputy seized a driver's license and narcotic paraphernalia and placed the items into evidence; however, the seizure of the driver's license was not listed on the VSCF.

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% for the second quarter reporting period to maintain compliance with this requirement. During the second quarter reporting period of 2019, MCSO attained a compliance rate of 86% and was no longer in compliance with this requirement. During this reporting period, the number of errors and omissions in relation to this requirement decreased. During this reporting period, MCSO attained a compliance rate of 93%. MCSO is not 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 106 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.

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 106 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 audits of the traffic stop data conducted by BIO on the monthly samples we select. While audits 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 audits for the July 1-September 30, 2019 time period and found that the audits were thorough and captured most deficiencies. During our review of the sample dataset, we identified some deficiencies and brought them to the attention of CID while onsite during our October 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 October 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, 27 sections have been approved. 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 (related to 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) be stored in a locked cabinet. 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 October 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 auditing traffic stop data in January 2014; and since April 2014, MCSO has conducted audits of the data monthly and provided those results to us. We reviewed BIO's monthly audits of the traffic samples from July 1-September 30, 2019, and found them to be satisfactory. MCSO conducts audits 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 audits 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 October 25, 2019.
- 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 106 cases we reviewed.

We did not identify any issues with the citations, warnings 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 106 stops reviewed 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 October 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 one PSB investigation that was completed during this reporting period determined that a certain employee had improperly accessed an MCSO database. PSB, as required by policy, notified the Technology Management Bureau of the case. In this case, an employee improperly accessed MCSO's Jail Management System to view information concerning a relative. The employee resigned before any discipline could be imposed. 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 October 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 body-worn camera 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. During our October site visit, MCSO reported that deputies assigned to the Districts have all been equipped with the new body-worn cameras and that deputies in specialized assignments were in the process of being equipped with the new devices. 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 noted that there was a significant increase in the number of traffic stops in which deputies used the new devices. As we reported in the previous reporting period, we noted improvement in the sound quality; we also noted that 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 October site visit, we visited District 2 and participated in a brief meeting and a ride-along with two Patrol supervisors at two different time periods. The deputies in the District were observed wearing the body-worn cameras affixed to the chest area. The supervisors indicated that the new body-worn cameras do not have cords that can break or disconnect, which had been an issue with the old body-worn cameras. The supervisors stated that one of the drawbacks was that certain events would not be visually captured, such as traffic violations and some interactions with the public, as effectively with the new devices since they are secured to the chest area. However, the supervisors indicated that the level of comfort wearing the devices is much improved and that there is less likelihood that deputies will have the devices improperly positioned when events that are required to be recorded occur.

The supervisors provided an overview of their duties supervising deputies deployed to the field. During the ride-along, deputies were observed in the field wearing the body-worn cameras in a proper manner during a call for service.

In addition, we met with personnel from Districts 1 and 2 and inquired whether deputies and supervisors had been experiencing any difficulty with the new BWC equipment. MCSO personnel reported that the new body-worn cameras provided clearer video, and the audio recordings were also improved compared to the older devices that were being utilized. The one issue that was noted, as we have noted, is that due to the placement of the body-worn camera on the chest area, the recordings do not capture any of the traffic violations. The camera does generally capture the interaction between the driver and the deputy once the deputy exits the patrol vehicle. MCSO personnel informed us that there have not been any performance issues with the new body-worn cameras.

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 has equipped the deputies in the Districts with new body-worn cameras, also provided by Axon.

To verify compliance for this Paragraph, we reviewed the body-worn camera recordings included in our monthly samples. This includes the stops reviewed each month for Paragraphs 25 and 54; the stops reviewed each month for Subparagraph 54.k.; and the 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 BWCs 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; however, there were two cases where body-worn camera recordings were not available:

- In one case, the deputy conducted a traffic stop and no recording could be located that captured the initiation of the stop and the initial contact with the driver. The body-worn camera recording commenced as the deputy was in his patrol vehicle and apparently after he had contact with the driver. There was no documentation on the VSCF that indicated that there was a malfunction of the body-worn camera. Audits and Inspection Unit also identified the issue and requested that the District prepare a BIO Action Form addressing any corrective action that is taken.
- In one case, no recording could be located for a deputy that assisted on a traffic stop. There was no documentation on the VSCF or the Assisting Deputy and Body-Worn Camera Log that indicated that there was a malfunction of the body-worn camera.

In our sample of body-worn camera recordings reviewed for Subparagraph 54.k., we identified the following cases in which deputies did not properly record traffic stop events or exigent circumstances existed that prevented the deputy from immediately activating the body-worn camera at the commencement of the traffic stop:

- In one case, the deputy's body-worn camera was not activated until after he had made contact with the driver. There was no documentation on the VSCF in relation to the body-worn camera malfunctioning. We discussed this case with MCSO during our October site visit.
- In one case, there was no recording located for an assisting deputy at a traffic stop. There was no documentation on the VSCF that indicated that there was a malfunction of the body-worn camera. The assisting deputy did not prepare an Assisting Deputy and Body-Worn Camera Log, as required.

- In one case, there was no recording located for a deputy that conducted a traffic stop. There was no documentation on the VSCF that indicated that there was a malfunction of the body-worn camera.
- In one case, a deputy observed a vehicle crossing the roadway into oncoming traffic and immediately took action to initiate a traffic stop to prevent any potential danger to motorists in the area. Once the deputy stopped the driver, he activated the body-worn camera. The deputy documented the exigent circumstances on the VSCF.

In our sample of body-worn camera recordings for Subparagraph 54.g., we identified the following cases in which deputies did not properly record traffic stop events.

- In one case, there was no recording located for an assisting deputy at a traffic stop. There was no documentation on the VSCF or the Assisting Deputy and Body-Worn Camera Log that indicated that there was a malfunction of the body-worn camera.
- In one cases, there was no recording located for an assisting deputy at a traffic stop. There was no documentation on the VSCF that indicated that there was a malfunction of the body-worn camera. The assisting deputy did not prepare an Assisting Deputy and Body-Worn Camera Log, as required.

The remainder of the cases was 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. We will discuss the aforementioned cases with MCSO during our January 2020 site visit.

MCSO's compliance rate for this requirement is 96%.

During our review, we have noted that there has been a decrease in the number of 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 have noted that the number of instances in which deputies that respond to assist at traffic stops and do not complete the Assisting Deputy and Body-Worn Camera Log has decreased during this reporting period. 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 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 continue to 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 October 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 July, August, and September 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 non-injury traffic collision and failed to complete an Accident Report and that another deputy had used profanity toward the complainant. In this instance, the investigation determined that the deputy did not complete the traffic Accident Report; however, a review of the body-worn camera recording revealed that the allegation that the other deputy used profanity was false. In fact, the recording revealed that the deputy was calm and professional.
- In one case, it was alleged that a deputy provided incorrect information to another local law enforcement agency; that the deputy was rude and unprofessional; that the deputy chose sides in a matter; and that the deputy made an inappropriate comment about the complainant's family members. A review of the body-worn camera recording revealed that the deputy acted in a professional manner and that the information provided to the law enforcement agency was accurate. It was also determined that the deputy did not make any inappropriate comment regarding the complainant's family members. The deputy's actions were determined to be proper and in accordance with MCSO policy.
- In one case, it was alleged that a deputy did not properly investigate a traffic accident. A review of the body-worn camera recording revealed that the deputy conducted a proper and thorough traffic accident investigation.
- In one case, it was alleged that during a call for service that a deputy laughed as events were being described to him and that he did not take the concerns of the complainant seriously. A review of the body-worn camera recording revealed that the deputy was direct and blunt during the interaction with the complainant, and that no evidence was identified in relation to the allegation that the deputy was laughing during the encounter. The actions of the deputies were determined to be proper and in accordance with MCSO policy.

As demonstrated with the aforementioned examples, body-worn cameras recordings have proven to be invaluable in resolving complaints alleging misconduct by deputies.

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 October 2019 site visit, we inspected the traffic stop written data file at District 1 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 October 25, 2019.
- 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

The Traffic Stop Analysis Unit (TSAU) is the unit that is 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. It 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 no analyses have ever been conducted. While many potential topics have been identified, TSAU 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. While time limitations prevented a full discussion of topic during our October 2019 site visit, we gave approval to EIU to conduct its first quarterly study. The topic of the first quarterly study will analyze how supervisors review traffic stops.

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 EIU time to consider possible refinements to the existing methodology.

MCSO's new vendor hired to analyze traffic stop data, CNA, has proposed a new methodology for the monthly analysis of traffic stop data (TSMR). We had agreed to test the proposed new methodology during our July 2019 site visit; but due to problems encountered with the TSAR methodology subsequent to our July site visit, we requested that further testing of the monthly methodology be suspended until these problems could be addressed. In general, the problems encountered from the TSAR analysis affected CNA's original plan for analytical matters proposed for TSMR to support peer-to-peer comparisons of deputy behavior. During our October 2019 site visit, we confirmed that MCSO suspended its effort to test the proposed monthly methodology for TSMR. In addition, during our October 2019 site visit, we discussed proposed solutions to the TSMR with CNA. We learned that CNA's proposed solution involves looking at information such as call signs, productivity versus a deputy's age, and tenure to develop the peer concept necessary for the monthly analysis. We requested a timeline to resume testing of the new monthly analyses. MCSO stated that it would provide us and the Parties a proposed timeline by early December 2019.

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 found 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. During our July 2019 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 took a different approach to defining the concept of peers, which the First Order requires as the basis of analysis to look for searching for evidence of 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.

As part of the new methodology, CNA investigated the use of deputy characteristics as matching variables for the propensity score matching methodology. CNA was insistent that deputy characteristics data were essential to the successful implementation of the methodology. In fact, they objected quite vigorously to criticisms about excluding these from the TSAR analysis. CNA made the case that including deputy characteristics was essential to supporting the concept of peers as required by the First Order. It was our understanding – which we expressed during our July 2019 site visit – that CNA had indeed tested its model on subsets of traffic stop data which we believed strengthened their arguments about the inclusion of deputy characteristics. Because of our belief that CNA had indeed tested its model, we permitted CNA to continue with its implementation of the TSAR methodology.

In September, MCSO informed us that CNA would be changing its methodology to exclude deputy characteristics. The MCSO memorandum stated that CNA found evidence suggesting that deputy characteristics have differential impact on stop outcomes based on the race of the driver, using interaction effect regression testing. It therefore removed all deputy characteristics (age, tenure, and productivity) from the list of matching variables. During our October 2019 site visit, we asked CNA why it could so nonchalantly walk away from its previous claims about the criticality of including these variables in the TSAR methodology, after having tested their model using a subset of traffic stop data. This statement resulted in substantial discussion about whether CNA had indeed obtained data to test their model. MCSO claimed CNA did not have data to test the model; CNA noted that it did not have the full set of data (spanning 18 months for the Fourth TSAR) but indicated that it had some access to monthly data. Nevertheless, it was clear that the application of the model using the full data file spanning the 18-month period from July 2017-June 2018 resulted in CNA's finding stated above: deputy characteristics had to be removed from the methodology.

During our October 2019 site visit, we discussed the Fourth TSAR that had been sent to us on September 30, 2019. During our meeting with MCSO and CNA, we raised our concerns about the failure of the report to opine on the potential existence of systemic problems. To be clear, we had no disagreements with the findings about disparate outcomes. However, despite the report's findings about disparate outcomes, it did not address the well-established historical

practice approved by the Monitor, MCSO, and the Parties to weigh the body of evidence from the analysis and offer conclusions about potential systemic problems.

According to Paragraph 64, the purpose of traffic stop analysis – including the annual analysis – is to "to look for warning signs or indicia or possible racial profiling or other improper conduct under this Order." The stated purpose contained in the Fourth TSAR is to "determine whether disparate outcomes exist by race of driver." The Fourth TSAR does indeed find disparate outcomes by race of driver, but the report never explains what these findings mean with regard to organizational bias. More specifically, the Fourth TSAR failed to make a determination on whether the findings of disparate outcomes were a systemic problem, which we, MCSO, and the Parties have all agreed to be the purpose of the TSAR. As stated at the beginning of this Paragraph, the previous vendor *did* report finding evidence of systemic bias within the Patrol Division of MCSO. Yet such a conclusionary statement was absent from the Fourth TSAR.

During our October site visit, we pressed MCSO on its conclusion about systemic or organizational bias after reviewing the evidence from the Fourth TSAR. However, the Sheriff, who attended our meeting, indicated that it was his place alone to speak to conclusions affecting the overall agency, and he was not prepared to do so at the site visit meeting. Consequently, MCSO personnel attending the meeting declined to answer any questions regarding what the findings meant for the Patrol or the Office as a whole. On October 25, 2019, following our October site visit, the Sheriff issued a statement that read, "The 4th Traffic Stop Annual Report continues to show disparate outcomes in our traffic stops of minorities. These disparate outcomes are warning signs of potential racial bias in our patrol function, which has been and continues to be a major concern for the Office. These may be indicative of a systemic problem. We will continue to work with the Monitor and the Parties on how best to determine the cause of these disparate outcomes and how best to address racial bias in our patrol function, where it exists. We will remain diligent, continue to develop our internal oversight, accountability and consequences to properly address and root out any behaviors in conflict with our commitment to ethical, constitutional policing practices." Because of the reference to systemic problems and the findings of disparate outcomes for "minorities," we now believe that this report's findings are consistent with the findings of the first three TSARs: Evidence of potential systemic bias continues to exist in the Patrol function of MCSO.

This Paragraph discusses in detail what transpired during our October 2019 site visit. MCSO is not in Phase 2 compliance, as it did not complete the Fourth TSAR during this reporting period.

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 October 25, 2019.
- 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. MCSO planned to test its monthly methodology (TSMR) for a period of at least five months. However, as disused above in Paragraph 65, problems encountered in implementing the TSAR subsequent to our July site visit appeared to threaten the integrity of the TSMR methodology. We requested, and MCSO complied, that the TSMR be suspended until problems encountered with the TSAR could be addressed. During our October 2019 site visit, MCSO's vendor, CNA, developed a refinement to its proposed TSMR methodology. EIU committed to providing us and the Parties a timeline and documentation on the changes to TSMR by early December 2019. Resumption of the test of the alternative TSMR methodology will occur once the December 2019 MCSO alternative methodology is approved.

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 still 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 is awaiting approval for testing once we and the Parties have reviewed its revised methodology.

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 July and October 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. These statements were also confirmed in discussions with the Deputy Chiefs of Patrol Bureaus East and West.

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 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. The review period for this Paragraph is lagged by a month (June to August) to ensure that data are complete. The compliance rate ranged from 94% in June to 47% in August. During this three-month period no single District or Unit appears to be repeatedly deficient. AIU sent out BIO Action Forms (BAFs) to the Districts/Units based upon these deficiencies. A review of the closed alerts themselves shows that the majority were completed with a meeting between the supervisor and their subordinate, although two noted multiple interventions. We will continue to evaluate the processing of alert investigations, as well as the methods supervisors employ to respond to alleged deficiencies.

While the alert inspection for closures is useful for showing whether supervisors completed the alert investigations in a timely fashion, it has not yet developed to the point to ensure that repeated alerts for the same issue are tracked uniformly. MCSO continues to refine the inspection with this goal in mind. During our October 2019 site visit, MCSO noted that the Training Division is creating a class to standardize evaluation of intervention effectiveness with the anticipation that the training would be delivered in early 2020 and implementation of effectiveness tracking would be piloted and implemented later in the year. 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.

Toward this end, during our July site visit, MCSO presented a tracking analysis of BIO Action Forms sent out between January and May 2019. Two of the more important findings of this initial investigation were that the majority of supervisors (78%) receiving a BIO Action Form had only one deficiency during this time period while 7% of supervisors had received three or more BIO Action Forms. During our October site visit, we inquired about any updates regarding repeated routine tracking inspections. MCSO noted that it had found some issues with the earlier tracking analysis and was working to correct those before developing a method that could ensure accuracy in repetitive inspections. We have requested that any new documents developed be shared as they become available. We will continue to work with MCSO to develop and refine this inspection/audit.

The Fourth Traffic Stop Annual Report (TSAR) was published in September 2019 covering the period from July 2017 through December 2018. While this report is disseminated throughout the organization, and made public to the community, the analysis focuses on organizational trends. However, the analytic methods in the Fourth TSAR were meant to create a foundation for the Traffic Stop Monthly Reports (TSMR) that continues to be developed by MCSO. The new methodology of the annual reports no longer allows individual attribution that would afford supervisor intervention for the deputies under their command. We continue to work with MCSO on the development of a monthly traffic stop analysis that would provide information about potential bias of individual deputies when compared with their peers. The previous monthly traffic stop analysis was suspended because the benchmarks and thresholds were not grounded in either acceptable theory or analytic rigor that would make them consistently useful.

Due to the priority of the Traffic Stop Annual and Monthly Reports, MCSO has not initiated a quarterly traffic stop report as required by the Order. However, MCSO is investigating special topics for the quarterly report as discussed during both our July and October site visits.

MCSO continues to provide us access each month to all Non-Traffic Contact Forms (NTCFs) involving an investigative stop; but has only begun planning to conduct more thorough analyses of these for this and other Paragraphs. We remain concerned that our review of the NTCFs provided each month sometimes indicate a higher proportion of Latinos are being contacted in particular areas of the County for relatively minor infractions. We have evaluated the proposal of MCSO to examine these stops and made numerous recommendations on sample size, method

of analysis and supervisor review of NTCFs looking for potential biases that may exist. Discussions surrounding this audit/inspection are ongoing. It is clear that this would be a useful tool for supervisors to oversee the activity of their subordinates. Once finalized, both the TSMR and NTCF analyses will require additional training for supervisors to understand how to look for trends or patterns that may be problematic. 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 October site visit, we discussed with MCSO five closed alert investigations from June through August 2019. (We included June because the information for that month had not been published in sufficient time prior to our July site visit to be discussed then. This is the same reason that we did not discuss closed alerts from September during our October site visit.) One case noted that there were several added cases that spun off of this investigation. MCSO noted that the original case and all spin-off cases had been closed and included in subsequent months for additional review. Two cases involved multiple vehicle accidents in particular units of MCSO. MCSO noted that the agency was reviewing the thresholds used to trigger alert investigations to ensure that they are meeting the Order requirements noted in Paragraph 81.f. and evaluate best practices to minimize accident occurrence in the future. Finally, an additional two cases had incomplete information in the original documents provided. MCSO committed to providing these documents, and we reviewed these during our October meetings. In one case, there were still two ongoing PSB investigations; but the supervisor reviewed a number of policies with the deputy in question. In the other, a sergeant received eight BAFs due to inadequate completion of required supervisory documents. The lieutenant met with the sergeant – but more importantly, he adjusted his own schedule to accompany the sergeant on ride-alongs and to further show the importance of completing supervisory tasks in a timely fashion. These latter examples show how several supervisors across the organization are using the tools available to them in EIS.

The Audit and Inspections Unit (AIU) conducts monthly audits 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. In July and September, we noted the traditionally high compliance rate of 98% for these inspections; however, due to 14 deficiencies found in District 1 in the August inspection, the compliance rate fell to 91%. We had not received this inspection in time to inquire about these issues during our October site visit, but command staff informed us during the onsite review of the District that they were short-handed for both deputies and supervisors, which caused some delays in documentation requirements. In those instances where supervisors failed to make the appropriate notations, AIU 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 audits, MCSO reports a compliance rate above 97% during the months involved in the third quarter. AIU sent out BIO Action Forms to several districts during this reporting period; however, the deficiencies do not appear to indicate a pattern. The compliance rate for the traffic stop data inspection ranged from a low of 89% in July, to 91% in August. The deficiencies found were due to information that did not match when comparing CAD to VSCF data, as well as the fact that not all warrant and license checks were documented. The deficiencies are not confined to any one individual or District; therefore, there appears to be no discernable pattern. AIU also 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, AIU reviews the BWC footage to ensure compliance. The July and August inspections reported a 100% compliance rate; while in September (96%) the inspection noted one instance where the auditor believed the driver, marked as White by the Deputy on the VSCF, was, in fact, Latino, after reviewing the BWC recording. During our October site visit, we also discussed with MCSO personnel the manner in which AIU determines and selects sample sizes for this inspection. We made several recommendations, and will continue to evaluate this inspection in future reports.

AIU also conducted separate inspections of County and Justice Court cases that are turned down for prosecution, and an Incident Report inspection. MCSO raised the issue of whether these two inspections could be merged into a single inspection process since these two inspections largely rely upon Incident Reports. Following extensive discussions and proposals, the first combined inspection was published in August 2019 using July data. The inspection should include instances where prosecuting authorities turned cases down due to a lack of probable cause. There were no such issues in the inaugural inspection. In addition, the inspection involves the examination of 20 In-Custody and 20 Criminal Citation Incident Reports. Since the old Turndown Inspection and the new Incident Report Inspection are lagged by one month,

we are using both old and new inspections for this quarterly report. The June inspection for County Attorney Turndowns reports a compliance rate of 100%, while the July and August IR inspection reports show a compliance rate of 99.5%; however, due to the fact that a single case in each month failed in reference to an Order requirement, we estimated the compliance rates for the IR inspections to be 97.5%. Each of these reports also indicate deficiencies found during the inspection that will result in BIO Action Forms being sent to the appropriate Districts or units. These typically pertain to property receipts. The deficiency in July related to *Miranda* issues, and the one in August involved a lack of specificity (probable cause) pertaining to what occurred during the incident. We will follow up on these issues and address them in future quarterly status reports. Finally, we continue to work with MCSO to refine and improve the new Incident Report Inspection, including issues of sample selection, articulation of probable cause and inspection compliance reporting rates versus compliance for Paragraph Order requirements.

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 not only that they are providing deputies with feedback and correction, but that supervisors themselves often require assistance, support and direction from lieutenants and captains.

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 October 25, 2019.
- 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. During our October site visit meeting, MCSO presented information showing that 90% of the manual has been approved. The remaining sections that are in development pertain to data analytic strategies or definitions that have been a main topic of discussion during and between site visits since MCSO identified the new data vendor. In September of 2019, MCSO published the Fourth Traffic Stop Annual Report. The tenor of this report was much more cautious than prior reports. While the report noted "that there is evidence of disparate outcomes by driver race in traffic stops for most stop outcomes," it also indicated that "[b]ased on the limitations of traffic stop analysis, the presence of disparate outcomes does not necessarily indicate the presence of bias." As expected, the Fourth TSAR was a significant topic covered during our October site visit. During the meeting, neither the Sheriff nor his designees were willing to discuss whether these findings were considered by the organization to be evidence of possible systemic bias in traffic enforcement. At our urging, MCSO published an addendum to the Fourth TSAR on October 25, 2019, indicating that the disparate outcomes "may be indicative of a systemic problem within the patrol function."

A portion of the monthly alert report produced by EIU depends upon the TSMR, which remains under development. The EIS also produces alerts for numerous activities, ranging from the 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 EIU 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 inspection is lagged by a month in order to allow supervisors 30 days to complete the investigation. The compliance rate for June was 94% while the rate dipped to 67% and 47% in July and August, respectively. EIU has worked with Training Division personnel to develop supervisor training on the alert investigation process to be included in the upcoming SRELE training. We anticipate that 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, including feedback from EIU personnel. As noted in Paragraph 69, we discussed several past alert investigations

with MCSO during our October site visit and were satisfied with the progress being made in each instance. EIU is also developing a secondary aspect of the alert process inspection to evaluate the effectiveness of interventions implemented as required under Paragraph 81.d.

MCSO is not in Phase 2 compliance with this Paragraph; as both the TSMR and TSQR are undergoing revision and have not yet been produced. During our October site visit, we requested an update on the development of each. In addition, we requested a proposal of how MCSO will ensure that future TSARs will allow for the tracking of trends of disparate treatment in traffic stop outcomes by race. 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. Our comments in this report pertain to compliance with the Plan during the third quarter of 2019. During our October site visit, we met with MCSO to inquire about the progress of the Plan. Below is our assessment and reported progress.

<u>Goal 1: Implementing an effective Early Intervention System (EIS) with supervisor discussions.</u> MCSO reported that it continues to hold internal "Town Hall" meetings in Patrol Districts, to discuss supervisors' concerns and questions regarding EIS. One concern we have discussed with MCSO is the need to analyze data collected from stops and detentions that are not related to traffic stops. These types of contacts are documented on NTCFs. There are several types of interactions captured in the NTCF: courtesy rides; abandoned cars; field information; and investigatory stops. For the first 18 months, we only received the latter from MCSO. However, after several discussions during site visits, it became apparent that the categories of "field information" and "investigatory stops" might overlap. We conducted a randomized evaluation of the stops categorized as "field information," and found that 80% were closely related to the investigatory stop/detention category. MCSO does not currently have a methodology in place for reviewing the collected data from NTCFs to determine if there are disparate outcomes and/or bias with regard to Latinos. The methodology proposed by MCSO is in the process of being revised; an implementation date has not yet been determined.

MCSO advised us that Complaint Intake Training will be given to civilians in 2020, and that supervisory review of reports for probable cause, culpable mental states, and specifics of crimes was added to the 2019 SRELE lesson plan. We recommend that expanded and specific language be added to direct supervisors on how to review the intake of these complaints.

<u>Goal 2: Evaluating supervisors' performances through an effective Employee Performance Appraisal process.</u> MCSO has worked on revising the EPA process, and established two pilot districts – Districts 2 and 3 – to test the revised process. In July 2019, MCSO conducted supervisory orientation in Districts 2 and 3 on the new format. We have been advising MCSO

where we have noted deficiencies in the current EPAs. We are hopeful that the revised EPA process will address these deficiencies. However, we have not reviewed enough EPAs completed in the new format to predict the degree of success supervisors will have in addressing the areas of weakness. The new EPA process is expected to be completed in January 2020, with implementation for sworn by July 1. Implementation for Detention and civilian personnel is expected by the end of 2020.

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 October site visit, MCSO advised us that they continue to work on production of a video on this topic. MCSO reported that the agency had reached out to the Community Advisory Board (CAB) for additional input on this project. We learned that MCSO is soliciting bids from third-party vendors, and is in the process of drafting a request for proposals (RFP).

Goal 4: Enhanced fair and impartial decision-making training. MCSO noted that fair and impartial decision-making would be part of the 2019 ACT. However, unless there is an "enhanced" component, the training will not satisfy this goal. MCSO reported that it is working to improve upon the supervisory response to BIO Action Forms, and a learning activity will be added to the 2019 SRELE training to cover this topic. MCSO also reported that the Office currently has five training videos in its Video Library.

Goal 5: Delivering enhanced training on cultural competency and community perspectives on policing. 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. MCSO personnel reported that they met with a member of the CAB to discuss the integration of cultural competency into the FTO program, and to discuss possible instructors. They also discussed the development of a Cultural Competency curriculum. MCSO advised that starting in October, a Patrol deputy and a Detention Officer would be integrated into the Office's community outreach effort. We inquired about the community survey noted in the original CPP. MCSO personnel advised us that the agency is trying to devise a plan on how to best execute the community survey. We inquired, but there was no firm timeline for this project.

Goal 6: Improving traffic stop data collection and analysis. MCSO did not have a Traffic Stop Monthly Report methodology in place during the third quarter of 2019, and has not had one for the past two years. MCSO – working with its contract vendor, the Parties, and the Monitoring Team – will be testing proposed methodologies over the next several months. Additionally, MCSO has not yet completed a quarterly traffic stop analysis, as required by the First Order. During our October site visit, we asked if MCSO was considering any further

modifications to the Vehicle Stop Contact Form (VSCF) and learned that no changes are contemplated for the VSCF. MCSO noted that the Office had published the findings of the TSAR on September 30, 2019. We note that the methodology employed for Fourth TSAR did not allow for an analysis comparing levels of potential bias in traffic stops from earlier TSARs. In addition, the original Fourth TSAR report did not indicate whether the disparate treatment of Latinos was indicative of a possible systemic problem within the Patrol Division of MCSO. An addendum addressing this issue was added at our insistence.

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 October site visit, MCSO informed us that between August and October, MCSO met with a number of Latino organizations to initiate discussions about potential partnerships to enhance recruiting. MCSO personnel also advised that they contracted with a consultant to implement a new deputy sheriff examination. MCSO also contracted with a vendor to provide an online case management system for increased efficiency in the hiring process, for implementation in January of 2020. MCSO advised us that the number of vacancies has decreased, as compared to this same time period last year. As of September, the number of sworn vacancies was 42; Detention, 125; and civilian, 165. We inquired if MCSO would publish a revised Plan to Promote Constitutional Policing, and MCSO advised us that there currently were no plans for a revision.

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 Non-Traffic Contact Forms and the Annual, Monthly, and Quarterly Reports for traffic stop data, we have nonetheless been afforded complete access to all requests involving data.

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 that 80% of the EIU Operations Manual had been completed and approved by us and the Parties. During our October site visit, this had increased to 90%. 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.

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 produced a preliminary draft of an NTCF methodology that we have returned with comments. We will continue to work with MCSO to finalize each of these data analytic methods. 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 – except for August which was 91%. In August, inspectors found 16 deficiencies across all indicators of this inspection, of which 14 occurred in District 1. During our visit to District 1 in October, we noted that Command Staff indicated they were short on both deputies and supervisors. We will continue to track these trends. When deficiencies are discovered, AIU sends BIO Action Forms to the affected Districts. We will evaluate these as they become available.

In the Traffic Stop Review and Discussion Inspections for July through September, we note 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 audit 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. From July through September, the compliance rate for this inspection was consistently around 90%, which is similar to the findings for the last six months. This translates into four to six deficiencies each month, none of which appear to indicate a trend or pattern of concern. 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; while 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 or 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. During our October site visit,

MCSO advised us that inspectors discovered several issues with the first BAF tracking inspection and were working to clarify the protocol and methods. 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. Our review of alert closures for June through August 2019 revealed several issues we followed up on during our October site visit. MCSO was able to answer our inquiries to our satisfaction, and demonstrated how two supervisors used a meeting with their respective subordinates to suggest several ride-alongs to ensure that the deficiencies are less likely to arise again in the future.

MCSO asserts that it is committed to improving the data and analytic processes employed to look for instances of potential individual bias and problematic behaviors, as required by this Paragraph.

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 four sergeants conducting investigations, and four 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 subsequent TSAR processes. 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 identifying 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. These roles and responsibilities are originally developed in GH-5 (Early Identification System) and more comprehensively elaborated in Section 200 (Duties and Responsibilities) – which was approved in August 2019 – of the EIU Operations Manual.

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. During our October site visit, the proportion complete rose to 90%. MCSO continues to work on those portions of the manual related to analytic methods for traffic stop data; the sections pertaining to this Paragraph have already been finalized and published.

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. Aside from Section 200, noted above, 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 software changes are provided to us on a monthly basis through regular document requests and are discussed during the quarterly site visit meetings. Each of these sections of the EIU Operations Manual expands upon policy that has already been approved. We acknowledge MCSO's efforts to complete the manual, and have granted compliance for this Paragraph based upon what has already been approved and is in effect.

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; however, four data validation alerts were sent to supervisors for investigation in August. 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). 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 that appear in the EIS. This protocol has been approved, and was incorporated into the PSB Operations Manual that was published on December 13, 2018. Each month, we receive a spreadsheet of open and closed external complaints as they appear in EI Pro for supervisors to review. Our examination of these descriptions for July through September confirms that the summaries meet our expectations. Additionally, during our July and October 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. Each month, we receive a spreadsheet of internal allegations as they appear to supervisors in EIS. Our review of the summaries for July through September 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 would use 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 noted indications of trends for stops in particular geographic areas and for specific types of citizen interactions.

From July through September, we observed a concentration of investigative stops near waterways for wake zone violations. Our cursory review for this period also suggests that Latinos made up approximate 30% of those stopped which is approximately the proportion in the general population for Latinos in Maricopa County. A statistical methodology would allow a more comprehensive examination. Finally, we conducted a spot check of NTCFs that fell under the label of Field Information. Our evaluation suggested that 80% of these stops could have easily been identified as an Investigative Stop/Detention. We raised these issues with MCSO; and consequently, MCSO is in the process of redrafting the NTCF methodology. 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, MCSO 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 July through September 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 TraCS (Traffic and Criminal Software) system. 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 audit of IRs to ensure that all policy requirements are met. In June, the second quarter IR audit of 2019 found no instances where probable cause was problematic. BIO Action Forms were sent to the Districts for the nine deficiencies found; these issues involved timely submission of a report, supervisor memorialization and consistency of the IR document throughout.

If a court or prosecutor decides not to prosecute a case, both the deputy and their immediate supervisor are notified. MCSO has proposed a new method of tracking any deficiencies related to the prosecution of cases. In the past, MCSO conducted a County Attorney Turndown Inspection; however, after July 2019, MCSO proposed an IR inspection process that incorporates these Turndowns as they apply to this Paragraph. This reporting period is unique, because both reports are being utilized to gauge compliance. In the June County Attorney Turndown report, there were no findings regarding problems with the articulation of probable cause. From July forward, MCSO has developed a new inspection that combines the IR inspection. In proposing the new methodology, MCSO's intent is to catch reasonable suspicion and probable cause issues earlier in the process. We are actively evaluating the first inspections produced by MCSO. In August, MCSO produced the new IR inspection using July data. This first inspection did not include any County Attorney Turndowns, as MCSO stated none fit the criteria of problems related to probable cause. Other deficiencies resulted in BIO Action Forms being sent to the appropriate district personnel. As an example, in both the June County Attorney Turndown report and August IR inspection, the inspector noted a *Miranda* discrepancy that required review by District command staff. The second IR inspection, produced in September using August data, also included no cases turned down by prosecutors; however, one case reviewed lacked specific information to determine if a statute had been violated. The compliance rate for both the August and September IR inspections was, therefore, 97.5%. As MCSO continues to revise their inspections and audits, we have taken the position that the Order requires all instances where a deputy's reports involve an insufficient articulation of probable cause must be captured in the data system, regardless of actions taken afterward.

MCSO remains in compliance with this Subparagraph.

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

The ability to capture this information depends upon what actually occurred within the context of the interaction. If the suspect was taken into physical custody but released prior to booking, there would be a JMS record, as indicated in Subparagraph 75.e. above. Therefore, MCSO could use the interface described above to pull the relevant data elements into EIS. However, if the incident does not rise to the point of physical custody and detention, then it would likely yield an Incident Report, covered under Subparagraph 75.f. above or an Investigatory Stop

under Subparagraph 75.h. to follow. The interfaces for IR and NTCF data became operational prior to July 1, 2017. 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 second quarter audit of IRs for 2019 found that 100% had the necessary probable cause or reasonable suspicion statements included in the reports. The monthly report of County Attorney turndowns for June found no instances where prosecution was turned down due to the insufficient articulation of probable cause; however, we noted one instance where an inspector found a problem with *Miranda,* which led to the turndown. This one case did not put MCSO out of compliance. The new IR inspection, first published in August, using July data, found no cases lacking the proper articulation of probable cause; however, the inspector found one case involving issues were *Miranda* was not correctly documented. The IR inspection for September, using August data, found one case where the inspector noted that the reporting deputy did not sufficiently explain how the law had been violated. As a result, we found MCSOs compliance rate to be 97.5% – rather than the 99.5% reported in the inspection. Other, unrelated deficiencies were sent to District personnel for review using a BIO Action Form.

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 July through September found that an overwhelming number involved water violations due to the time of year. We also found that approximately 30% involved Latinos being stopped, which is roughly proportionate to this group's representation in the Maricopa County population. In addition, during this reporting period, we requested a random sample of Field Information stops that were documented using the NTCF. Our review of these indicates that approximately 80% of civilian stops labeled as Field Information could easily have been labeled as Investigative stops. We have apprised MCSO of our findings and have subsequently provided MCSO with our summary evaluation. We have repeatedly brought the accumulated numbers of NTCFs to the attention of MCSO and requested that they develop an audit 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. 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 drafted an initial proposal for the evaluation of NTCFs. We provided extensive comments and will continue to work with MCSO on this methodology. 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 deficiencies found result in an Action Form being sent to the relevant District command. In the June report of County Attorney turndowns, there were no instances where the prosecuting attorney identified that the deputies had not sufficiently articulated probable cause. After June, MCSO began using a new method that merged the County Attorney Turndown Inspection with the IR inspection. The first inspection was produced in August using July data. There were no findings of probable cause problems with the cases reviewed. MCSO did not include any County Attorney turndowns in the inspection, as none were received indicating a problem with probable cause. Several BIO Action Forms were sent to the Districts for review due to other deficiencies found by the inspectors. As noted previously, we continue to work with MCSO to refine the implementation of this new IR inspection to ensure that it comports with Order requirements. We will continue to evaluate this inspection 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. In the alert inspections from July through September, there were three instances where cases were referred to PSB rather than to supervisors for investigation. 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 July through September.

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 a meeting with a supervisor; however, in the EIS Alert Inspection for July and August, we saw several instances where supervisors combined meetings with their subordinate with either training or ride-alongs. We also conduct evaluations of a randomly selected group of closed alert investigations each month. 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. In the inspections for July through September, we have found that the compliance rate amongst supervisors exceeded 98%.

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 July and October 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 July through September 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 July and October site visits, all field supervisors who 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. The Training Division evaluated the lesson plan to ensure that it comports with all other supervisory training and it will be placed on the HUB following the next SRELE training. 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 July through September, AIU reported a compliance rate exceeding 98% 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 also conducts an inspection of the timeliness of these reviews as well as a second inspection on Traffic Stop Data. The Traffic Stop Data inspection employs a matrix that ensures that the name, serial number and unit of the deputy is included on the VSCF. For July through September, the inspection for the review of traffic stops exceeded 98%. While the overall rate of compliance for the Traffic Stop Data inspections for this period were closer to 90%, the matrix information showed that none of the deficiencies had to do with identification of deputies or drivers.

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 both the first and second quarters of 2019 was 99.5%. None of the deficiencies found by AIU, in these quarterly reports, 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 July and October visits to the Districts, we spot-checked the facilities and patrol cars; and found that they had functioning TraCS equipment, and that each District office had available computers for any occurrence of system failures with vehicle equipment. Finally, AIU randomly selects units throughout the organization to conduct spot facility and equipment inspections. In August, MCSO inspected District 3, which received a 100% compliance rating that included the inspection of vehicles and equipment for use by Patrol deputies.

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. We fully vetted this operating procedure (BAS SOP 17-4) during our January 2018 site visit. MCSO reported no system breaches occurring between our July and October 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); and in another, it was alleged that booking information might have been used for social media. These cases have not triggered the operating procedure noted above because, according to MCSO during our October site visit meetings, PSB has not yet completed its investigations.

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 incorporated into the Manual as finalized.

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

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 and Quarterly Reports (TSMR and TSQR). 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 published the Fourth Traffic Stop Annual Report (TSAR) that is discussed in other Paragraphs. MCSO is also in the process of developing a plan to ensure that subsequent TSARs are able to track trends in the level of potential bias/disparity found in traffic stop outcomes by race. MCSO's plan for the analysis of monthly traffic data, which was supposed to take place over the next several months, has been placed on hold due to the findings from the Fourth TSAR, which did not allow for matching by significant individual deputy characteristics. MCSO is working to modify its methodology, which we will discuss in our future quarterly status reports. 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 these proposals and will evaluate subsequent proposals as they are produced.

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, and as supervisors are trained to the new processes, 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 Incident Report inspections, 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 initial analysis 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. During our October site visit, MCSO personnel noted that they are continuing to evaluate the findings from the first BAF tracking analysis and intend to propose a regular audit methodology when this process is complete. 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 had previously 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. For the past several months, MCSO has been working on a new curriculum for SRELE training. This curriculum was approved on September 30, 2019. A portion of the curriculum includes a refresher for supervisors regarding how to most effectively use EIS tools and complete Alert Investigations for their subordinates within policy guidelines. Following completion of the SRELE training EIU plans to put the EIS refresher course on the HUB for supervisors to refer to as they are completing their supervisory roles. The current list of instructors approved to teach the SRELE training does not include any current members of EIU; however, several of those instructors have had past supervisory roles over this unit. Following the completion of the training we will review the evaluations of participants and instructors.

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. 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. We and the Parties have commented on drafts of the data analytic methodologies 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. MCSO has published the Fourth Traffic Stop Annual Report (TSAR); however, the analysis from that report addresses issues of potential systemic bias across the entire traffic patrol function and cannot be employed to address potential individual-level biased activity. The TSMR, which has been placed on hold due to data issues that arose during the analysis for the TSAR, will assist MCSO in evaluating the activity of individual deputies.

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 currently re-evaluating the extent to which it can match deputies using personal and professional characteristics that were intended to go beyond previous methods that were based upon geographic location of traffic stops alone. These proposals have been met with support from deputies across the organization during meetings between MCSO personnel and the data analyst vendor (CNA); however, the statistical problems that arose during the Fourth TSAR analysis have required additional investigation of these methodological techniques.

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. We will evaluate these as they are proposed.

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.

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 Non-Traffic Contact Forms (NTCFs) pales in comparison to traffic stops, there are enough accumulated forms for analyses 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. Since our July site visit, we also undertook an evaluation of a random sample of Field Information contacts captured on NTCFs. Our review found a large overlap between civilian contacts labeled as Field Information and those labeled as Investigative Stops. We have engaged MCSO in further discussions clarifying this distinction. Until such time as this is resolved, we will select a combined sample of NTCFs from both categories of civilian interaction.

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. They are: 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 year, except in August when 14 deficiencies were found in District 1. The compliance rate in August was 91%. AIU regularly sends out BIO Action Forms to those Districts with deficiencies. We will review these forms as they are provided; in particular, the large number from District 1 in August. During our visit to this District in October, the

Command Staff did note that they have experienced personnel shortages. We will request copies of these Action Forms for review and evaluation. Typically, these deficiencies involve individual supervisory gaps that occasionally occur across the organization. Rarely have we noted deficiencies involving the same supervisors in consecutive months. District 1 showed no deficiencies in the September inspection. 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 is currently reviewing this first inspection in order to prepare a proposal for a regular BIO Action Form inspection. 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 half 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 of 30 days. The compliance rate for this quarter ranges from 94% in June, to 67% in July, and 47% in August. Action Forms were sent to the affected Districts. We believe that as the agency's experience with this inspection evolves, and supervisors receive additional training on alert investigation closure in SRELE training, that these variations will diminish. MCSO is working to also 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 remains in compliance with the Subparagraph. However, we will withdraw compliance if MCSO fails to retain compliance in two successive quarters.

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 about 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.

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. During our October site visit, we raised the issue of the number of alerts being sent for investigation as a result of vehicle accidents by Transportation staff. MCSO personnel noted that they are evaluating whether there should be unique thresholds for vehicle accidents dependent on the role of an employee. We will comment on these thresholds when MCSO presents a proposal.

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. During the analysis conducted for Fourth TSAR a statistical problem arose as the result of these matching characteristics. MCSO is investigating optional ways to match and compare deputies throughout the organization. MCSO remains out of compliance for this Subparagraph until such time as it is able to ameliorate these methodological issues impacting both the TSAR and TSMR.

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. This will be reiterated in the SRELE training that was approved on September 30, 2019. During our visits to several Districts during our past four site visits, MCSO personnel informed us 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. At present, this inspection is limited to reviewing whether supervisors are completing alert investigations within the 30-day policy requirements. In July,

the compliance rate was 94%; while in August and September, the compliance rates dipped to 67% and 47%, respectively. MCSO continues to work on a secondary feature of this inspection, which will include criteria to judge the effectiveness of interventions 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 an audit of the suspected breach. We discussed this operating procedure, BAS SOP 17-4, during our January 2018 site visit meetings; it meets all of the concerns voiced since the February 2017 discovery of two cases where data was compromised, but no one notified the Technology Management Bureau. We believe this procedure has proven effective to this point. In addition, we are provided all internal investigation summaries initiated each month; and found only two instances in which an employee was accused of misusing ACJIS and booking information. These complaints are still under investigation 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 methods for the TSMR and TSQR 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 analysis of BIO Action Form tracking processes. MCSO presented this analysis during our July site visit and will use the results to propose an ongoing BIO Action Form review. We have also requested that MCSO devise an audit 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 1, we met with the District Commander, and three lieutenants. The District 1 hours of operation remain the same: business days, from 8:00 a.m.-4:00 p.m. District 1 reported that they are so low in staffing that they cannot work the 4/10 shifts any longer. They have returned to a 3/13 shift configuration. District 1 currently has nine deputy vacancies and three sergeant vacancies. The most frequent calls for service are related to trespassing and theft, and generally property crimes are higher than persons crimes. There were no drastic trends in crime. District 1 has made a conscious effort to deal with traffic complaints, and the number of traffic stops has gone up 460% in the last six months. In August alone, there were 464 stops. As a result of familiarization with the TSAR process, deputies now feel more confident of conducting traffic stops. District 1 reported the District has a good relationship with the Town of Guadalupe, and they established a soccer program there. They are receiving positive feedback from the community.

During our visit to District 2, we met with the Bureau Chief, the District Captain, and two lieutenants. 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. District 2 personnel claimed that lieutenants and supervisors do not have the ability to respond to field events very often because they are confined to the office completing administrative reports. While this does not impact span of control, it affects the flow of communication between deputies and supervisors. We agree this is a concern, as supervision in the field is crucial in order for deputies to have proper guidance. Moreover, good field supervision will identify deficiencies and correct them before they become major problems. District 2 stated that they have a community deputy who performs outreach activities. The deputy is working to contact all 25 schools in the district. District 2 staff expressed a desire to create a funding source for a School Resource Officer (SRO) to interact with the local high schools. We agree that funding an SRO could be useful. District 2 staff advised that they have recently experienced a number of school violence threats, which has put an added strain on their resources. District 2 currently has seven deputy vacancies and two sergeant vacancies. The District 2 staff also suggested that MCSO needs to do a better job of addressing the emotional toll that employees experience. MCSO has had two critical incidents recently, which have had a dramatic impact on personnel. The staff suggested that the current protocol is insufficient to deal with long-term issues, and that employees could benefit from ongoing intervention and wellness checks for personnel involved in critical incidents, or that have gone through emotional trauma. We agree and recommend that MCSO consider this suggestion.

We reviewed a representative sample of 87 Incident Reports for July**,** for the randomly selected date of July 19, 2019. Of the 87 Incident Reports, 85 had proper documentation of timely supervisory review. Of the 87 Incident Reports, 10 were vehicle collisions. All 10 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 July was 98%. During our quality control review of Incident Reports, we noted some spelling and grammar mistakes in an Arrest Report. Of the 15 Arrest Reports, supervisors reviewed all within 72 hours. For July, MCSO reported 320 hours of community policing. MCSO reported that there were 245 community policing encounters, of which 242 were attributed to Patrol deputies. We note that in our sample reviews of Patrol Activity Logs for July, we noted no community policing activities.

We reviewed a sample of 91 Incident Reports for August**,** for the randomly selected date of August 10. Ninety of 91 Incident Reports were reviewed and memorialized by a supervisor within the required timelines. One of the 21 Arrest Reports was not reviewed within the required 72 hours. There were eight Vehicle Crash Reports submitted in the sample for August, of which all included documentation of supervisory review. The compliance rate for timely supervisory review of Incident Reports in August was 99%. We conducted a quality review on a 10% random sample of the reports we reviewed, and found no significant errors. For August, MCSO reported 744 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 policing activity. There were no details noted; the only notation on each of the CAD reports associated with these activities was "Field Event."

We reviewed a representative sample of 107 Incident Reports for September**,** for the randomly selected date of September 19. All 107 Incident Reports had been turned in before the end of the shift. One-hundred-and-three of the 107 Incident Reports included documentation that they had been reviewed and approved by supervisors as required by this Paragraph. Two of the 16 Arrest Reports had not been reviewed and signed by supervisors within the required 72 hours. There were 16 Vehicle Crash Reports submitted in the September sample; we confirmed timely supervisory review on 20 of 22 reports. We found that four reports were not in compliance with timely supervisory review. We conducted a quality review on a 10% random sample of the reports submitted and found no significant deficiencies. For September, MCSO reported 775 hours of community policing. MCSO reported that there were 495 community policing encounters, of which 487 were attributed to Patrol deputies. In our reviews of Patrol Activity Log samples, we noted no community policing activities.

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 July, we reviewed PALs for 31 deputies and seven supervisors. All 31 deputies' Patrol Activity Logs contained documentation of supervisory review. All six supervisors' Patrol Activity Logs contained documentation of command-level review. For August, we reviewed Patrol Activity Logs for 33 deputies and seven supervisors. All 33 deputies' PALs contained documentation of supervisory review. All seven supervisors' PALs contained documentation of command-level review. For September, we reviewed Patrol Activity Logs for 34 deputies and eight supervisors. All 34 deputies' PALs contained documentation of supervisory review; all eight sergeants' PALs contained documentation of command-level review. Based on the review of PAL samples selected for July, on a daily basis deputies completed an average of 0.6 Incident Reports, handled an average of 3.9 calls for service, completed an average of 2.5 self-initiated calls, and travelled an average of 61.9 miles. Based on the review of PAL samples selected for August, on a daily basis, deputies completed an average of 0.78 Incident Reports, handled an average of 4.3 calls for service, completed an average of 4.1 self-initiated calls, and travelled an average of 106.2 miles. Based on the review of PAL samples selected for September, on a daily basis deputies completed an average of 0.9 Incident Reports, handled an average of 5.1 calls for service, completed an average of 2.23 self-initiated calls, and travelled an average of 83.41 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 July, there were 43 supervisor-deputy field contacts reported by deputies and supervisors. For the sample dates selected in August, there were eight supervisor-deputy field contacts reported by deputies and supervisors. For the sample dates selected in September, there were 38 supervisor-deputy field contacts reported by deputies and supervisors.

For July, August, and September we reviewed selected samples of non-traffic incidents involving stops and detentions, which were recorded in Non-Traffic Contact Forms (NTCFs). For July, we selected 25 NTCFs for review. All of the 25 NTCFs had been submitted prior to the end of the shift. Twenty-four of the 25 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 July was 96%. For August, we selected 26 NTCFs to review. Twenty-five of the 26 NTCFs were submitted prior to the end of the shift. All of the 26 NTCFs were reviewed and approved by supervisors within the required timeframe. Of the 26 NTCFs reviewed, 25 were in compliance. The compliance rate for timely submission and timely supervisory review of NTCFs in August was 96%. For September, we selected 22 NTCFs for review. All 22 NTCFs were submitted within the required timeframe. All 22 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 September was 100%. For this reporting period, compliance with timely submission and timely supervisory review of NTCFs was 97%. We assess compliance with this Paragraph, as it relates to NTCFs in conjunction with timely reviews of VSCFs, under Paragraph 90.

Our reviews for this reporting period revealed that in July, of the 25 NTCFs, 16 stops involved White individuals. Six stops involved Latino individuals, with a total of 10 Latino individuals documented in these six stops. One stop involved an Asian/Pacific Islander. Three stops involved African Americans, with a total of four African American individuals documented in these three stops. For August, we reviewed 26 NTCFs, of which 16 stops involved White individuals, with a total 18 of White individuals documented in these 16 stops. Six stops involved Latino individuals, for a total of 10 Latino individuals documented in these six stops. One stop involved an Asian/Pacific Islander, and three stops involved African Americans. For September, we reviewed 22 NTFCs, of which 12 involved White individuals, with a total of 14 White individuals documented in these 12 stops. Eight stops involved Latino individuals, one stop involved an Asian/Pacific Islander, and two stops involved African Americans. Latinos were involved in 32% of the contacts documented on NTCFs. This percentage is closer to the 31% Latino population of the County than the number we reported in the second quarter.

With regard to community engagement, we have previously noted that 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 samples of the community-policing worksheets implemented by MCSO as part of the Plan to Promote Constitutional Policing. We reviewed 27 samples for July. As with our previous observations, there were a variety of activities recorded including school events, presentations to community

groups, public safety expositions, attending city council meetings, and business contacts. For July, MCSO reported 1,165 individuals contacted in community policing activities. We continue to note various types of contacts recorded as community policing. While we agree that all the types of contacts reported enhance the mission of MCSO, the numbers of individuals reported in some instances may at best be indicative of attendance, not direct person-to-person interactions. For example, in school lock-down drills, the total number of attendees reported was the actual number of students at the school. In another instance, a security walk-through at a public school reported 750 attendees. On another occasion, traffic enforcement in the vicinity of a school reported 2000 attendees. Again, we reiterate that all the activities reported contribute to the mission of the agency. While the total number of community policing hours and attendees reported at events may not actually be related to problem-solving, we are noting more documented instances of deputies contacting residents and business owners to discuss issues that affect their quality of life. We are aware that MCSO has held community events in Guadalupe. However, from the sample of worksheets we reviewed, we did not note any deputy-generated community policing events in Guadalupe during this reporting period.

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.*

In Full and Effective Compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the third quarter of 2019. During this reporting period, consistent with our methodology, for July, we reviewed a sample of shift rosters from Districts 1, 2, and 3; for August, we reviewed a sample of shift rosters from Districts 4, 6, and 7, and Lake Patrol; and for September, we reviewed a sample of shift rosters from Districts 1, 2, and 3. Monthly and daily rosters indicated that deputies were assigned to one single consistent supervisor. For the 60 dates selected in this reporting period, all shifts were in compliance. There were 15 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. Three of the span of control memos were generated by District 3, and one memo was generated by District 4. MCSO remains in compliance with this Paragraph.

On September 9, 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 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 October 25, 2019.

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 change 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 July, MCSO submitted the June traffic stops for each deputy, by District. The total number of traffic stops for each District was: District 1, three; District 2, 14 District 3, none; District 4, 42; Lake Patrol, 60; District 6, 110; and District 7, 30. There was a total of 259 traffic-related events in July for all Districts, and sergeants discussed all of these events with the deputies who conducted them, for a compliance rate of 100%.

For August, MCSO submitted the July traffic stops for each deputy, by District. The total number of traffic stops for each District were: District 1, 18; District 2, 29; District 3, four; District 4, 27; Lake Patrol, 12; District 6, 126; and District 6, 19. There was a total of 235 traffic-related events for all Districts, and sergeants discussed all 234 traffic stops with the deputies that conducted them, for a compliance rate of 99%.

For September MCSO submitted the August traffic stops for each deputy, by District. The total number of traffic stops for each District were: District 1, two; District 2, 44; District 3, 12; District 4, 20; Lake Patrol, 26; District 6, 65; and District 7, 37. There was a total of 206 traffic-related events in September, and sergeants discussed all of them with the deputies who conducted them, for a compliance rate of 100%.

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 July, we reviewed a sample of shift rosters from Districts 1, 2, and 3; for August, we reviewed a sample of shift rosters from Districts 4, 6, and 7 and Lake Patrol; and for September, we reviewed a sample of shift rosters from Districts 1, 2, and 3. 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 July, we reviewed PALs for six sergeants and 31 deputies. We noted a total of 43 field supervisor-deputy contacts between the combined deputies' and sergeants' PALs for the selected dates. For August, we requested PALs for 33 deputies and seven sergeants. We received and reviewed all requested PALs, and noted a total of eight field supervisor-deputy contacts between the combined deputies' and sergeants' PALs for the selected dates. For September, we reviewed PALs for 34 deputies and eight sergeants. We noted a total of 38 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.

For July 2019, we requested and reviewed performance evaluations submitted for six deputies and 12 supervisors whose performance evaluations were completed in July. All six deputy EPAs were in compliance. Again, we noted that one of the raters did not assess the deputy on the dimension of leadership, stating it was not applicable. With regard to supervisors' EPAs, 11 of the 12 EPAs rated the supervisors on the quality of their reviews. Ten of the 11 EPAs addressed the quality and effectiveness of supervision; one supervisor did not have any direct reports. All 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. Nine of the 12 supervisors' EPAs had comments on the employees' ability to identify and respond to misconduct. Ten of the 12 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, eight of 12 supervisors' EPAs met all requirements. For July, including both deputy and supervisor EPAs, 14 of 18 EPAs, or 78%, were in compliance

For August 2019, we requested and reviewed performance evaluations submitted for five deputies and 10 supervisors whose EPAs were completed in August. All five deputy EPAs addressed all required areas of assessment, including the requirements of Paragraph 99. Nine of the 10 supervisors' EPAs rated the supervisors on the quality and effectiveness of their supervision; one supervisor had no direct reports. Nine of the 10 EPAs addressed the quality of supervisory reviews; one supervisor had no direct reports. Nine of the 10 supervisors' appraisals included comments related to the supervisors' ability to identify and respond to misconduct; one supervisor had no direct reports. All of the 10 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. Nine of the 10 EPAs assessed the supervisors' quality of internal investigations and/or the quality of their reviews of internal investigations. In total, nine of the 10 supervisors' EPAs met

all requirements. For August, including both deputy and supervisor EPAs, 14 of 15 EPAs, or 93%, were in compliance.

For September 2019, we requested and reviewed Employee Performance Appraisals submitted for four deputies and 11 supervisors whose EPAs were completed in September. All four deputy EPAs addressed all requirements. All 11 supervisors' EPAs rated the employees on the quality and effectiveness of their supervision. Ten of 11 EPAs addressed the quality of supervisory reviews; one supervisor had no direct reports. All 11 supervisors' appraisals included comments related to the supervisors' ability to identify and respond to misconduct. All of the deputies' and supervisors' 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. Nine of the 11 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, nine of the 11 supervisors' EPAs met all requirements. For September, including both deputy and supervisor EPAs, 13 of 15 EPAs, or 87%, were in compliance. Of the 48 EPAs reviewed for the third quarter, 41 were in compliance. The compliance rating for this reporting period was 85%.

During our October site visit, we met with Human Resources and discussed the progress of the EPA revision. MCSO has established two pilot districts – Districts 2 and 3 – to test the revised process. In July 2019, MCSO conducted supervisory orientation in Districts 2 and 3 on the new format. We have continued to discuss, during our site visits, where we have noted deficiencies in the current EPAs. We are hopeful that the revised EPA process will address these deficiencies. However, we have not reviewed enough EPAs completed in the new format to predict the degree of success supervisors will have in addressing the areas of weakness. The new EPA process is expected to be completed in January 2020, with implementation for sworn by July 1. MCSO expects implementation for Detention and civilian personnel by the end 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 this reporting period 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 40 incidents involving arrests and 50 incidents involving criminal citations. We also reviewed a random sample of 285 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 October 25, 2019.
- 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 July 31-September 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.

In July, MCSO reported the arrest of one individual for identity theft. This case was related to an individual who used his son's name to identify himself. This case did not involve a member of the Plaintiffs' class. During our reviews of documentation submitted for Paragraphs 90 and 91, we noted one traffic stop where the driver, a Latina without a driver's license, was cited and released. The documentation did not note that a supervisor was contacted. However, the deputy did not arrest the individual; she was issued a civil citation for not having a valid driver's license. 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 40 incidents resulting in arrest and 50 incidents involving criminal citations. In addition, we reviewed 285 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 July 2019. There were 21 stops related to speeding, 16 of which resulted in citations and five of which resulted in warnings. There were two stops related to equipment violations. Five stops were for moving violations other than speeding. Seven stops related to registration or license plate violations. Twenty-five of the stops resulted in citations, and 10 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 July, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 426 VSCFs. Supervisors reviewed 425 of the 426 VSCFs within 72 hours, for a compliance rate of 99%.

We reviewed 35 incidents involving traffic stops for August 2019. Twenty-one of the 35 traffic stops related to speeding. Of the 21 stops related to speeding, 14 drivers received citations, and seven received warnings. Three of the stops related to equipment violations. Eight stops involved moving traffic infractions other than speeding. Three stops related to registration or license plate violations. Of the 35 stops, 16 resulted in citations, and 19 resulted in warnings. Supervisors reviewed all of the 35 VSCFs within 72 hours. For August, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 512 VSCFs. Supervisors reviewed 510 of 512 VSCFs within 72 hours, for a compliance rate of 99%.

We reviewed 35 incidents involving traffic stops for September 2019**.** Eighteen of the 35 traffic stops involved speeding violations. Of the 18 stops related to speeding, 10 drivers received citations and eight drivers received warnings. Three stops related to equipment violations. Ten stops involved traffic violations other than speeding. Four stops related to registration or license plate violations. Of the 35 stops, 18 resulted in citations and resulted in warnings. All of the 35 Vehicle Stop Contact Forms had timely supervisory reviews. For September, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 173 VSCFs. We reviewed the data and supervisors reviewed 171 of 173 VSCFs within 72 hours, for a 99% compliance rate.

For July, August, and September, we reviewed selected samples of non-traffic incidents involving stops and detentions, which were recorded in Non-Traffic Contact Forms (NTCFs). For July, we selected 25 NTCFs for review. All of the 25 NTCFs had been submitted prior to the end of the shift. Twenty-four of the 25 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 July was 96%. For August, we selected 26 NTCFs to review. Twenty-five of the 26 NTCFs were submitted prior to the end of the shift. All of the 26 NTCFs were reviewed and approved by supervisors within the required timeframe. Of the 26 NTCFs reviewed, 25 were in compliance. The compliance rate for timely submission and timely supervisory review of NTCFs in August was 96%. For September, we selected 22 NTCFs for review. All 22 NTCFs were submitted within the required timeframe. All 22 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 September was 100%. For this reporting period, compliance with timely submission and timely supervisory review of NTCFs was 97%.

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 99%. 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 October 25, 2019.
- 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 July inspection (BI2019-0101). To determine compliance with this Paragraph, for July, we randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 31 or 89% had no deficiencies. As a result of the inspection, three BIO Action Forms were generated. In three of the stops, deputies failed to run warrants checks on the drivers. In another traffic stop, the deputy failed to record the stop in its entirety. We reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance assessment for Paragraphs 25 and 54. We concurred with the BIO inspection report that four stops had serious violations of policy. These violations should have been addressed by supervisors.

We reviewed a spreadsheet documenting each VSCF by District, for July, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed data for 127 traffic stops, and determined that supervisors had completed timely reviews in 99% of the cases. For July, we requested 25 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 24 of 25 NTCFs, or in 96% of the cases.

For July, we requested a sample of 35 corrective actions generated during the month. Corrective actions are documented on Blue Team Supervisory Notes. Of the 35 corrective actions, 10 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. Ten corrective actions were associated with inaccurate or missing information on VSCFs, citations, or written warnings. Eight corrective actions were taken as a result of procedural or policy violations during traffic stops. One corrective action was taken as a result of procedural or policy violations, not related to traffic stops. One corrective action resulted from deputy performance issues. Two corrective actions pertained to safety procedures during traffic stops. There were three Blue Team entries where we could not identify any deficiencies or related actions.

We reviewed traffic stop data reported by MCSO for its August inspection (BI2019-0117). We randomly selected 35 traffic-related events, which BIO then audited for compliance. The inspection report noted that 32 stops, or 91%, had no deficiencies. The inspection found one stop where there was no BWC log. In another stop, the deputy failed to run a warrants check on the driver. In the third stop, the VSCF and CAD stop locations did not match. BIO generated three Action Forms for the noted deficiencies. We reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance assessment for Paragraphs 25 and 54. In our reviews, we noted seven 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 August, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed 512 VSCFs and determined that supervisors had completed timely reviews in 510 of the 512 stops, or in 99% of the cases. From the list submitted by MCSO, we requested a sample of 26 NTCFs that were generated in August. 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. However, one of the NTCFs was not turned in before the end of the shift. The compliance rate for NTCFs, as it pertains to Paragraph 90, was 99%.

For August, we requested a list of corrective actions. From the list submitted, we selected 25 corrective actions to review. Of the 25 corrective actions, 13 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. One corrective action was associated with inaccurate or missing information on the VSCF, citation, or written warning. Eleven corrective actions were associated with procedural or policy violations during traffic stops.

We reviewed traffic stop data reported by MCSO for its September inspection (BI2019-0133). We randomly selected 35 traffic-related events, which BIO then audited for compliance. The inspection report noted that 33 stops, or 94%, had no deficiencies. In one stop, the citation had no signature, or a notation that the driver refused to sign. We consider this a serious deficiency. In the second stop, the location of the stop in the VSCF did not match CAD. We reviewed the

traffic-related events we had selected for BIO's audits, for September, as part of our compliance assessment for Paragraphs 25 and 54. We concluded that the first stop had serious deficiencies that should have been addressed by the supervisor.

For September, we requested a list of corrective actions. From the list submitted, we selected a sample of 32 corrective actions to review for the month. Of the 32 corrective actions, 11 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. Five corrective actions were associated with inaccurate or missing information on VSCFs, citations, or written warnings. Thirteen corrective actions were associated with procedural or policy violations involving traffic stops. There were two Blue Team entries that were not associated with corrective actions, but were generated to document technical failures in BWCs. There was one corrective action pertaining to a deputy safety issue.

We reviewed a spreadsheet documenting each VSCF by District, for September, to determine if supervisors were reviewing VSCFs within the required 72 hours. We reviewed 173 VSCFs and determined that supervisors had completed timely reviews in 171 of 173 VSCFs, or in 99% of the cases. For this month, we requested 22 NTCFs from the list submitted by MCSO, for September. We reviewed all 22 NTCFs to determine if supervisors were reviewing NTCFs within the required 72 hours. We determined that supervisors had completed timely reviews in100% 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 seven serious deficiencies in documentation, or policy violations, that supervisors failed to identify and address in their reviews. In July, the BIO Inspection Report noted that four stops had deficiencies. We consider all of the identified deficiencies as serious, for a compliance rate of 88.57%. In August, the BIO Inspection Report found three deficiencies, of which we consider two to be serious, for a compliance rate of 94.28%. In September, the BIO Inspection Report noted two stops with deficiencies. Of these two stops, we consider one stop to have had serious deficiencies, for a compliance rate of 97.14% The average compliance for the quarter was 93.33%.

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 June, we selected a sample of 17 EIS alerts completed or closed, which BIO then inspected for compliance. The inspection report, BI2019-0094, concluded that 16 of 17 closed alerts were in compliance. The deficiency noted was for failure to complete the action required within 30 days. The inspection report notes that there is an administrative investigation in progress. District 1 completed a BIO Action Form in response to the deficiency noted in the inspection. Five of the alert interventions resulted in meetings between supervisors and deputies. One alert noted that there were multiple interventions. Eleven of the alerts concluded with no further action. One of the alerts noted that there was an open administrative investigation in progress. The compliance rate for June was 94%.

For July, we selected a sample of 15 EIS alerts completed or closed, which BIO then inspected for compliance. The inspection report, BI2019-0110, concluded that 10 of 15 closed alerts were in compliance. The deficiencies noted were for failure to complete the action required within 30 days. A total of four BIO Action Forms were generated in response to the noted deficiencies. The Major Crimes Division (MCD) completed two of the Action Forms; the Transportation Division completed one of the BIO Action Forms, and District 4 completed one BIO Action Form. Even though there were two deficiencies noted in the Transportation Division, one of the involved employees was separated from employment. Eight of the alert interventions resulted in meetings between supervisors and deputies. Three alerts noted that there were multiple interventions. Three of the alerts concluded with no further action. Eight of the alerts noted that there were open administrative investigations in progress. The compliance rate for July was 67%.

For August, we selected a sample of 15 EIS alerts completed or closed, which BIO then inspected for compliance. The inspection report, BI2019-0125, concluded that seven of 15 closed alerts were in compliance. The deficiencies noted were for failure to complete the action required within 30 days. A total of eight BIO Action Forms were generated in response to the noted deficiencies. District 1 completed two of the BIO Action Forms. In addition, BIO Action Forms were completed by Districts 2, 3, 4, 6, and the Transportation Division. Twelve of the alert interventions resulted in meetings between supervisors and deputies. Two alerts noted that there were multiple interventions. One of the alerts concluded with no further action. Five of the alerts noted that there were open administrative investigations in progress. The compliance rate for August was 47%.

There was insufficient proof of compliance in this quarter to meet the requirements of this Paragraph. In addition, MCSO has not yet implemented 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 87 Incident Reports for July**,** for the randomly selected date of July 19, 2019. Of the 87 Incident Reports, 85 included proper documentation of timely supervisory review. Of the 87 Incident Reports, 10 were vehicle collisions. All 10 Vehicle Crash Reports had documentation that a supervisor had reviewed and approved the reports. The compliance rate for timely supervisory reviews of Incident Reports in July was 98%. Of the 15 Arrest Reports, all were reviewed by supervisors within 72 hours.

We reviewed a representative sample of 91 Incident Reports for August**,** for the randomly selected date of August 10. Ninety of 91 Incident Reports were reviewed and memorialized by a supervisor within the required timelines. One of the 21 Arrest Reports was not reviewed within the required 72 hours. There were eight Vehicle Crash Reports submitted in the sample for August, of which all included documentation of supervisory review. The compliance rate for timely supervisory reviews of Incident Reports in August was 99%.

We reviewed a representative sample of 107 Incident Reports for September**,** for the randomly selected date of September 19. All of the 107 Incident Reports had been turned in before the end of the shift. One hundred and three of the 107 Incident Reports included documentation that they had been reviewed and approved by supervisors, as required by this Paragraph. Two of the 16 Arrest Reports had not been reviewed and signed by supervisors within the required 72 hours. There were 16 Vehicle Crash Reports submitted in the September sample; we confirmed timely supervisory review on 20 of 22 reports. We found four reports were not in compliance with timely supervisory review. The compliance rate for timely supervisory reviews of Incident Reports in September was 96%.

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

During this reporting period, we revised our methodology to determine compliance with this Paragraph. Our previous methodology included the review of supervisors' investigations of arrest cases in which the Maricopa County Attorney's Office (MCAO) declined prosecution. For each turndown, the employee's supervisor conducted a review to determine the reason for rejection. If the rejection was due to lack of probable cause, or if there was a violation of MCSO policy, or if there was a need for corrective action or review of MCSO policy, strategy, tactics, or training, the supervisor was expected to note his findings and action taken in Blue Team, and forward the form to a commanding officer for review and approval. We also reviewed the BIO inspection reports associated with MCAO turndowns. In addition, we reviewed Incident Memorialization Forms to determine if supervisors conducted proper investigations, and took resulting corrective actions, in their reviews of deficient Arrest Reports. MCSO proposed a new inspection, which included the review of a sample of Incident Reports associated with bookings and criminal citations, to replace the inspection of cases rejected by MCAO. The methodology includes the selection of at least 20 bookings and 20 criminal citations by the Monitoring Team, for the inspection month. In addition, MCSO would review all cases involving immigration arrests, and arrests related to lack of identity documents. MCSO would also review all MCAO turndowns for lack of probable cause, with the total of cases inspected not to exceed 60 per month. Beginning with September 2019, the Monitoring Team agreed to review the new Incident Report Inspection as part of the documentation to determine compliance with Paragraphs 94 and 96. The inspection will review the selected cases, which are retroactive two months. For this reporting period, we reviewed data for July and August, and September data will be reviewed as part of our next report.

For July, MCSO did not submit any Incident Memorialization Forms. We reviewed the Incident Report inspection for July (BI2019-0096). The inspection reviewed 20 in-custody reports and 20 criminal citations. BIO reported no reports for immigration investigations, and no reports for lack of identity investigations. In addition, there were no reported County Attorney Turndowns for lack of probable cause. The BIO inspection reported a 99.54% compliance rating. We reviewed the matrix used by BIO for the inspection and noted that there

were six cases where the inspector noted deficiencies that fall within the purview of this Paragraph. One case noted that charges were not submitted in a timely manner, the deputy conducted a "non-standard" show-up for witnesses to identify an impaired driver, there were no written witness statements, and the property was not processed according to MCSO policy. One case noted that there was no reasonable suspicion or probable cause for a search. Two cases noted that the reports did not contain all the elements of the crime for each charge. One case noted that the information noted in the report was not consistent or accurate throughout the report. One report had three deficiencies including lack of required elements for the crime charged, lack of articulation for the legal basis of the action, and lack of articulation to support reasonable suspicion or probable cause. Based on BIO's findings of the 40 Incident Reports inspected, 34 were in compliance, or 85%.

For August, we reviewed Incident Report Inspection BI2019-0112. The Monitoring Team selected 20 bookings and 20 criminal citations, which BIO then inspected for compliance. There were no immigration related arrests, no cases involving identity investigations, and no County Attorney turndowns for lack of probable cause. The BIO inspection concluded with a 99.54% compliance rating. We reviewed the matrix used by BIO for the inspection and noted that there were five cases where the inspector noted deficiencies that fall within the purview of this Paragraph. There were several other cases where deficiencies or violations of policy occurred. However, we did not consider these to have any debilitating effect on the cases. Some inspection points in the matrix are given stronger consideration in our reviews, as these are fundamental requirements of Paragraph 94, and if deficiencies are noted, they may also impact the successful conclusion of the case. In all the cases described below, we relied on the BIO inspector's notations and observations to determine our findings. In total we found five of the 40 cases to be non-compliant.

In one case there were several deficiencies noted, including inaccurate/inconsistent information pertaining to the arrest, and conflicting information regarding *Miranda* warnings. In the second case, BIO noted that the deputy did not advise the arrestee of his *Miranda* rights when required. This particular case was not reviewed and approved by the supervisor within the required timeline. We reiterate that the earlier deficiencies in arrests are identified, the sooner they can be corrected and complications avoided.

There were three cases where BIO noted that property or evidence was not processed according policy. We ultimately determined these three cases to be in compliance. We discuss these three cases because the inspection points in the matrix indicate that the property or evidence was not processed or documented according to policy, but the BIO report is not clear if the evidence was mishandled. In the first two cases, we were able to confirm that the evidence was impounded, but the receipts were not in the case files. In the third case, the evidence appears to have been impounded late, which could result in chain of custody issues. However, this case involved the execution of a search warrant, and several items had to be photographed and impounded. We found this case compliant.

The third non-compliant case was identified as having boilerplate or conclusory language. The fourth non-compliant case involved an arrest where there was lack of articulation for the legal basis for the action, and lack of reasonable suspicion or probable cause for the stop. In the last case, a DUI arrest, the deputy failed to perform all required field sobriety tests before the arrest was made. Field sobriety tests, to establish the deputy's suspicion that the driver is under the influence, should be administered at the site of the stop, before the driver is detained or removed from the site for further investigation. Based on BIO's reported findings, 35 of 40 cases were in compliance, or 90%.

There were no IMFs submitted for August, and two IMFs were submitted in September. The first IMF was related to an arrest made in June. This case involved the theft of a cellular phone by a woman's estranged husband. The arresting deputy acted on information provided by another deputy in order to make the arrest. Subsequently, it was discovered that there was insufficient probable cause for arrest, and the individual was cited and released. The IMF notes that a request will be made to the Court to have the citation dismissed. The supervisor recommended that the deputies involved receive additional training. The IMF was sent through channels and approved by the command staff. The second IMF submitted was related to an arrest that occurred on March 29, 2019, where the deputy asked the in-custody defendant incriminating questions without informing the subject of his rights under *Miranda*. This IMF was completed as a result of a case that was "furthered" by MCAO, which means the County Attorney declined to prosecute the case and additional investigation or action was required. This IMF was also sent through channels and approved by the chain of command. For the period in review, we find that MCSO was not in compliance with this Paragraph.

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

For June, we selected a sample of 17 EIS alerts completed or closed, which BIO then inspected for compliance. The inspection report, BI2019-0094, concluded that 16 of 17 closed alerts were in compliance. The deficiency noted was for failure to complete the action required within 30 days. The inspection report notes that there is an administrative investigation in progress. District 1 completed a BIO Action Form in response to the deficiency noted in the inspection. Five of the alert interventions resulted in meetings between supervisors and deputies. One alert

noted that there were multiple interventions. Eleven of the alerts concluded with no further action. One of the alerts noted that there was an open administrative investigation in progress. The compliance rate for June was 94%.

For July, we selected a sample of 15 EIS alerts completed or closed, which BIO then inspected for compliance. The inspection report, BI2019-0110, concluded that 10 of 15 closed alerts were in compliance. The deficiencies noted were for failure to complete the action required within 30 days. A total of four BIO Action Forms were generated in response to the noted deficiencies. The Major Crimes Division (MCD) completed two of the BIO Action Forms, the Transportation Division completed one of the BIO Action Forms, and District 4 completed one BIO Action Form. Even though there were two deficiencies noted in the Transportation Division, one of the involved employees was separated from employment, so only one BIO Action Form was generated. Eight of the alert interventions resulted in meetings between supervisors and deputies. Three alerts noted that there were multiple interventions. Three of the alerts concluded with no further action. Eight of the alerts noted that there were open administrative investigations in progress. The compliance rate for July was 67%.

For August, we selected a sample of 15 EIS alerts completed or closed, which BIO then inspected for compliance. The inspection report, BI2019-0125, concluded that seven of 15 closed alerts were in compliance. The deficiencies noted were for failure to complete the action required within 30 days. A total of eight BIO Action Forms were generated in response to the noted deficiencies. District 1 completed two of the BIO Action Forms. In addition, BIO Action Forms were completed by Districts 2, 3, 4, and 6, and the Transportation Division. Twelve of the alert interventions resulted in meetings between supervisors and deputies. Two alerts noted that there were multiple interventions. One of the alerts concluded with no further action. Five of the alerts noted that there were open administrative investigations in progress. The compliance rate for August was 47%. For the third consecutive quarter, MCSO was not in compliance with this Paragraph.

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

Phase 1: In compliance

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

Our reviews to determine compliance with this Paragraph are associated with the documentation provided for Paragraph 94. As a result of the change in methodology for reviews of Paragraph 94, we have also revised the methodology we use to review this Paragraph. If BIO identifies deficient cases in the Incident Report inspection, and the deficiencies fall within any of the four areas noted in Paragraphs 94 and 96, we will review the documentation to determine compliance. Since this Paragraph pertains to command reviews of supervisory investigations of deficient arrests, for this reporting period we will review Incident Memorialization Forms to determine compliance. Our reviews for compliance with this Paragraph are determined by the command staff's timely reviews of IMFs, once submitted by supervisors, and commanders' evaluation of the corrective actions taken.

For this reporting period, there were no IMFs submitted for July and August. There were two IMFs submitted for September, as noted in our reviews of Paragraph 94. As noted in our previous quarterly status reports, we do not necessarily consider the absence of Incident Memorialization Forms to be conclusive evidence that there have been no deficiencies in arrests, as it pertains to Paragraph 94. In fact, we found cases in BIO inspections where deficiencies were found, where we believe IMFs may have been appropriate. MCSO was not in compliance with this Paragraph in our last report, and we do not have enough data to substantiate a change in compliance findings for this reporting period.

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 July, we reviewed the documentation provided for 51 employees – which included the ranks of deputy, sergeant, lieutenant, and captain. Of the 51 employees, 50 had the required two EIS reviews in the month, for a 98% compliance rate. For August, we reviewed Supervisory Notes

requested as verification of compliance for 52 employees. Of the 52 selected employees, 45 had appropriate documentation of timely EIS reviews, for a compliance rate of 87%. For September, we received Supervisory Notes as verification of compliance of EIS reviews for the selected 52 employees. Of the 52 employees, 50 had appropriate documentation of compliance with this Paragraph, for a compliance rate of 96%. The total compliance rate for the quarter, for periodic supervisory and command EIS reviews, was 93.54%. In addition, the reviews of broader pattern-based reports, as required by Paragraph 81.c., and assessments of interventions as required by this Paragraph, have 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

This Paragraph requires that MCSO create a system that "among other things," tracks each deputy's past performance to determine if there has been a pattern of behavior prohibited by MCSO policy. There are performance dimensions related to supervisory EPAs that are not being addressed with enough consistency to establish compliance in those areas. For example, the requirement for the assessment of supervisors' effectiveness in identifying and responding to misconduct has been an area of weakness which continues; for this reporting period, 35 of 38 supervisory EPAs had comments pertaining to this requirement. Even though the dimension "Quality of Supervisory Review/Supervisor Accountability" has a guide question pertaining to the supervisor's effectiveness in identifying misconduct, some supervisors do not address this requirement. The other area of concern relates to rating supervisors' quality of misconduct investigations, and command reviews of misconduct investigations, as per Paragraph 176. This requirement has not been addressed with enough consistency to establish compliance. For this reporting period, 34 of 38 supervisory EPAs addressed the quality and reviews of internal affairs investigations. All these requirements are fundamental components of a system needed to accurately and effectively assess performance.

We have reviewed four EPAs completed in the prototype EPA format: three deputies and one command officer. We understand that this is still a work in progress. Quality and effectiveness of supervision is one of the core competencies (rating dimensions). It appears that supervisors will be provided with the necessary tools to properly evaluate employee performance. However, it is still up to supervisors completing EPAs to ensure that all Order requirements are met. Our reviews of EPAs are discussed in detail in Paragraph 87. Of the 53 EPAs reviewed

for this reporting period, 47 were in compliance. The compliance rating for this reporting period was 89%.

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 October site visit, we met with Human Resources and discussed the progress of the EPA revision. MCSO has established two pilot districts – Districts 2 and 3 – to test the revised process. In July 2019, MCSO conducted supervisory orientation in Districts 2 and 3 on the new format. During our meeting with MCSO in October, we discussed the areas where we have noted deficiencies in past reviews. We have not reviewed enough EPAs completed in the new format to predict the degree of success supervisors will have in addressing the areas of weakness. We remain hopeful that the revised EPA process will address all the noted deficiencies. The new EPA process is expected to be completed in January 2020, with implementation for sworn by July 1. MCSO expects implementation for Detention and civilian personnel by the end of 2020.

We are aware of the Parties' concerns with regard to supervisors conducting due diligence and documenting their findings, as it pertains to the requirements of this Paragraph. MCSO has advised us, and we have verified, that the new EPA form includes a section for supervisors to note their findings pertaining to each of the requirements of this Paragraph. If there are any applicable entries, the supervisor is required to complete the appropriate section. If there are no events or actions to report, the supervisor must affirmatively note it in the EPA.

For this reporting period, we reviewed Employee Performance Appraisals for 15 deputies and 33 supervisors. Of the 15 deputies' appraisals, all were in compliance with the requirements of Paragraph 99. Of the 33 supervisors' appraisals, all were in compliance with this Paragraph. In addition, supervisors have been more diligent in documenting the requirements of Paragraph 99, in detail, in addition to the acknowledgement completed at the end of the EPA.

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 38 supervisors and commanders who received EPAs during this reporting period. All of the applicable 36 appraisals rated the quality and effectiveness of supervision; two supervisors did not have direct reports. Thirty-five of the 38 appraisals contained comments and/or rated the supervisors' demonstrated ability to identify and effectively respond to misconduct. Thirty-seven of the 38 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 July, August, and September 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 40 incidents involving arrests and 50 incidents involving criminal citations. We also reviewed a random sample of 285 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 93 administrative misconduct investigations. Thirty of these were internally generated. Twelve involved sworn personnel, 13 involved Detention personnel, and five involved civilian personnel.

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 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, post-stop ethnicity, 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 93 administrative misconduct investigations. Fifty-three involved identified sworn MCSO personnel. All were completed after July 20, 2016 and included the use of the 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 were no instances during this reporting period where an investigator failed to notify an employee's supervisor of the intended administrative interview or 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 28 sustained administrative misconduct investigations. Eighteen of these 28 involved misconduct by sworn personnel. Six cases involved misconduct by Detention personnel. Three cases involved civilian personnel and one involved a Reserve deputy. Twenty of the 28 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.

During our October site visit, on Tuesday, October 15, 2019, from 6:30 p.m.-8:30 p.m., we held our first public meeting since the June 3, 2019 Order at the Maryvale Community Center located at 4420 N. 51st Avenue, Phoenix, in MCSO District 2. We consulted with the Plaintiffs' representatives and the CAB on the location and content of the meeting. The location was convenient to the Plaintiffs' class. At the meeting, we welcomed the attendees; and explained that the Monitoring Team is comprised of 12 law enforcement and criminal justice professionals who oversee the implementation of the *Melendres* Court requirements. We introduced the

Community Advisory Board (CAB) members who were in attendance and stated that the CAB was an important element of the Court's Orders. As required, we pointed out that MCSO does not enforce immigration laws except to the extent that it is enforcing Arizona state and federal criminal laws.

After sharing some information on the Orders, we noted that the recently published Traffic Stop Annual Report (TSAR) was conducted by an MCSO vendor and covered the time period of July 2017-December 2018. We explained that the TSAR – which consisted of an analysis of more than 24,000 traffic stops by MCSO personnel – revealed that Latino drivers stopped by MCSO were more likely to be held longer, more likely to be involved in a search of their vehicle, more likely to result in an arrest, and more likely to be issued a citation than non-Latino drivers. We introduced an MCSO lieutenant from the Traffic Stop Analysis Unit – who, along with a representative of MCSO's vendor – provided a briefing on the TSAR's findings. The vendor representative stated that the analysis revealed disparities in some traffic stop outcomes based on the race of the driver in the traffic stop. She emphasized that the analysis was not able to uncover "direct evidence" of racial bias.

A community member asked the vendor representative if the vendor analyzed data regarding the use of force during traffic stops, according to race. The vendor representative indicated that the vendor did not conduct any use of force analysis.

Another community member – noting that the vendor representative had stated that seizure rates were consistent across races, but were predicated on other elements besides race – asked what those other elements were. The vendor representative replied that, in general, this included other evidence the deputy observed during the traffic stop. The community member responded that other evidence would be important for the public to better understand that very significant finding.

Another community member asked the vendor representative about the percentages of people of color arrested in traffic stops, and how many were taken to the Fourth Avenue Jail. The vendor representative referred the community member to the report. The community member also asked how many of the stops revealed the lack of a driver's license or vehicle registration. The vendor representative indicated that this was not examined in the analysis, but that the vendor would discuss incorporating that information in future reports with MCSO.

Next, we introduced two members of the CAB to address the attendees, stating that creation of the CAB is a very important requirement of the Court Order and that the CAB is intended to be the eyes and ears of the community. The first CAB member to address the attendees stated he had been a CAB member for four years; he noted that the responsibility of the CAB is to represent the perceptions of the community through the Monitor. He told the attendees that the opinions of the community members are very important in improving trust and confidence in MCSO. The second CAB member to speak said the CAB is the voice that represents the community, and that CAB members are available to listen to what the community has to say. We also recognized and welcomed a third CAB member who had recently been appointed to the CAB.

We also introduced representatives from the ACLU of Arizona and the U.S. Department of Justice (DOJ) to speak to the attendees. The ACLU of Arizona representative noted her availability after the meeting to assist community members who had applied for the Victim Compensation Fund. The DOJ representative encouraged the community members to continue to communicate with the CAB, attend public meetings, and advise MCSO of their concerns.

We next noted that one of the requirements of the original Order was that MCSO implement dashboard cameras – but instead, MCSO elected to use the more effective body-worn cameras. We noted that body-worn cameras are an important training tool that help supervisors to better interact with their subordinates, and train them to better interact with the community. We introduced a MCSO representative, an assistant administrator to the MCSO body-worn camera program, who presented on the purpose of the cameras and the policy requirements related to their use. She explained that deputies are required to record all law enforcement interactions. The attendees were shown a picture of the camera with an explanation of the operation of the camera. An MCSO lieutenant was available to respond to questions. Community members asked several questions related to the operation of the cameras, including if the red indicator light and beeping sounds could be turned off in tactical situations.

Following the body-worn camera presentation, the Monitor introduced the Sheriff, asking that he come to the front of the auditorium to address the crowd. However, unbeknown to the Monitor, the Sheriff had left the meeting venue. Per the Order, the Sheriff is required to inform the Monitor at least 30 days prior to a community meeting if he is unable to attend. We did not receive any such notification from the Sheriff or his office in advance of the meeting. The Sheriff attended the meeting, but he left early, disappointing the community members who attended and wished to hear from him directly about the progress made by MCSO with the *Melendres* reforms.

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

The Monitoring Team held a public meeting on Tuesday, October 15, 2019, from 6:30 p.m-8:30 p.m. at the Maryvale Community Center located at 4420 N. 51st Avenue, Phoenix, in MCSO District 2. We consulted with the Plaintiffs' representatives and the CAB on the location and content of the meeting. The location was convenient to the Plaintiffs' class. The Monitoring Team informed the attendees that the purpose of the meeting was to discuss the *Melendres* and the Orders implementing the relief of that case. We offered the attendees the opportunity to ask questions or offer comments regarding their experiences and concerns about MCSO practices.

As noted above, the Sheriff attended the meeting but left early; he was no longer present when community members asked questions. The questions from community members mainly focused on the two presentations offered during the meeting on the most recent Traffic Stop Annual Report (TSAR) and MCSO's use of body-worn cameras.

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, the Monitoring Team held a public meeting on Tuesday, October 15, 2019, from 6:30 p.m.-8:30 p.m. at the Maryvale Community Center located at 4420 N. 51st Avenue, Phoenix, in MCSO District 2. We provided consecutive Spanish interpretation for attendees. The Plaintiffs' and Plaintiff-Intervenors' representatives were introduced and invited to offer remarks, and we advised the attendees that they were available to answer questions.

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

The Monitoring Team consulted with the CAB and the ACLU of Arizona regarding the advertising of the meeting in local radio and print media, in English and Spanish – as well as on the site selection, agenda creation, and meeting logistics. Our selection of the venue for the meeting was based on accessibility, adequate meeting space, adequate parking, and ease in locating the meeting site. The Monitoring Team publicized the meeting with advertisements in Spanish print media, radio spots in Spanish and English, social media, and distribution of flyers to members of the Plaintiffs' class and in the vicinity of the meeting venue.

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 continued to work with and provide 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 October 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, "No administrative support, coordination, was requested from the CAB over the 3rd quarter 2019." As in the past, we interpret the relevant Order language to include not only issues brought to the COrD's attention via the CAB, but complaints, concerns, or suggestions from any member of the public. We will clarify this requirement during our upcoming site visit, and also discuss with COrD personnel the requirement that COrD communicate concerns received from the community at regular meetings with the Monitor and 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.

In October, the Sheriff appointed two new CAB members to replace two members who had left.

None of the current CAB members are MCSO employees, named class representatives, or attorneys involved in this case.

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 October site visit. We also held a meeting with CAB members during our October site visit. At the meeting, we introduced the two newly appointed CAB members to the *Melendres* case and the reform process, and discussed the important role that the CAB plays in helping to improve the relationship between the Plaintiffs' class 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, some CAB members attended a few of the Monitoring Team's compliance meetings during our October site visit.

According to MCSO, during this reporting period, "There was no documentation received from the CAB reference concerns about MCSO practices that may be in violation of the Court's Orders, which were transmitted to the Monitor and the MCSO for investigation and/or action."

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 93 closed administrative misconduct investigations. Sworn or Detention personnel assigned to the Professional Standards Bureau (PSB) conducted 46 of the investigations. The contract investigator hired by MCSO conducted three investigations. Sworn supervisors in the Districts or Divisions outside of PSB conducted 44 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 three instances where a potential conflict of interest was identified. In all three, 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 93 completed administrative investigations for this reporting period revealed that there were three instances where MCSO identified a possible conflict of interest by an MCSO investigator or commander responsible for making disciplinary decisions. In all three 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 four instances during this reporting period where they believed a truthfulness allegation was appropriate. In all four, the PSB Commander approved the truthfulness investigation. We did not identify any instances during this reporting period 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 93 administrative cases we reviewed for this reporting period, there were 33 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 32 of the 33 cases, the supervisor appropriately documented the information and immediately forwarded it to PSB, and an administrative investigation was initiated. In one case, the supervisor failed to make immediate notification to PSB.

Paragraph 167.f. provides for the potential for a disciplinary sanction or other corrective action if an employee fails to bring forth an act of misconduct. During this reporting period, there was one instance where a supervisor failed to complete the proper documentation to notify PSB of potential misconduct. This involved an employee who was involved in an on-duty traffic accident with another vehicle. PSB did not become aware of this until the other driver filed a Notice of Claim several months later. Follow-up by PSB determined that this supervisor erroneously believed that entering the information into Blue Team served as notification to PSB. This was determined to be a training issue and has been addressed by PSB.

Paragraph 167.g. requires that a sergeant or higher-ranking employee conduct all misconduct investigations conducted at the District level. All District-level cases that we reviewed for this reporting period complied with this requirement.

Paragraph 168. *All forms of reprisal, discouragement, intimidation, coercion, or adverse action against any person, civilian, or employee because that person reports misconduct, attempts to make or makes a misconduct complaint in good faith, or cooperates with an investigation of misconduct constitute retaliation and are strictly prohibited. This also includes reports of misconduct made directly to the Monitor, during any period in which a Monitor is appointed to oversee any operations of the MCSO.*

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on 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 93 administrative misconduct investigations that were completed during this reporting period.

There were two complaints reviewed where employees had alleged retaliatory complaints had been filed against them by peer employees. In a third complaint, the employee alleged that her supervisors had retaliated against her because she talked about submitting a grievance regarding a harassing workplace. All three were properly investigated by PSB. Two were found not sustained and one was unfounded. We agree with the findings in all three cases. 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 93 administrative misconduct investigations that were completed during this reporting period.

In one investigation, an employee alleged that her supervisors had retaliated against her because she talked about submitting a grievance regarding a harassing workplace. 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 93 completed administrative misconduct investigations conducted during this reporting period. Sixty-three were initiated as a result of external complaints, and 30 were generated based on internal complaints. We also reviewed 10 criminal misconduct investigations, seven of which were generated as a result of external complaints.

Of the 93 administrative misconduct investigations we reviewed for this reporting period, seven involved externally generated anonymous complaints. Four 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 93 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 93 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

We determined that 15 of the 93 completed administrative investigations involved complainants who sought to withdraw their complaints; or were unavailable, unwilling, or unable to cooperate. MCSO completed all 15 investigations and reached a finding as required. We also found that in 12 of the 93 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. None of the 93 investigations we evaluated for compliance 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 93 completed administrative misconduct investigations conducted by MCSO personnel. There were no investigations identified by MCSO or our Team where an employee failed to accurately provide all information or evidence required during the investigation.

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 66 employees. This included deputies, deputy services aides, background investigators, identification technicians, and Detention Officers – as well as civilian positions. Five of the employees had open PSB investigations. None of the allegations involved serious misconduct. We reviewed the documentation that MCSO submitted, and determined that these promotions were in compliance with this Paragraph. During our October 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 appropriate documents were contained in employee files.

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. One background investigator hired had a written reprimand, and one Detention Officer hired had a written reprimand; both of these were employees rehired from former classifications. We noted no issues with these two individuals. We reviewed the files of two employees who were promoted, who had closed misconduct investigations, and had discipline associated with sustained allegations of misconduct. We reviewed the justification memos provided and determined that the promotions were in compliance with this Paragraph. None of the 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 October 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 July, 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 12 Detention employees, 12 sworn employees, and one civilian. Of the 12 Detention employees, all had proper documentation of command review of their EIS profiles. Of the 12 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 July was 100%.

For August, we requested a list of employees who were transferred during the previous month. We selected a sample of 24 employees to review. This list included 22 Detention employees, one sworn employee, and one civilian employee. Of the 22 Detention employees, 18 had proper documentation of command review of their EIS profiles. Both the sworn employee, and the civilian employee, had documentation of command review of their EIS profiles. The compliance rate for August was 84%.

For September, 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. One employee was moved within the Division, so there was no review required. The documentation provided included 15 Detention employees, eight sworn employees (plus three deputy trainees). Of the 15 Detention Officers, only one had proper documentation of command review of their EIS profiles. Of the applicable seven sworn employees, all had documentation of command review of their EIS profiles. In total, there were seven of 21 employees in compliance, for a compliance rate of 38%. For the quarter, there were 39 of 57 employees in compliance, or 68%.

MCSO has been in compliance with this Paragraph. Consistent with our methodology, we will maintain the compliance rating for this reporting period. However, if MCSO fails to meet the requirements of this Paragraph in the next reporting period, we will withdraw MCSO's compliance with this Paragraph.

Paragraph 176. *The quality of investigators' internal affairs investigations and Supervisors' reviews of investigations shall be taken into account in their performance evaluations.*

Phase 1: 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 38 supervisors and commanders who received EPAs during this reporting period. All 38 EPAs rated the quality and effectiveness of supervision. Thirty-five of the 38 EPAs contained comments and/or rated the supervisors' demonstrated ability to identify and effectively respond to misconduct. Thirty-seven of the 38 EPAs rated supervisors on the quality of their reviews. Thirty-four of the 38 supervisors' EPAs

assessed the employees' quality of internal investigations and/or the quality of their reviews of internal investigations, as required by this Paragraph. For the second consecutive quarter, the number of EPAs that met the requirements of this Paragraph has increased. The compliance rate for the previous quarter was 78%. The compliance rate for this reporting period was 89%.

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 93 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.

The curriculum for the PSB40 was revised during this reporting period. The annual update to GH-2 (Internal Investigations) provided guidance for all revisions.

The Training Division anticipates submitting a revised PSB40 lesson plan during the next 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 July, the 2019 annual eight-hour in-service training for Professional Standards Bureau personnel (PSB8 Internal) was delivered to 42 members of PSB. No individuals required remediation.

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. It included content on discrimination, disparate treatment, and harassment. The lesson plan was not limited to the law enforcement setting, but was broader and more general in nature.

We discussed this course with MCSO during our October site visit. Students provided a critical review of the instructor and training materials. We recommend that MCSO address the many concerns expressed by both students and the Training Division during vendor negotiation phases. MCSO should provide clarity to the vendor on what the organization wishes to achieve with the instruction, as well as what is considered proper attire in the classroom. We have previously encouraged the Training Division to observe and conduct standardized independent observations and evaluations of all instructors. Doing so ensures that vendors were aware of and met the standards of the organization.

In August, we approved the 2019 annual eight-hour in-service training for District supervisors (PSB8 External) for delivery. This course was delivered four times during September to 102 personnel (89 sworn, 13 Detention). No individuals required test remediation.

Students evaluated this course highly. As a result, the 2020 PSB40 training will follow a similar format.

MCSO did not provide to us the required information for approval of proposed instructors prior to conducting the train-the-trainer and subsequent classes. MCSO used six new instructors for this training, along with four instructors who had previously taught the material. We discussed our concerns with the instructors earlier in this report, and we remind MCSO to provide information related to instructor proposal and approval *prior* to assigning individuals to any train-the-trainer or class instruction.

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

All new or annually revised policies are distributed via the HUB, an electronic training management system. When a policy is distributed, all employees are required to complete personal attestations indicating they have read and understand the policy.

We review the HUB generated reports of attestations that identify each individual and their dates of review. For compliance with this Paragraph, we reviewed reporting for the following policies: 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).

During this reporting period, we reviewed the status of individual reviews for Briefing Board (BB) BB 19-29 (CP-2), BB 19-04 (CP-3), BB 18-48 (CP-11), BB 19-30 (GB-2), BB 19-30 (GH-2), BB 19-14 (GC-16), and BB 19-28 (GC-17).

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 continues to be delivered via the HUB. The Training Division has significantly improved HUB reporting for this Paragraph. Reports now provide an employee's number, name, supervisor, the date the training was assigned to the employee, and the date the employee completed the training. Documentation during this reporting period indicates that all categories of personnel are in compliance with the requirements of this Paragraph.

Previously, the Training Division and the Human Resource Division (HR) had agreed to assign new hires to take any required training during their onboarding process. The assigned training would include the Complaint Intake and Reception training and all policy training. They would be provided a limited timeframe to complete these requirements. During our October site visit, MCSO informed us that the HR had not implemented this process, unfortunately. We note, however, that all categories of employees are in compliance during this reporting period.

During our October site visit, Training Division personnel advised us that all civilian employees would be required to retake this training during calendar year 2020. Reviews by the Audit and Integrity Unit indicated that a refresher on this topic would be beneficial.

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

Several training programs – the ACT, SRELE, EIS, and the PSB40 – address the requirements of this Paragraph by including policy reference and additional direction when appropriate. Additional direction to supervisors and deputies may not appear in each annual delivery, depending upon the content included.

Once again, MCSO experienced difficulties with the development of the 2019 ACT Bias-Free Policing content. We previously discussed the way the Training Division overcame this obstacle and our disagreement with the approach of utilizing the 2017 ACT content.

The 2019 SRELE concentrated on supervisory review methodologies of deputy activities. The content included findings from AIU audits.

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 93 completed administrative misconduct investigations conducted during this reporting period.

Of the 93 cases we reviewed, 88 (95%) complied with the requirements of this Paragraph. In five cases, we do not believe the findings were based on an appropriate standard of proof. In three, we believe a finding of sustained should have been made and was not. In one, we believe the finding of exonerated should have been not sustained, and in an additional case, we do not believe that the principals were properly identified.

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 93 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. In all but one of the 93 administrative cases, PSB was immediately notified at the time of the complaint as required. We also reviewed 10 criminal misconduct investigations. PSB was immediately notified in all 10 of these investigations.

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 93 of the administrative misconduct investigations were properly assigned a unique identifier. All but two of these investigations were both initiated and completed after July 20, 2016. Of the 93 cases, 63 involved an external complaint requiring that PSB provide the complainant with this unique identifier. In all but one of the 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 October 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. We also randomly reviewed both electronic and hard copy documents to ensure that all information is being maintained as required for compliance with this Paragraph.

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 93 closed administrative misconduct investigations and 73 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 81 service complaints. All but three complied with the requirements of this Paragraph.

During this reporting period, MCSO completed and closed 73 service complaints. Twelve service complaints were appropriately reclassified to administrative misconduct investigations after review by PSB. The remaining 61 were classified and handled as service complaints. Of these 61, 60 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 and did not. As is our practice, we will discuss this case 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, 17 (28%) of the 61 service complaints did not involve MCSO employees. Thirty-five (57%) did not involve allegations of employee misconduct, five were closed due to lack of specificity, and the remaining four 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 told 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 had 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 intended 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 was developed and submitted for our review. We and the Parties have since reviewed this revised service complaint form, and it has been approved.

During our October 2019 site visit, PSB advised that 321 service complaints were opened the first nine months of 2019. This compares to 260 service complaints opened during the same time period in 2018, an increase of 23%. PSB told us that they published the revised service complaint form during this reporting period, which will allow for expedited handling of those service complaints that do not involve MCSO personnel. To ensure accountability, they have also added a 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. Deficiencies found in service complaints will be addressed with formal memorandums.

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 eight internally generated complaints could be addressed without a formal investigation. All eight 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 did not determine that any internally generated complaints would be addressed without a formal investigation.

Paragraph 189. *The Professional Standards Bureau shall administratively investigate:*

a. misconduct allegations of a serious nature, including any allegation that may result in suspension, demotion, or termination; and

b. misconduct indicating apparent criminal conduct by an employee.

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on 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 93 completed administrative misconduct investigations conducted by MCSO personnel.

Division or District personnel outside of PSB investigated 44 of the 93 administrative misconduct investigations conducted during this reporting period. PSB investigated 46 of the cases and three investigations were conducted by the outside contractor hired by MCSO. PSB also submitted 10 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 103 misconduct investigations conducted by MCSO personnel and completed during this reporting period. Of these, 93 were administrative investigations, and 10 involved alleged criminal misconduct. PSB personnel conducted all of the criminal investigations.

Of the 93 administrative misconduct cases we reviewed for this Paragraph, PSB investigators conducted 46. Forty-four were investigated at the District or Division level, and three 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 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. Of the 46 investigations that were initiated after the training, 13 were not compliant with all requirements. All 13 were completed by District supervisors. Overall compliance for District and Division investigations dropped from 76% to 63%.

During this reporting period, we reviewed 44 administrative misconduct investigations conducted by Divisions or Districts outside of PSB. Nine of the investigations were initiated prior to the completion of the 40-hour Misconduct Investigative Training. District supervisors conducted eight of these investigations and one was conducted by a Division outside of PSB. Only one (11%) of the nine investigations was in compliance with all of the requirements for the completion of misconduct investigations. Of the 35 investigations initiated after the completion of the training, 23 (66%) were compliant with all requirements for the completion of

administrative misconduct investigations. Of the 12 cases that were not compliant, 11 were conducted by District Supervisors and one was conducted by a Division outside of PSB.

Prior to the last reporting period, we had noted continuing improvement in those investigations conducted outside of PSB, particularly in those cases that were completed after the 40-hour Misconduct Investigative Training. During this, and the last reporting period, that has not continued to be the case. Compliance for investigations completed outside of PSB, dropped from 76% to 63% during the last reporting period. During this reporting period, we saw an additional decrease in compliance. The overall compliance for all cases investigated outside of PSB dropped from 63% the last reporting period to 55% 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 93 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. Of the 44 administrative misconduct cases investigated at the District or Division 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 28 completed Division-level misconduct investigations that were assigned outside

the Bureau; which is a decrease from the previous reporting period when 42 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. We will review the next semi-annual Misconduct Investigations Report, which is scheduled to be completed in January 2020, to evaluate whether it meets the requirements of this Paragraph.

MCSO remains in compliance with this requirement.

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 93 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. Twenty-eight cases had sustained allegations against one or more employees. In 20 of these 28 investigations, at least one principal employee was still an MCSO employee at the time

the investigation was completed or discipline decisions were made. In all 20 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 93 administrative misconduct investigations and 10 criminal investigations. Nine (90%)of the criminal investigations complied with MCSO policy and the requirements of the Second Order. Of the 93 administrative misconduct investigations, 73% were in compliance with all the investigative and administrative requirements over which the PSB Commander has authority – the same compliance percentage as the last reporting period.

Of the 93 administrative misconduct cases we reviewed, PSB personnel completed 46. Forty-three (93%) were in compliance with all investigative and administrative requirements over which the PPSB Commander has authority. The contract investigator hired by MCSO completed three investigations. While all three were well-written and the findings were appropriate; we found two non-compliant, as they did not include a request for, or approval of, an investigative extension. Of the 49 investigations conducted by, or at the direction of PSB, 44 (90%) were in compliance with all investigative and administrative requirements over which the PSB Commander has authority. This represents a 5% increase from the last reporting period.

Sworn personnel in PSB conducted 17 of these 49 investigations. Sixteen (94%) were in compliance with all investigative and administrative requirements over which the PSB Commander has authority. PSB sworn investigations have been at 100% compliance for the past several reporting period. This decrease to 94% this reporting period is a result of the failure to request and receive authorization for an investigative extension.

Twenty-nine of the investigations conducted by PSB were completed by Detention personnel assigned to PSB. Of these 29, 27 (93%) were in compliance with all investigative and administrative requirements, an increase of 3% from the last reporting period. In both investigations that were not compliant, we believe that adequate evidence existed to sustain allegations and PSB failed to do so.

The contract investigator conducted three investigations. Two were not compliant, due only to the lack of investigative extension requests and approvals.

Districts or Divisions outside of PSB conducted 44 investigations. We found 24 (55%) to be in compliance with all investigative and administrative requirements. This is a decrease from the 63% compliance during the last reporting period. Two (50%) of the investigations conducted by a Division other than Patrol were compliant. In one of these four cases, the findings at the Division level were not supported by the facts of the investigation. In the second, a supervisor failed to ensure PSB was properly notified of possible employee misconduct in a timely manner. Of the 40 conducted by the Patrol Division, 22 (55%) were compliant. This is a 3% decrease in compliance from the last reporting period. As previously noted, one of the non-compliant District investigations was a result of actions taken by PSB, not the District. While we had previously noted ongoing improvement in District cases – especially since the completion of the 40-hour Misconduct Investigative Training – for this and the last reporting period, that has not been the case.

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 that all investigations are properly completed is that the Appointing Authority – not the PSB Commander – determines the final findings and discipline. During this reporting period, there was one instance where the Appointing Authority overturned a finding made by the PSB Commander. We agree with his decision to do so. There were six instances where the Appointing Authority assessed discipline other than the presumptive discipline. In one, he mitigated the discipline and we agree there was justification to do so. In three, we believe he failed to aggravate discipline appropriately, despite his identification that aggravating factors were present. In the two remaining cases, we believe his final determination of the category and offense number was incorrect.

The most significant factor that continues to adversely impact 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 only one investigation where a District Commander identified and corrected deficiencies in an investigation prior to forwarding it to PSB. We found four instances where PSB identified concerns with the District Commander approval of misconduct investigations and forwarded these concerns to Deputy Chiefs to address. We noted six instances where Deputy Chiefs met with District Command personnel as a result of deficient investigations being submitted. These discussions resulted in Blue Team notes being authored. Oversight and attention to the proper completion of administrative investigations must be a priority if MCSO is to reach compliance with the completion of these investigations.

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 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 three 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. PSB is now handling hundreds of investigations via this process. During the first nine months of 2019, 321 complaints have been 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 proposed an expedited process for handling those complaints that do not involve MCSO personnel. We approved this expedited process during this reporting period. We also approved a process where the PSB Commander can resolve some minor internally generated complaints – without the necessity to conduct an administrative misconduct investigation. To date, the PSB Commander has used 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 nine months of 2019, PSB has initiated 479 misconduct investigations and 321 service complaints. This indicates that total investigations for 2019 will likely be close to that of 2018.

PSB has consistently informed us over past reporting periods that the caseload for PSB investigators continues to be excessive. During our October 2019 site visit, PSB informed us the average active monthly caseload for both PSB sworn investigators and detention investigators is 46, with some investigators having a caseload as high as 60 active cases per month. The large caseloads continue to adversely impact the timely completion of investigations. The average number of days to finalize and close a PSB investigation was 479 days during this reporting period. The average number of days to close a District or Division investigation was 315 days. There are currently 1,682 open investigations. While these include criminal misconduct investigations, critical incident investigations, and service complaints, the majority are open administrative misconduct investigations.

During September 2019, members of our Team met with the PSB Executive Chief to discuss ongoing challenges with the completion of misconduct investigations. It was a productive meeting with good discussion about potential ideas to resolve this ongoing concern. Some of the discussion included topics already discussed with our Team and the Parties, and others were new. The Executive Chief committed to developing a list of the ideas shared, along with more detailed information about how each idea might be implemented. The intent is to then share this information with our Team and the Parties. The Executive Chief told us that due to ongoing priorities, this information would not be ready for discussion until our January 2020 site visit.

During our October 2019 site visit, we also met with PSB and the Parties to discuss the ongoing issues with the completion of misconduct investigations. We briefly discussed some potential remedies, then tabled the discussion until our January 2020 site visit when MCSO will be prepared to provide more detailed information on any proposals they want to bring forward.

Even though PSB was authorized 11 new positions in the July 2018 budget, during this reporting period, PSB again advised that only one of these positions, a Detention supervisor, has been filled. There is still no indication when any of the additional positions will be filled.

For the July 2019 budget, PSB requested eight civilian personnel, believing they might be able to be more expeditiously hired. Five positions were approved. During our October site visit, PSB told us that one management analyst position has been filled; interviews are in progress for management assistants; and the civilian investigator positions are in the job-posting phase. PSB believes that these civilian positions will be able to complete some of the functions currently completed by the investigators, freeing up additional time for investigative activities.

Despite the efforts of PSB, staffing remains a significant problem, resulting in the delayed completion of misconduct investigations. As we have for numerous reporting periods, we note that despite all the efforts that are being made to properly address investigations, it is simply not

possible to do so with the existing staff. It is also obvious that 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. As we have noted during this and previous reporting periods, we remain open to discussing any ideas MCSO may wish to bring forward.

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 agreed that investigators would attempt to contact the owners of the 20 identifications where MCSO had been unable to establish a link between the ID and any MCSO employee, to determine if the owners knew how their identifications might have gotten into MCSO custody. PSB committed to completing this follow-up and presenting the results during our October 2019 site visit.

During our October 2019 site visit, PSB advised that it had completed the follow-up requested. Of the 20 identifications, five owners of the IDs believed the IDs had been lost or stolen; three had no idea why MCSO would have their identifications and denied ever having contact with MCSO personnel; one believed the ID had been taken by Phoenix Police Department officers during a contact with them; and in 11 of the cases, MCSO investigators were unable to locate the owner of the ID, despite searching law enforcement databases, open sources, and attempts to make contact at possible phone numbers or last known addresses of the individuals.

The Parties asked how the 25 ID sample was selected and a member of our Team provided a detailed explanation of the methodology that was used for the selection. The Parties also asked for more detail on the attempts to make personal contact at possible addresses for any of the owners of the IDs. PSB investigators advised they had attempted two in-person contacts at known addresses and left their business cards on the doors of the residences and vehicles on the property. PSB personnel also advised they had met with a member of the ACLU and provided her with an opportunity to review the 22 binders of information they had compiled on the 1,459.

PSB recommended, in both the document they provided on the status of the 1,459 IDs prior to the site visit, and during the site visit, that this investigation be closed. The Parties' representatives said they would need time to discuss this with their respective clients and could have a response back by the end of November. They said they would provide their response by email to both MCSO and our Team. The MCAO attorney who attended the site visit meeting said he would draft a court document recommending the closing of the investigation for the Parties' review as well.

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 three investigations completed by the contract investigator retained by MCSO. Numerous additional investigations are still in process. MCSO did not outsource any additional cases to the contract investigator or any other entity 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 had been filled – that of a Detention sergeant. It was still unknown when any of the remaining 10 positions would be filled. PSB personnel also told us that of the eight civilian positions requested in the July 2019 budget, five positions were approved.

During our October 2019 site visit, PSB told us that of the previously approved 11 positions in July 2018, there has still only been one filled. Of the civilian positions approved in the July 2019 budget, one management analyst position has been filled; interviews are in progress for management assistants; and the three civilian investigator positions are in the job-posting phase.

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. 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, 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.

During this reporting period, PSB advised us that no additional cases were outsourced to the outside investigator or any other law enforcement agency.

This investigator has completed numerous assigned investigations and forwarded them to PSB for review. We have now received and reviewed seven 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 our October 2019 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 a.m.-4:00 p.m., 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 October site visit, we inquired as to the status and the list remains unchanged. During this reporting period, there were two 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 93 administrative misconduct investigations that were completed by MCSO personnel during this reporting period. Ninety-one of the investigations were both initiated and completed after the issuance of the Second Order. PSB investigated 46 of the total cases. Three cases were investigated by the outside contractor hired by MCSO. District or Division supervisory personnel not assigned to PSB investigated 44 of the cases. Of the cases we reviewed, 63 involved external complaints and 30 were internally generated.

Paragraph 200.a. requires that misconduct investigations be conducted in a rigorous and impartial manner. During the last reporting period, three investigations (3%) fell short of compliance with this Subparagraph. During this reporting period, two investigations (2%) 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, two investigations (2%) 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, all investigations complied with the requirements of this Subparagraph.

Paragraph 200.d. requires that investigators make reasonable attempts to locate and interview all witnesses. During the last reporting period, 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.e. requires that investigators make reasonable attempts to interview civilian complainants in person. During the last reporting period, two investigations (2%) fell short of compliance with this Subparagraph. During this reporting period, one investigation (1%) 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 12 investigations that were not both audio- and video-recorded. All included documented appropriate reasons why the interviews were not. During this reporting period, of the 93 administrative misconduct investigations, there were 17 where the interviews of all complainants, witnesses, and investigative leads were not both audio- and video-recorded. In 15, adequate justification was provided. Two were only audio-recorded and no justification was provided for failing to also video-record the interviews.

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, two investigations (2%) did not comply with all requirements of this Subparagraph. During this reporting period, two investigations (2%) again fell short of compliance with this Subparagraph.

Paragraph 200.h. requires that proper credibility determinations be made. During the last reporting period, three completed investigation (3%) 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, two investigations (2%) fell short of compliance with this Subparagraph. During this reporting period, two investigations (2%) again 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 93 administrative misconduct investigations conducted by MCSO personnel that were completed during this reporting period.

Of the 93 completed administrative misconduct investigations, 63 involved complainants that were not MCSO employees. Thirty of the 93 total investigations also included interviews with witnesses or investigative leads who were not MCSO employees. We identified three cases where there was an automatic preference for the statement of an employee over a non-employee's statement. We will discuss these cases 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 93 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. In seven of the 93 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: Not in compliance

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

During the last reporting period, 61 (67%) of the total 91 administrative misconduct investigations reviewed for the reporting period were not completed within the 60 or 85-day timeline. Of these, six (10%) did not contain a timely extension request or approval.

During this reporting period, 74 (80%) of the total 93 administrative misconduct investigations reviewed were not completed within the 60- or 85-day timeline. Of these, five (7%) did not contain a timely request for an extension.

PSB conducted 44 of the 93 administrative misconduct investigations we reviewed. Forty-two of these investigations were not completed within the required 85-day time period. All but one of the 44 included a request for, and an approval of, an extension. Of the three investigations conducted by the contract investigator hired by MCSO, none were completed in the 85 days and only one contained an extension request and approval.

As has been our practice for numerous reporting periods, we 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 44 of the administrative misconduct investigations. Twenty-nine (66%) of these 44 investigations were not submitted to PSB within the required 60-day timeframe. All but two of the 29 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, 77 of the 93 cases exceeded the 180-day timeframe. In six, a timely extension was not requested or approved. None of these six investigations resulted in a recommendation for serious discipline.

MCSO had been in compliance with the requirements of this Paragraph for numerous reporting periods. During the last reporting period, MCSO fell below the required compliance, with a 90% compliance rate. This was 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. MCSO was advised that should their compliance rate fall below the required standard during this reporting period, Phase 2 compliance would be withdrawn

During this reporting period, five (7%) of the 74 investigations that were not completed within the 60 or 85-day requirement did not have a timely request for, or an approval of, an extension. Two of these investigations were conducted by District personnel; one by PSB personnel; and two were by the contract investigator. MCSO again fell below the required compliance for this Paragraph with a 93% compliance rate.

For this reporting period, we have withdrawn MCSO's Phase 2 compliance for this Paragraph.

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, July, and October 2019 site visits, a member of our Team 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 93 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 one 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 one 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-one of the 93 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 93 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 nine 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. During our next site visit, we will discuss both investigations where we believe that additional training or policy review should have occurred and did not.

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 89 (98%) of the 91 cases that were completed.

During this reporting period, we concurred with the findings of the PSB Commander in 88 (95%) of the 93 administrative misconduct investigations we reviewed. In two investigations where the PSB Commander made a final finding of not sustained, we believe adequate evidence existed for sustained findings. In one investigation where the PSB Commander made a finding of exonerated, we again believe adequate evidence existed for a sustained finding. In two investigations with findings of unfounded, we believe inadequate justification existed for these findings. There was one investigation during this reporting period where the Appointing Authority changed the findings made by the PSB Commander. We concur with his decision to do so. 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 44 administrative misconduct investigations not conducted by PSB personnel and completed during this reporting period. All 44 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 49 administrative misconduct investigations that were conducted by PSB personnel or the contract investigator and completed during this reporting period. All 49 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 93 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

PSB personnel investigated 46 of the 93 administrative misconduct investigations we reviewed during this reporting period. In 43 (93%) 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 compliance as the last two reporting periods.

The contract investigator hired by MCSO investigated three cases assigned to PSB. All three were well-written and thorough, and we concur with the findings. However, two of the three investigations were non-compliant, as they lacked the required 85-day extension memos. As these investigations were conducted by the outside investigator at the direction of PSB, their compliance findings affect the overall findings for PSB. For the total 49 investigations conducted out of PSB, 44 (90%) were in compliance with all requirements. This is an increase from the 85% compliance rate during the last quarter.

Of the 44 investigations investigated by Districts or Divisions outside of PSB, 24 (55%) were in compliance with the requirements for the completion of administrative investigations. This is a continuing decrease from the last reporting period where compliance dropped from 76% to 63%. We or PSB identified 20 investigations (45%) 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 training or policy concerns; lack of detail in the reports; leading questions; failure to conduct all necessary interviews; and administrative errors. We will discuss these cases with both PSB and the Division/District Commanders during our next site visit.

Until the last reporting period, 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 expected to continue to find improvement during the last reporting period, but that was not the case. A reduction from 76% to 63% in compliance occurred during the last reporting period. Compliance dropped an additional 8% this reporting period. We again note our concerns that after several years of working within the requirements of current investigative processes, these investigations continue to have both substantive and administrative deficiencies.

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 noted six instances where Deputy Chiefs met with District Commanders to discuss deficient investigations or concerns with investigations conducted by their personnel and not addressed prior to forwarding the cases to PSB. We also noted one instance where a District Commander identified and addressed a deficient investigation prior to forwarding it to PSB. In all cases, appropriate personnel held one-on-one discussions and made Blue Team entries. 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, as we continue to believe that the majority of deficiencies found in the District and Division cases should be identified prior to forwarding the case to PSB, we will continue to closely monitor these interventions to ensure that appropriate corrective actions are being taken to address any ongoing deficiencies being found.

We noted four 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 by PSB. PSB continues to track the deficiencies and the outcomes of any interventions. We noted in our review of the tracking document maintained by PSB that five of the Command deficiency concerns that were documented and forwarded to Executive staff have not been addressed and remain pending. Some of these concerns were documented and forwarded by PSB more than four months ago. We encourage MCSO to address these pending concerns.

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. Again during this reporting period, our review of cases completed by PSB personnel continues to indicate PSB's ongoing efforts to achieve compliance, and we remain optimistic that PSB will continue to do so.

However, based on our review of investigations during this and the last 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 continuing to decline. MCSO executive staff must take action to ensure that command personnel are properly reviewing and addressing administrative misconduct investigations conducted by their personnel, and further ensure there are appropriate consequences should continued deficiencies be identified.

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 93 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. Deputy Chiefs did address some deficiencies at the Command level and one District Commander identified and addressed a deficient investigation completed in his District.

We will continue to 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 93 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. Of the 93 investigations, 46 were investigated by PSB personnel. Three were investigated by the contract investigator hired by MCSO, and 44 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 52 District or Division level approved cases were forwarded to, and reviewed by, PSB as required. Nineteen (37%) of the 52 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 44 District or Division level investigations were forwarded to and reviewed by, PSB as required. Twenty (45%) were found to have concerns or deficiencies, either by PSB or our Team, including seven where we or 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 continue to note that in some cases deficiencies or errors found by PSB or our Team cannot be corrected after the fact. We also note that in one of these cases, our not-compliant finding was based on the findings made by PSB, not the District.

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

Our analysis for this reporting period revealed that of the 44 investigations conducted outside of PSB, 10 were returned by PSB to the original investigating supervisor for further investigation, analysis, or corrections and one was reassigned to a different supervisor to complete.

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 44 administrative misconduct investigations conducted by MCSO personnel outside of PSB and completed during this reporting period.

Twelve of the 44 completed misconduct investigations conducted outside of PSB resulted in sustained findings. In one case, the employee left MCSO employment prior to the completion of the investigation or the discipline process. In the remaining 10 cases, the reports included documentation that appropriate discipline or corrective action was taken. In six 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 93 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Forty-six of the completed investigations were conducted by PSB personnel. Three were conducted by the contract investigator hired by MCSO. Sixteen resulted in a sustained finding against one or more MCSO employee. In nine of these sustained investigations, the PSB Commander ensured that appropriate discipline and/or corrective action was recommended. In the seven 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 nine 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 in 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.

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 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 inspected the file rooms where hardcopies of administrative investigations were 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 verified continued compliance at the new PSB facility by inspecting both the criminal and administrative investigation file rooms and randomly reviewing internal affairs case files to verify that all information was also being electronically maintained in IAPro.

During our July 2019 site visit, a member of our Team verified, by accessing IAPro and reviewing randomly selected cases, that electronic files were being properly maintained,.

During our October 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 reviewing internal affairs case files to verify that all information is also being electronically maintained in IAPro.

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, 28 of the 93 administrative misconduct investigations resulted in sustained findings against one or more members of MCSO. In 20 of the sustained cases, one or more of the principal employees were still employed at MCSO at the time findings or discipline decisions were made. Compliance for this Paragraph is 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 28 sustained cases, 20 involved employees still employed by MCSO at the time discipline decisions were made. 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 20 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. These 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, 23 investigations with sustained findings resulted in employee discipline. Ten involved minor discipline; 13 involved serious discipline. In 20 of the 23 cases, the final discipline was the presumptive for the offense. In two cases, the Appointing Authority aggravated the discipline sanction, and in one he mitigated the discipline. We concurred with his decisions in all cases reviewed.

During this reporting period, 20 investigations with sustained findings resulted in discipline or other action. Ten involved minor discipline; 10 involved serious discipline. In 14 of the 20 cases where discipline was assessed, the final discipline was the presumptive for the category and offense. In one case, the Appointing Authority mitigated the discipline and we concur with his decision to do so. In three cases, significant aggravating factors existed and should have resulted in increased discipline beyond that assessed by the Appointing Authority, but did not. In two other cases, the Appointing Authority failed to properly assess discipline for the category and offense number specified in MCSO policies. While the Appointing Authority did provide written documentation for all discipline findings, we disagree with his final discipline decisions in five (25%) of the 20 cases. As is our practice, we will discuss these cases with MCSO during our next site visit.

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 20 total sustained investigations where discipline occurred, two were initiated prior to May 18, 2017. In these cases, the Discipline Matrices in effect at the time provided only a presumptive discipline range. The final discipline for both cases fell within the established range. However, in one case, while the Appointing Authority identified a number of aggravating factors, he still assessed the minimum discipline for the offense. We disagree with his decision to do so.

Eighteen 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 13 of these cases, the final discipline was the presumptive discipline identified in the matrices in effect. In one case, the Appointing Authority mitigated the discipline based on a number of factors and we concur with his decision to do so. In the remaining four cases, though the discipline fell within the range of discipline, it was not the presumptive. While the Appointing Authority provided a written justification in all four cases, we disagree with his decisions.

MCSO has been in Phase 2 compliance for this Paragraph for multiple reporting periods. This reporting period, MCSO fell short of compliance. Should MCSO fail to be compliant during the next reporting period, Phase 2 compliance will be withdrawn.

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 20 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 20 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, 20 administrative misconduct investigations resulted in sustained findings against current MCSO employees. Ten investigations resulted in the recommendation for serious discipline. In eight, MCSO held a Pre-Determination Hearing, as required. In two, though the 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 eight 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, eight sustained investigations resulted in a PDH and we reviewed all 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, nine of the 10 cases forwarded for consideration of serious discipline resulted in serious discipline. The Appointing Authority provided a justification for the final decisions in all cases, 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 one of the 10 cases, the Appointing Authority mitigated the serious discipline to a lesser sanction and we concur with his decision to do so. In three of the 10 cases, while the discipline was within the prescribed range, the Appointing Authority failed to sufficiently aggravate these cases, despite his acknowledgement of aggravating factors in his written justifications. In two other cases, the Appointing Authority failed to properly assess discipline for the category and offense number specified in MCSO policies. Of the total cases referred for serious discipline, we disagree with the decision of the Appointing Authority in five (50%).

MCSO has been in compliance with this Paragraph for multiple reporting periods, but falls short of compliance for this reporting period. Should MCSO fail to be in compliance during the next reporting period, Phase 2 compliance will be withdrawn.

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 20 administrative misconduct investigations where discipline was recommended. The serious sustained allegations in 10 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 10 criminal misconduct investigations. Seven 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 10 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 five administrative misconduct investigations where criminal misconduct may have also occurred. All five 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 October 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 10 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 10 criminal investigations we reviewed were closed without submittal to a prosecuting agency. In five, the decisions were supported by the facts of the investigation, interviews, or other investigative follow-up. In one case, closed as unfounded, we disagree with the decision and believe that criminal misconduct did occur and the investigation should have been forwarded to a prosecutorial agency for review. We notified PSB of our concern with this investigation and it was immediately reopened for further investigation and possible submittal to a prosecutorial agency for review.

In all cases reviewed, the investigators documented their conclusions and decisions to close the cases without submittal and the PSB Commander approved these decisions in writing.

While PSB did reopen the one case, compliance findings are based on the investigations as they exist when they are forwarded for our review. MCSO has been in compliance with this Paragraph for numerous reporting periods, but failed to meet the requirements this reporting period with a 90% compliance finding. Should MCSO be out of compliance with this Paragraph during the next reporting period, Phase 2 compliance will be withdrawn.

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 10 criminal misconduct investigations conducted by PSB personnel. Four of the 10 cases were forwarded to a prosecutorial agency for potential criminal charges. 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, three investigations resulted in criminal charges against MCSO employees. One case submitted for prosecution was declined for prosecution by the MCAO. The turndown did not reflect that there was any additional investigation that MCSO could or should have done on this case and the reason provided for declination was "no reasonable likelihood of conviction."

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 at Headquarters, we inspected the file rooms where hardcopies of investigations were stored. Criminal and administrative investigation files were stored in separate rooms, and access to these rooms was 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 were 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 October 2019 site visit, a member of our Team again verified – by accessing IAPro and reviewing random cases – that PSB is properly maintaining electronic files of criminal investigations. A random review of hard copy files securely maintained by criminal investigators was also conducted and found to be compliant.

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

We 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, and an administrative misconduct investigation was initiated.

During this reporting period, MCSO initiated 162 new internal investigations and 188 service complaints. There were no complaints externally or internally generated for failing to take a complaint. Of the 93 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 complainants articulated that they did not want to make a complaint and just wanted to make MCSO aware of something that had occurred. In all the instances we reviewed, an investigation 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 continue to find 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 four locations in Maricopa County that were included on MCSO's list of facilities where complaint forms are available to the public. All four 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.

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 the following complaints:

- In the first complaint, the complainant alleged abusive behavior by a Detention Officer during the period 2003-2008.
- In the second complaint, the complainant alleged that she was shot in the face with a pepper ball and forced to drink out of a toilet while incarcerated.
- In the third complaint, the complainant expressed concern about the unavailability of hot water on the third floor of the Fourth Avenue Jail.
- In the fourth complaint, the complainant expressed concern that another inmate allegedly punched her son in the face.
- In the fifth complaint, the complainant showed videos during a jail visit and lost her video privileges.
- In the sixth complaint, the complainant alleged that her son was in an accident, but that the investigating deputy did not interview all witnesses.

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.

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

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 93 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 61 of the 63 cases, where PSB had contact information for the complainant, the letter was sent within seven days as required. In two cases, initial letters were not sent as required. 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 but one of the externally generated complaints, the complainant was provided a notice of the outcome when contact information was known.

Paragraph 246.c. requires that PSB notify a civilian complainant of any discipline imposed as soon as permitted by law. In all but one 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 93 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 and 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 three of the cases, 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 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.

During this reporting period, PSB again 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 did not submit for our review any investigation where reporting under this Paragraph is applicable.

During this reporting period, PSB completed two investigations alleging unlawful investigatory stops, searches, seizures, or arrests. Both were initiated and completed after July 20, 2016 and tracked in a separate category as required by this Paragraph.

Paragraph 250. *The Professional Standards Bureau will conduct regular assessments of the types of complaints being received to identify and assess potential problematic patterns and trends.*

Phase 1: 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 155 complaints received; with 36 complaints alleging rude behavior and 14 complaints alleging unprofessional conduct, to include the use of inappropriate language or inappropriate behavior. PSB identified that the number of allegations of employees failing to follow proper procedures and office directives was high, with 18 investigations being opened. There were 14 investigations opened into allegations of certain employees not being respectful or courteous toward other employees. There were 11 investigations opened in relation to allegations of workplace professionalism misconduct, which includes inappropriate racial and sexual comments and inappropriate touching. There were six complaints alleging bias-based policing.

PSB identified the Fourth Avenue Jail and District 1 as the two Divisions that received the most complaints during this reporting period. The Fourth Avenue Jail received 19 complaints during this reporting period, which included five complaints alleging that the Detention Officers were rude during the visitation process. There were four complaints alleging inmate mistreatment, two complaints alleging the use of inappropriate sexual comments made by staff, and two allegations that security walks were conducted late. An additional six complaints did not follow a pattern or trend that could be identified. District 1 received 13 complaints during this reporting period, including five complaints alleging that deputies were rude when responding to calls for service. There were four complaints alleging that employees failed to follow proper procedures and complete their job tasks properly. There were two complaints alleging that deputies failed to complete proper law enforcement procedures during calls for service and being rude during their interaction with the complainants. There were an additional two complaints that 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 two internal investigations. The allegations in both investigations are related to vehicle driving and accidents.
- One employee was identified as the principal in two internal investigations involving allegations of unprofessional conduct while attending an MCSO-led event.
- One employee was identified as the principal in two internal investigations involving allegations of conducting late security walks.
- One employee was identified as the principal in two internal investigations involving allegations of rudeness paired with allegations of refusing to take law enforcement action.

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 October 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. In October, MCSO provided us with a copy of the survey; and we provided our feedback to MCSO. MCSO has identified a funding source for prepaid postage return envelopes. The use of the prepaid postage return envelopes will 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 second reporting period of 2019, 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. The reports provide significant details regarding alleged misconduct, the findings of the investigation, and, if there is a finding of misconduct any discipline imposed. 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 May, June, and July 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 October site visit, we discussed with MCSO certain issues that were identified during the inspections and the responses from the respective District/Division Commanders via the BIO Action Forms.

MCSO remains in compliance with this requirement.

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 the last reporting period, 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." 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. During our October site visit, we discussed this case further with AIU; and restated our concerns about making District offices more accessible to the public. We again encouraged MCSO to provide refresher training on the complaint process to all employees who interact with the public.

We also requested a memorandum from AIU detailing any actions it took following this test. We were pleased with AIU's response. As documented by AIU, the AIU Captain met with District personnel to discuss the test and make recommendations to resolve the associated issues. As a result, the District staff prepared extra signage for the lobby area to indicate to community members the purpose of the phone. In addition, the sergeant who supervises the employees who interact with community members at the District said that he would brief them "on the complaint intake procedures and ensure they are polite and helpful when dealing with the public;" and MCSO provided briefings to Communications Division personnel on complaint intake procedures and committed to ensure that the checklist listing such procedures is available to all Communications staff. AIU also noted that it would "continue to develop a complaint intake checklist for administrative staff as time allows. The Training Division is currently exploring making the complaint intake and processing mandatory training in the HUB for 2020." We will follow up on this during our upcoming site visit.

During this reporting period, the two vendors conducted six complaint intake tests. AFHC conducted four in-person tests; and PMR conducted two tests, both via telephone. In four of the six tests, the testers described the MCSO employees with whom they interacted as courteous and professional. However, we had concerns about two tests we reviewed for this reporting period, though we believe that AIU took appropriate action in response to both of these tests.

In the first test, a PMR tester called the Communications Division to make a complaint about a rude interaction she had with a detective in Anthem. The tester wrote on her documentation that the Communications Division employee "would not take my complaint, saying I did not have

enough info." She described the employee as unprofessional and wrote, "She didn't seem interested in taking my complaint." AIU appropriately noted that this employee violated GI-1 (Radio and Enforcement Communications Procedures), because she did not obtain the complainant's name and contact information, did she contact the on-duty supervisor in the applicable District, and did not email the Early Identification Unit (EIU) with the information. AIU took appropriate action by completing a BIO Action Form on the employee.

In the second test, an AFHC tester visited a District office to make a complaint about three uniformed deputies being loud and using profanity at a restaurant. In this test, AIU appropriately noted that although the tester was provided with a Comment and Complaint Form, "the complaint was not immediately forwarded to an on-duty supervisor. The tester was advised that someone would contact her although there was no mention of an investigation taking place. The employee receiving the complaint put the completed Comment and Complaint Form on the supervisor's desk where it was read the following day. The supervisor reviewed the applicable sections of Policy GH-2 *Internal Investigations* with the employee and documented the discussion in a Blue Team Supervisor Note on 8/1/19." Because the employee did not immediately forward the complaint to the on-duty supervisor, no video recordings were made of this incident; had this been a real complaint from a community member, MCSO could have lost vital information about potential misconduct. The tester wrote on the test documentation, "[The employee] said she wasn't sure about the process, that someone would be in touch with me by phone or email…She did not say an investigation would take place." AIU noted on its documentation that the deficiency was discussed with the employee and documented in Blue Team.

We will discuss these cases further with MCSO during our upcoming 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 has also elected to complete monthly reports; we find that these reports accurately summarize the results of the complaint intake tests and any follow-up actions taken by MCSO.

To date, AIU has not published any annual reports as required by this Paragraph. During our July and October site visits, we discussed with AIU personnel the draft methodology AIU was developing for the annual report, which will be due annually on September 15. Following our July site visit, MCSO provided proposed methodology, as well as a draft template, for the annual report. The template contained the required elements per this Paragraph, and was organized clearly. We suggested to MCSO that it might be beneficial to include more specific information about the tests conducted by the two vendors, to help the public better understand the scope of the program. We look forward to discussing this further with AIU during our upcoming site visit.

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. 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

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the third quarter of 2019. During this reporting period, consistent with our methodology, for July, we reviewed a sample of shift rosters from Districts 1, 2, and 3; for August, we reviewed a sample of shift rosters from Districts 4, 6, and 7, and Lake Patrol; and for September, we reviewed a sample of shift rosters from Districts 1, 2, and 3. 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 concern 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. Compliance with Paragraph 91 took a step back in this reporting period; the compliance rate was 85%. In the previous reporting period, compliance with Paragraph 91 was 92%. For MCSO to achieve compliance with this Paragraph, it must remain in 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 third quarter of 2019. During this reporting period, consistent with our methodology, for July, we reviewed a sample of shift rosters from Districts 1, 2, and 3; for August, we reviewed a sample of shift rosters from Districts 4, 6, and 7, and Lake Patrol; and for September, we reviewed a sample of shift rosters from Districts 1, 2, and 3. For the 60 dates selected in this reporting period, all shifts were in compliance with span of control requirements. There were 15 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. Three of the span of control memos were generated by District 3, and one memo was generated by District 4. Our reviews of monthly and daily rosters indicated that deputies were assigned to and worked the same schedules as their supervisors, and were assigned to one single consistent supervisor. 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 concern 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 implemented a new Incident Report Inspection methodology in September, with cases selected two months retroactively. In our previous report we noted that the expectation was that this inspection would lead to added emphasis on supervisory reviews of stops, detentions and arrests. The new Incident Report inspection is relatively new, so there may be some time before the added emphasis on supervisory reviews generates positive results. 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 two transfers into the Professional Standards Bureau (PSB). We reviewed the documentation for both transfers and noted no issues of concern.

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. The data reviewed for this reporting period only included the months of July and August, as per an agreement that we reached with MCSO to stagger the document requests for this Paragraph, due to the large volume of data that MCSO had to provide prior to our site visits.

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 through Open Axes, a software program. Upon the receipt of a litigation hold, which is usually sent by the Maricopa County Attorney's Office (MCAO), the LLS inputs the data into Open Axes which conducts a search for responsive documents within MCSO drives. The system also identifies potential document custodians, which are later filtered by an LLS employee. The LLS then serves the custodians with a legal hold in electronic format, known as a Document Preservation Notice, within five business days. Upon receipt of the Open Axes email with the Document Preservation Notice, MCSO custodians must identify responsive documents, both electronic and hard copies, and preserve them in the manner in which they are kept in the course of business.

During our October site visit, we reviewed a sample of the third-party source documents that generate the litigation holds that the LLS receives from MCAO. The Document Preservation Notices have been distributed 100% in a timely manner to the custodians who may have responsive documents.

GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices) requires that the employee who receives the email document preservation request must complete a Document Preservation Acknowledgment and a Document Preservation Questionnaire. Both of the requirements are easily completed in an electronic format through the email sent by the Open Axes program. The attestation, which is due within five days of

receipt, was returned in a timely manner 89% of the time. This reflected a 3% decrease from the last quarter. The questionnaire, due within 10 days of receipt, was timely returned 96% of the time; a 3% increase from the last quarter. We also reviewed a sample of cases during our October 2019 site visit to assess if MCSO was properly preserving documents that are requested in the course of litigation. The review reflected that documents were being properly preserved.

During our October site visit, we reviewed the questionnaires, and found that 100% of them were properly completed. We noted that the LLS intercepted the few improperly completed forms and returned them for corrections.

We had withdrawn MCSO's compliance for this Paragraph due to the untimely receipt of the Document Preservation Acknowledgment and the Document Preservation Questionnaire. During this reporting period, we observed a 3% decrease from the last quarter in the timely receipt of the Document Preservation Acknowledgment. We discussed our observations with LLS personnel, who informed us that personnel would receive additional training on GD-9.

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. The data reviewed for this reporting period only included the

months of July and August, as per an agreement we reached with MCSO to stagger the document requests for this Paragraph. This was due to the large volume of data that MCSO had to provide prior to our site visits.

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 100% of the cases, the personnel who provided responsive documents properly completed Attachment C.

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

During this reporting period, no internal investigations were completed against any MCSO employee 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 278 cases since August 2016. Of these, 60 had been classified as CRMs.

During this reporting period, an additional 18 cases were reviewed as possible CRMs. Of these, four were determined to be CRMs. As of the end of this reporting period, there was a total of 296 cases that have been reviewed and 64 cases that have been determined to be CRMs since the July 20, 2016 Court Order.

Since July 20, 2016, MCSO has completed and closed a total of 48 CRM cases. None were closed during this reporting period.

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 did not submit any closed CRM cases for our review.

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 48 CRM cases since July 20, 2016. None were closed during this reporting period. 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 has 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

There were no completed CRMs forwarded for our review during this reporting period. To date, 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 98 internal investigations. Seven were criminal investigations, and 91 were administrative investigations. All seven of the criminal investigations were in compliance with the requirements of the Court. Of the 91 administrative investigations, 73% were in full compliance. This was a decrease from the 84% compliance finding during the prior reporting period.

During this reporting period, we reviewed 103 misconduct investigations. Ten were criminal investigations and 93 were administrative investigations. Nine (90%) of the 10 criminal investigations were in compliance. Of the 93 administrative investigations, 68 (73%) were in compliance with all investigative and administrative requirements over which the PSB Commander has authority. Full compliance for administrative misconduct investigations, however, also takes into account the findings of the Appointing Authority regarding discipline. In the five cases where we disagreed with the final discipline assessed by the Appointing Authority, three had already been found not complaint based on factors under the authority of the PSB Commander. With the two additional cases found not compliant solely because of the discipline assessed by the Appointing Authority, compliance for administrative misconduct investigations dropped to 71% this reporting period. Compliance for all 103 investigations conducted was 75%.

There were two completed administrative misconduct investigations submitted for compliance with Paragraph 249 (investigatory stops) during this reporting period. One of the two was in compliance with the requirements for the completion of administrative misconduct investigations. Two completed investigations were submitted for Paragraph 33 (biased policing). Both were in compliance. There were no investigations submitted for compliance with Paragraph 275 (CRMs) during this reporting period.

Investigations conducted by PSB sworn personnel were compliant in 94% of the administrative misconduct investigations, a decrease from 100% the last quarter. PSB investigations conducted by Detention personnel were compliant in 93% of the cases they investigated, an increase of 3% from the last reporting period. Two of the three 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 55% of the cases, a decrease of 8% from the previous reporting period. Overall compliance for all 93 administrative misconduct investigations was 71%, a decrease of 2% from the last reporting period.

While we had continued to note ongoing improvement in cases reviewed during past reporting periods, this was not the case during this and the last reporting period. During the last reporting period, overall compliance for administrative misconduct cases dropped from 85% to 73%. During this reporting period, compliance for administrative misconduct investigations dropped to 71%. The decrease in the overall compliance over the past two reporting period is primarily the result of District and Division investigations that are not compliant.

During our October site visit, and at the request of PSB, we provided additional detailed information on all misconduct investigations we found non-compliant, to both PSB and District and Division Command personnel. The intent was to ensure that all those who review misconduct investigations conducted by their personnel are fully aware of deficiencies, both in the investigations and in their reviews of the completed cases. During our next site visit, we will discuss overall compliance and the concerns we identified with PSB and District and Division personnel, and again provide them with detailed information on the cases we found non-compliant.

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 81 service complaints during the last reporting period. Twelve were properly reclassified to administrative misconduct investigations after review by PSB. Of the remaining 69, we found MCSO properly completed the service complaints in 66 (95%) of the cases.

During this reporting period, we reviewed 73 service complaints completed by MCSO. In 12, an administrative misconduct investigation was opened after review by PSB. The remaining 61 were approved by PSB as service complaints. Seventeen (28%) of these complaints were

determined not to involve MCSO personnel. Thirty-five (57%) involved complaints regarding laws, MCSO policies and procedures; or they involved other contacts from the public that did not include allegations of employee misconduct. Five (8%) were closed due to lack of specificity and the remaining four (7%) were closed for a combination of reasons. We concur with MCSO's handling in 60 (98%) of the 61 cases classified as service complaints. In one case, we believe an allegation of misconduct had been made and an administrative investigation should have been initiated.

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 eight 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 eight cases.

During this reporting period, the PSB Commander did not use the discretion allowed by policy to determine that any internal complaints of misconduct did not necessitate a formal investigation.

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 93 administrative misconduct investigations and 10 criminal misconduct investigations. Nine (90%) of the criminal investigations were in full compliance with the Second Order. Of the 93 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 73% to 71%; and compliance for all 103 investigations was 75%.

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 had 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 and reviewed four completed

investigations conducted by this investigator. 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 our October site visit, PSB personnel advised us that they had not outsourced any additional cases to the contract investigator during this reporting period. We did receive and review three investigations he had conducted. All three were well written. However, two were non-compliant as proper extension memorandums were not completed.

The Independent Investigator previously reported that he had completed all of the investigations identified by the Court; and we have reviewed a number of investigations that he completed.

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 discipline 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, until the last reporting period, while we had identified ongoing concerns, we had also noted continuing improvement. That has not been the case for this and last reporting period. We saw a significant drop in compliance for administrative misconduct investigations, primarily those conducted by District personnel during the last reporting period. During this reporting period, we saw an additional decline in compliance.

Nine of the 10 criminal misconduct investigations we reviewed for this reporting period were investigated by PSB and complied with the Second Order requirements.

PSB conducted 46 of the 93 total administrative misconduct investigations we reviewed for this reporting period. PSB sworn investigators completed 17 of the investigations. Sixteen (94%) were in compliance, compared to the 100% compliance for the last reporting period. Detention supervisors in PSB conducted 29 of the investigations. Twenty-seven (93%) were in compliance. This is an increase from the 90% compliance the last reporting period. Overall PSB sworn and Detention investigations were 93% compliant, a slight decrease from the 94% during the last reporting period.

During this reporting period, we reviewed three investigations completed by the contract investigator hired by MCSO. We found that in all three, the investigations were thorough and well-written. However, two 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 49 investigations completed by, or at the direction of PSB, 44 were compliant with all the investigative and administrative requirements over which the PSB Commander has authority, a compliance rate of 90%.

Forty-four investigations were conducted by Districts or Divisions outside of PSB. Of these 44, 24 (55%) complied with all Second Order requirements. During the last reporting period, compliance dropped from 75% to 63%. This reporting period, compliance dropped an additional 8%. Those investigations conducted outside of PSB that were found not compliant contained numerous qualitative issues, as well as administrative documentation deficiencies, as we have 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 93 administrative misconduct investigations we reviewed for this reporting period, MCSO's overall compliance was 71%, a 2% decrease from the 73% 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 affect 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 and Division personnel outside PSB.

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 and October 2019, 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 and the last reporting period, we concurred with this assessment; and our reviews of investigations had 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. Our findings for this and the last reporting period indicate a decrease, rather than an increase, in compliance for those cases investigated outside of PSB.

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 compliant with both PSB and District and Division personnel, specifically addressing the 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 has previously reported that he has completed all of the investigations identified by the Court. During the last reporting period, the Independent Discipline Authority reported that he has completed all of the discipline hearings. During our October site visit, MCSO advised us that one case is still pending the finalization of discipline and three are pending appeals. Once all of the investigations are completed and forwarded for our review, we will ensure that all conduct outlined in the FOF has been addressed.

The contract investigator retained by MCSO has completed some of the investigations he has been assigned. Three were submitted for our review during this reporting period. We again found the investigations completed to be thorough and well-written, and we concur with the findings in all three. One of these three investigations had been identified in the Court's Second Order.

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

Two employees filed grievances during this reporting period: one in August 1, 2019, regarding a written reprimand he had received on July 17, 2019; and another in August 3, 2019, regarding a written reprimand he had received on July 16, 2019. The Compliance Division forwarded the grievances and associated documents to the Monitoring Team. A Deputy Monitor reviewed the materials and granted the grievances on September 10 and 26, 2019, respectively. MCSO notified the employees that their written reprimands had been rescinded.

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%.

Including the 28 total Paragraphs in which MCSO is in Full and Effective Compliance, MCSO is in Phase 2, or operational compliance, with 72 of the First Order Paragraphs, or 77%. MCSO is in Phase 2 compliance with 102 of the Second Order Paragraphs, or 90%. 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%.

We continue to work with MCSO to modify the Non-Traffic Contact Form and the methodology used to analyze the encounters the Office documents. The initial draft of this methodology was extremely limited and did not include sufficient samples to actually uncover any trends that may occur. Additionally, there is significant overlap between two of the drop-down categories contained on the form: Field Information and Investigatory. MCSO was only providing Investigatory contacts, but when we audited a random sample of the Field Information contacts, we noted that approximately 80% could have been classified as Investigatory. We will discuss this issue further during our upcoming site visits.

While some body-worn camera videos from the earlier models are still showing up in our samples, MCSO's new cameras provide clearer video images and more effectively capture the conversations between deputies and the persons they interact with. Due to the positioning of the body-worn cameras on the chest area, as opposed to the head area, the recordings normally do not capture traffic violations or any views out of the windshield of the patrol vehicle. This is not a compliance concern, and the new positioning of the cameras is more secure than the previous model – with less hardware that is likely to malfunction. The advantages of the new model outweigh any loss of the views provided by the previous model.

During District visits, commanders have indicated that deputies and supervisors are receiving training almost exclusively on Order-related topics – apparently at the expense of other much-needed topics such as leadership, management principles, trust building, motivation and mentoring. This is in line with our observations that the Training Division devotes most of its resources to the training required by the Orders. There is a desire for training specific to rank responsibilities, to include supervisor, command, and executive levels.

During our District visits, we have heard comments about staffing issues in Patrol. District personnel claim that supervisors spend a majority of their time behind a desk attending to administrative duties. In our audits, we have noted some improvement in supervisory reviews of documentation, but there are still inconsistencies and deficiencies that are being overlooked. We understand that supervisors have a heavy workload, but many of the errors made by deputies could be corrected if supervisors were out in the field more consistently. MCSO conducted a resource allocation study, which essentially reiterated what was common knowledge: that Districts 1, 2, and 3 were short on staffing. The study concluded that a second

study was needed. We recommend that MCSO invest resources in conducting a detailed study to determine what resources are needed, and then draft a recruitment/hiring plan based on those needs.

Deficiencies relevant to PSB, Division, and District investigations are cited in this report. This is concerning and must be remediated – not just for purposes of compliance, but for community confidence that historical issues are being addressed in a sustainable manner.

We recognize that MCSO has created the new position of Deputy Service Aide to assist with non-emergency calls. We have also suggested other ways of cutting the workload for Patrol deputies, such as pursuing an alarm ordinance to cut down on false alarms calls. There are a number of other initiatives that may relieve the burden of calls for service. We will continue to make recommendations to formulate alternative strategies to increase agency efficiency.

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
BWC	Body-worn camera
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