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

Reporting Period – Third Quarter 2017

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Independent Monitor

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Section 1: Introduction

This is the fourteenth 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 2017. Subsequent to my appointment, and as a result of further Court proceedings, my duties have been expanded in the areas of community engagement, oversight of internal investigations, independent investigative authority, and review of MCSO's Property Unit. Recent Orders from the Court changed my responsibilities in the areas of community engagement and Property Unit operations.

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

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

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

This report covers the period from July 1-September 30, 2017 – the third quarter of Sheriff Penzone's administration. We continue to enjoy a close working relationship with the Sheriff; his upper command staff; and the Maricopa County Attorney's Office (MCAO), which has taken over exclusive representation of MCSO as it pertains to compliance. We interact with the Court Implementation Division (CID) almost daily, and CID personnel continue to be responsive to our requests and facilitate the production of all compliance-related documents. During this reporting period, the longest serving member of CID – and our named single point of contact as required by the First Order – transferred from the division. He performed his duties in an exemplary fashion; and we acknowledge his commitment to the reform process, as did the Court during a status conference in late September.

Since the beginning of his tenure, Sheriff Penzone has espoused his strong beliefs in the value of community partnerships, and has indicated his desire to reclaim the community engagement responsibilities outlined in the First Order, which were removed from his predecessor based on his unwillingness to fulfill them. During this reporting period, the Court issued an Order restoring these responsibilities, previously assigned to the Monitor, to MCSO. MCSO hosted its first community meeting in July. In the same Order, the Court modified the composition of the Community Advisory Board (CAB), and redefined MCSO's relationship with this group, making it much more interactive and collaborative.

As documented in our previous quarterly status reports, just prior to our April site visit, MCSO discovered a serious flaw in its traffic stop data, which highlighted the need for greater data quality assurance procedures. Working with us and the Parties, MCSO conducted a rigorous review of its data-handling and data-cleaning procedures. MCSO must still complete the memorialization of these processes and procedures so that they are performed in the same way each time, regardless of whether the personnel involved change over time. MCSO also began holding monthly meetings with representatives from each organizational entity that either handles the traffic stop data, or has an impact on the content of the data.

The rerun of the annual traffic stop analysis was completed just prior to our July site visit; and, in essence, the findings of systemic bias on an organizational level did not change. Pursuant to the requirements of the First Order, "MCSO shall take appropriate steps at the agency level" to address these issues. Prior to and continuing through this reporting period, MCSO and the Parties collaborated on a plan intended to meet these needs (Plan to Promote Constitutional Policing); and in September, they filed a stipulation agreeing to the contents of the plan. The Court subsequently entered an Order approving the plan. In subsequent reports, we will comment on MCSO's adherence to the various steps outlined in the plan.

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] As noted above, this is our fifth quarterly status report in which we report on MCSO's compliance with both the First and Second Orders. During this reporting period, MCSO's overall Phase 1 compliance rate with the **First Order** decreased by three percentage points, from 88% to 85% – primarily due to the Court's restoration of the community engagement responsibilities to MCSO. MCSO's overall Phase 1 compliance rate with the **Second Order** increased by three percentage points, from 72% to 75%.

[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 190 for Phase 1. The number of Paragraphs included in the denominator totals 213 for Phase 2. These denominators increased during this reporting period due to the restoration of the community engagement responsibilities to MCSO.

During this reporting period, MCSO's overall Phase 2 compliance rate with the **First Order** decreased by five percentage points, from 67% to 62% – also primarily due to the Court's restoration of the community engagement responsibilities to MCSO. MCSO's overall Phase 2 compliance rate with the **Second Order** increased by three percentage points, from 63% to 66%.

Fourteenth Quarterly Report **First Order Summary**		
Compliance Status	**Phase 1**	**Phase 2**
Not Applicable	14	1
Deferred	0	11
Not in Compliance	13	27
In Compliance	73	61
Percent in Compliance	**85%**	**62%**

Fourteenth Quarterly Report **Second Order Summary**		
Compliance Status	**Phase 1**	**Phase 2**
Not Applicable	19	9
Deferred	1	11
Not in Compliance	25	28
In Compliance	78	75
Percent in Compliance	**75%**	**66%**

Fourteenth Quarterly Report **Overall Summary**		
Compliance Status	**Phase 1**	**Phase 2**
Not Applicable	33	10
Deferred	1	22
Not in Compliance	38	55
In Compliance	151	136
Percent in Compliance	**79%**	**64%**

MCSO's Compliance with the Requirements of the **First Order** *(October 2, 2013)*														
	Report 1	**Report 2**	**Report 3**	**Report 4**	**Report 5**	**Report 6**	**Report 7**	**Report 8**	**Report 9**	**Report 10**	**Report 11**	**Report 12**	**Report 13**	**Report 14**
Phase 1	4%	10%	44%	40%	51%	57%	61%	60%	67%	60%	63%	79%	88%	85%
Phase 2	0%	0%	26%	25%	28%	37%	38%	39%	44%	49%	50%	57%	67%	62%

MCSO's Compliance with the Requirements of the **First Order** *(July 20, 2016)*														
	Report 1	**Report 2**	**Report 3**	**Report 4**	**Report 5**	**Report 6**	**Report 7**	**Report 8**	**Report 9**	**Report 10**	**Report 11**	**Report 12**	**Report 13**	**Report 14**
Phase 1	N/A									1%	10%	12%	72%	75%
Phase 2	N/A									43%	46%	60%	63%	66%

Section 3: Implementation Unit Creation and Documentation Requests

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

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

Phase 1: In compliance

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

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters for this reporting period.

As of this reporting period, CID has the following personnel: one captain; one lieutenant; six sergeants; two deputies; one management assistant; and one administrative assistant. CID continues to be supported by MCAO attorneys, who frequently participate in our meetings and telephone calls with division personnel.

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

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

Phase 1: In compliance

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

Phase 2: In compliance

As discussed above, during this reporting period, CID continued to be responsive to our requests. CID also addresses with immediacy any issues we encounter in the samples we request – be they technical issues, missing documents, or other problems. In addition, MCSO has established a robust Bureau of Internal Oversight (BIO), which routinely audits the work product 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.

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

Phase 1: In compliance

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

Phase 2: In compliance

On December 19, 2017, CID published its most recent quarterly report as required by this Paragraph. The report covered the period from July 1-September 30, 2017, the third quarter of compliance activity under Sheriff Penzone's adminstration. The report was divided into the Order sections for each the First and Second Orders, which in turn were divided among the numbered Paragraphs. For each section, MCSO provided an overview of the agency's activities working toward compliance. For each Paragraph, MCSO offered comments on the compliance status and, where applicable, provided responses to concerns that we raised in our previous quarterly status report, published on November 20, 2017. MCSO's report, as is customary, included a table developed with the information provided in our previous quarterly status report.

During this reporting period, MCSO, via MCAO, began working with the Parties to amend the First Order in order to reclaim the community engagement requirements that had been delegated to the Monitor. On August 3, 2017, the Court granted MCSO's request that it take on the responsibility for planning, organizing, advertising, and hosting the community meetings. We supported MCSO's initiative in this regard; and moving forward, we will assess MCSO's compliance with the community engagement requirements.

For this reporting period, MCSO emphasized the increase by 60% of Phase 1 compliance with the Second Order, upon the approval of a number of policies and associated training. The Sheriff's Intelligence Leads and Operations Unit became fully operational, and the Bureau of Internal Oversight continued to perform audits and inspections that yielded encouraging results for the quarter. In addition, on September 21, 2017, MCSO filed with the Court its Plan to Promote Constitutional Policing, drafted in collaboration with the Parties.

As part of the report, MCSO included the steps that are being taken in areas in which the agency is not in compliance and which have been more challenging. MCSO has been working with the Monitor and the Parties to work on the implementation of the quarterly, monthly, and annual analyses of traffic stop data; as well as addressing those deputies identified as outliers. MCSO asserted that it will continue to work collaboratively with the Parties and the Monitor in order to achieve compliance with the Court Orders.

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

Phase 1: In compliance

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

Phase 2: In compliance

See Paragraph 13.

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

Phase 1: In compliance

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

Phase 2: In compliance

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

Consistent with this agreement, on September 15, 2017, MCSO filed with the Court its 2017 Annual Compliance Report covering the period of July 1, 2016-June 30, 2017, in compliance with this Paragraph. The report, which includes the first six months of Sheriff Penzone's tenure and the last six months under former Sheriff Arpaio, assesses MCSO's level of compliance with the Court's Permanent Injunction Order, as amended.

The Annual Report is divided into the First and Second Order sections. For each section, MCSO provides a narrative of the agency's compliance efforts and what it believes to be the most important accomplishments for the year. MCSO reported that the Court Implementation Division (CID) continued to facilitate data collection and document production; and that during the reporting period, CID responded to 20 combined document requests and produced over 1,250,000 pages of documents. Per MCSO, the Bureau of Internal Oversight performed audits and inspections on various areas of the First and Second Orders, including traffic stop data collection; and assessed compliance with each area with satisfactory results. Per MCSO, the Policy Section reviewed, revised and published 30 Order-related Office polices and one operations manual for the reporting period. In addition, MCSO published 42 Briefing Boards and 164 Administrative Broadcasts. MCSO also reported that it published GG-1 (Peace Officer Training Administration) and GG-2 (Detention/Civilian Training Administration). In addition, MCSO completed both the Supervisory Responsibilities Effective Law Enforcement Training Course and the Annual Combined Training during this reporting period. As to the traffic stop

data, MCSO reported that it developed a process for supervisors to address any statistical outliers identified in the ASU annual report through a collaborative agreement between MCSO and the Parties.

As to the Early Identification System (EIS), MCSO reported the publication of GH-5 (Early Identification System), and that it had incorporated all the required data within the EIS relational database. As to the area of Supervision and Evaluation, MCSO informed that it created the Employee Performance Appraisal Training, and published GC-4 (Employee Performance Appraisals), as well as updated GB-2 (Command Responsibility). In the area of Misconduct and Complaints, MCSO reported that the Professional Standards Bureau reorganized to become more expedient in the review of investigations. Among the accomplishments MCSO identified in the Annual Report are the publication of GC-17 (Employee Disciplinary Procedures) and GH-2 (Internal Investigations). As to the area of Community Engagement, MCSO reported the organization of the Community Outreach Team (COT), and the agency's participation in 436 community events. Sheriff Penzone also established several community advisory boards to rebuild community relations and public trust.

The Annual Report included Appendix A, the MCSO *Melendres* Court Order Compliance Chart, where MCSO notes its compliance status with each one of the Court Orders' Paragraphs. MCSO did not assert Full and Effective Compliance with any of the Paragraphs, as defined in the Court Orders.

Section 4: Policies and Procedures

COURT ORDER V. POLICIES AND PROCEDURES

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

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

Phase 1: In compliance

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

Phase 2: Deferred

MCSO has taken steps toward a comprehensive review of its Patrol Operations Policies and Procedures in four phases. First, on December 31, 2013, prior to my appointment as Monitor, MCSO filed with the Court all of its policies and procedures, with amendments, that MCSO believed complied with the various Paragraphs of the 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. MCSO received our feedback on these policies, which also included the Plaintiffs' comments, on August 12, 2014. Based on that feedback, MCSO made adjustments to many of the policies, concentrating first on 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 our April and July 2016 site visits, MCSO requested more specific guidance on what we considered to be Patrol-related policies and procedures. In response, on August 5, 2016, we provided MCSO with a list of the Patrol-related policies for the purposes of Paragraph 19. We included on this list policies that were not recently revised or currently under review, and we informed MCSO that it could achieve compliance with Paragraph 19 when it provided sufficient documentation of its completed review of all Patrol-related policies.

In its response, MCSO noted that several policies were currently in compliance with the First and Second Orders. However, MCSO also determined that several policies required changes to comport with the First Order, Second Order, or both. MCSO continues to make the necessary revisions on these policies. There are two that are currently outstanding: ED-3 (Review of Cases Declined for Prosecution) and GJ-3 (Search and Seizure). According to MCSO, GJ-3 has been approved but will not be published until the Monitoring Team's approval of MCSO's Consent to Search Form. That form, in English and Spanish, has gone through several iterations.

Once MCSO publishes ED-3 and GJ-3, it will achieve compliance with this Paragraph. In the meantime, we are continuing to defer our compliance assessment with Paragraph 19 for this reporting period.

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

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

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

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

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

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

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

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on October 24, 2017.

- EA-5 (Enforcement Communications), most recently amended on December 8, 2016.
- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GJ-33 (Significant Operations), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: Not applicable

MCSO has developed and published the policies required by Paragraph 21. MCSO distributed these policies and trained agency personnel during the required Fourth and Fourteenth Amendment training, conducted by MCSO in 2014. In addition, MCSO has reaffirmed these policies in the annual combined training, which has been conducted in every subsequent year to date.

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

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

Phase 1: In compliance

- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on October 24, 2017.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

To verify compliance with this Paragraph, we randomly select the personnel to be inspected during the first month of the reporting period. We also inspect the Supervisory Notes on these same employees for the remaining two months of the reporting period. This allows us to review all notes on individual employees for a full three-month period. This methodology facilitates the review and evaluation of supervisors' interactions with employees, as it relates to the reinforcement of policies prohibiting racial and bias-based profiling. Compliance with this Paragraph is dependent on specific and articulated reinforcement from supervisors – not merely an entry that there is no indication of any discriminatory policing.

For the audit of Supervisory Notes of sworn personnel for this reporting period, we selected a random sample of 36 employees. We reviewed Supervisory Notes for the selected employees to determine if they had received reinforcement of the policy reiterating that discriminatory policing is prohibited. We found that 34 of the 36 employees' notes included the appropriate documentation, for a compliance rate of 94.4%.

For the audit of Detention Supervisory Notes for this reporting period, we randomly selected 35 employees. We reviewed the Supervisory Notes submitted for each month of the quarter, and found that 34 of the 35 employees had an appropriate supervisory entry reiterating that discriminatory policing is unacceptable. One employee was on family leave (FMLA). For the period in review, the compliance rate for Detention was 97%. MCSO is in compliance with Paragraph 22.

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

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

Phase 1: In compliance

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

Phase 2: In compliance

BIO uses a randomizing program to select samples for each inspection. BIO reviews CAD messages in an effort to identify compliance with MCSO policies CP-2 (Code of Conduct), CP-3 (Workplace Professionalism), and GM-1 (Electronic Communications and Voicemail). In its submission, MCSO includes the specific nature of any potential concerns identified during the audits. In May 2016, a Monitoring Team member observed the processes BIO uses to conduct CAD and email audits, to ensure that we thoroughly understand the mechanics involved in conducting these audits. For CAD and email audits, 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 this reporting period, MCSO conducted three CAD and Alpha Paging audits. BIO inspected 29,931 CAD/Alpha Paging messages for July 2017 and reported a 100% compliance rate (BI2017-0080). BIO inspected 27,566 CAD/Alpha Paging messages for August 2017 and reported a 100% compliance rate. The CAD/Alpha Paging messages inspection for September was not available for review.

During this reporting period, MCSO conducted three email inspections. For July 2017, BIO Inspection Report BI2017-0089 states that there were a total of 7,554 emails, of which BIO reviewed 6,775. The number of emails reviewed is generally less than the total number of emails, due to the elimination of routine business-related and administrative emails generated by the Office, such as training announcements and Administrative Broadcasts. The inspection found that 99.94% of the inspected emails were in compliance. One of the questionable emails, which was unsolicited, was sent to an MCSO employee who has since retired. BIO issued an Action Form to the District of the employee involved in a second questionable email. BIO inspected 7,615 of 8,802 emails for August 2017 (Inspection Report BI2017-0108), and reported a 99.99% compliance rate. One email appeared to be in violation of policy, and BIO issued an Action Form to the division of the employee involved in the questionable email. The September email inspection report was not available for review. Both BIO and CID have had recent turnovers in personnel; we believe that the learning curve involving the new employees has contributed to production delays. However, if we do not receive the documentation we require to assess compliance in a timely manner during the next reporting period, we will withdraw our Phase 2 compliance finding.

During this reporting period, BIO conducted three facility inspections: one in July; one in August; and one in September. These inspections were conducted at the Lower Buckeye Jail, the Major Crimes Division, and the Sheriff's Information Management Services Division.

On July 20, 2017, BIO conducted an inspection of the Lower Buckeye Jail. This jail is a multilevel facility that is used to house pre-trial inmates of various classifications, including juvenile inmates. The inspection found one deficiency in the Operations Journal. Of the five areas occupied by inmates, journal entries in two locations failed to indicate the required daily inspection by the supervisor. Another deficiency, regarding found property, was noted in the intake area of the housing units. BIO issued Action Forms in response to the deficiencies.

On August 22, 2017, BIO conducted an inspection of the Major Crimes Division (MCD) facility. The Major Crimes Division performs several investigative functions. For the inspection, BIO used the Facility Inspection Matrix that lists 27 inspection points. As the Matrix is used to inspect different types of MCSO facilities, some of the points listed may not apply to particular facilities. Of the 23 applicable inspection points that were reviewed, BIO found no deficiencies. The facility was inspected for unsecured items of property and evidence. The Property and Evidence Inspection Checklist contains 19 inspection points. In addition, BIO selected five vehicles for inspection. As with the Facility Inspection Matrix, the Property and Evidence Checklist is used for different types of MCSO facilities; consequently, some of the items listed may not apply to some facilities. Of the 16 applicable inspection points, no deficiencies were noted, and no deficiencies were found in the vehicle inspections; the inspections resulted in an overall 100% compliance rating.

On September 12, 2017, BIO conducted an inspection of the Sheriff's Information Management Services Division (SIMS), located in the basement of the Fourth Avenue Jail. The function of SIMS is to convert information from legal source documents to automated records. The inspection focused on three areas: Administration/Supervision, Facility, and Property and Evidence. The inspection did not uncover any deficiencies.

The audits found that 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 be a violation of this Paragraph. During our October site visit, we visited District 3 and Lake Patrol, and found no signage, pictures, or other indication of County property used in violation of this Paragraph.

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 August 23, 2017.

Phase 2: Deferred

We reviewed the documentation MCSO provided in response to this Paragraph. These were tips received by Enforcement Support, the Major Crimes Division, the Judicial Enforcement Division, the Professional Standards Bureau, and the SILO Unit. The information pertained to the months of July and August, and September 1-11, 2017. We reviewed the information provided and found no evidence of law enforcement actions or operations based on, or motivated by, race or ethnicity.

The Sheriff's Intelligence Leads and Operations (SILO) Unit was created in the first quarter of 2016. Since our initial meeting with SILO personnel in February 2016, the SILO Unit underwent several stages of hiring and losing personnel. We received regular updates on the status of the SILO Unit during our site visits. During our July 2017 site visit, the SILO Unit Commander advised us that the SILO Unit was at full staffing and was expected to be operational by mid-September. The SILO Unit became operational on September 11, 2017. During our October site visit, we met with the SILO commander and members of the unit. The Commander informed us that SILO was considering drafting an operations manual for the unit, to take the place of GN-1 (Criminal Intelligence Operations). MCSO is also considering changing the name of SILO, which implies a stand-alone operation, to one that reflects its mission of cooperative interaction among MCSO units. During our meeting, we learned that no operational issues were reported since the inception of SILO on September 11, 2017.

MCSO submitted a summary of the tips processed by the SILO Unit in the latter part of September. The document provided listed 132 tips, three of which were test tips. From September 12-September 29, the SILO Unit summary listed the categories of tips as animal crimes, drugs, warrants, burglary, sexual assault, vandalism, and "other." Our review noted one tip that was closed due to bias; we requested additional information regarding this tip.

During our next site visit, we will conduct a random inspection of the tips received to ensure that MCSO is in compliance with GI-7 (Processing of Bias-Free Tips) and the requirements of this Paragraph. In our reviews for this reporting period, we found no evidence of law enforcement actions that were motivated by race or ethnicity. Due to the publication of GI-7 in late August and the SILO Unit becoming operational late in the quarter, we do not have sufficient information to determine Phase 2 compliance for this reporting period. We will defer a determination regarding Phase 2 compliance until the next reporting period.

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

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

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

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

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

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

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

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

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

i. provide Deputies with a list and/or description of forms of identification deemed acceptable for drivers and passengers (in circumstances where identification is required

of them) who are unable to present a driver's license or other state-issued identification; and

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EA-5 (Enforcement Communications), most recently amended on December 8, 2016.
- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on October 24, 2017.
- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.

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

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

Our review of a sample of 105 traffic stops that occurred during this reporting period in Districts 1, 2, 3, 4, 6, and 7, and Lake Patrol indicated that MCSO was following protocol, and that the stops did not violate the Order or internal policies. During our October 2017 site visit, we met with the commanding officers from Districts 2, 3, and 4, and Lake Patrol, who advised us that they had not received any complaints during this reporting period from Latino drivers alleging racial profiling. We interviewed the District Commanders and inquired if their respective Districts had received any complaints alleging selective enforcement targeting specific communities or enforcement based on race. None of the District Commanders were 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. The second comprehensive analysis was initially completed by Arizona State University (ASU), and became final in March 2017. However, as is discussed in Paragraph 66 below, this report was subsequently revised because of serious data problems – which we have documented in our previous quarterly status reports. ASU, MCSO's consultant responsible for the annual and other periodic evaluations, completed the reanalysis of the second annual evaluation, which was posted by MCSO on its public website, during the week of our October 2017 site visit. MCSO is now working on the third annual report, which is scheduled to be released in February 2018. MCSO's compliance with this Subparagraph was previously in a deferred status. Based on the completion of the reanalysis of the second annual report of all traffic stop data, MCSO is 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. Policy EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), Sections A-E, address these concerns. The policy specifies that driving under the influence and speeding are the main causes of accidents, and should be the focus of traffic enforcement. Based on our review of the data provided for the reporting period, the most common traffic stop violations are as follows: 49 stops for speed above the posted limit (47%); 17 stops for failing to obey official traffic control devices (16%); 16 stops for equipment violations (15%); 13 stops for other moving violations (12%); and 10 stops for failure to possess valid registrations or tags (10%).

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. When we review the sample traffic stops from across all Districts during the reporting period, we note the locations of the stops contained on the Vehicle Stop Contact Form, the CAD printout, and the I/Viewer system to ensure that they are accurate. Our review of the data indicates that MCSO 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 2017 visits to Districts 2, 3, and 4 and Lake Patrol, we inquired if the District Commanders had received any complaints from the public, regarding MCSO enforcement activities in their communities. None of the Districts had received any complaints 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. During this reporting period's review of the traffic stop data, we noted 30 instances where the deputy contacted passengers. In addition, there was one case identified in the stops reviewed for Paragraph 25.g. in which the passengers were contacted. In 12 cases, the contact with passengers was due to the driver being arrested. In many of the cases, the drivers were found to be driving with either no license or a suspended driver's license or for driving under the influence. In these cases, the passengers were contacted to either explain the arrest procedures or the vehicle impound process or for the purpose of identifying a person with a valid driver's license. In the remaining instances where MCSO made contact with passengers, the following occurred:

- In one case, prior to making the stop, the deputy ran the license plate on the vehicle; and it revealed that it was registered to another vehicle. It also revealed that the registered owner was wanted on a warrant. The registered owner was one of the passengers. The registered owner was arrested. This case involved an Asian male driver and three Asian male passengers.
- In one case, the deputy advised the two occupants that in addition to stopping the driver for failure to maintain a lane of traffic, that there was a complaint involving a community member and hunters. The passenger explained that a community member on horseback confronted the occupants while they were hunting. The passenger explained that they were hunting in accordance with the law. The deputy and the passenger discussed the issue for a short period. This case appears to have been a pre-textual stop conducted to investigate the complaint regarding hunters. The case involved a white male driver and a white male passenger.
- In one case, the deputy stopped a white female for an unreadable license plate. The deputy indicated in the VSCF that the passenger, a white female, responded to questions that he posed to the driver. This case appears to involve a pre-textual stop. Prior to making the stop, the deputy – along with other deputies – was in the parking lot of a business speaking to employees; and there was a concern that the vehicle occupants may have been shoplifting. The deputies maintained radio communication with each other to monitor when the driver left the area, prior to making the stop. The deputy indicated on the VSCF that he did not speak directly to the driver; however, a review of the BWC

recording reveals that he did. This case involved two white female passengers and a white male passenger. We will follow up with MCSO on this issue.

- In one case, the deputy stopped a Black male driver for speeding. The driver was arrested for driving on a suspended driver's license. The deputy requested the identification of the passenger and asked him if he was wanted on warrants. The explanation listed on the VSCF by the deputy is "due to the driver being arrested." The explanation is inadequate and does not explain the reason why the passenger's name was run for warrants. We will follow up with MCSO on this issue to ascertain whether there is an explanation for the deputy's request of identification of the passenger.
- In one case, the deputy stopped a Latino driver for disregarding a stop sign. One of the three Latino passengers was observed to be in possession of an open alcohol container.
- In one case, the deputy stopped a white female driver for speeding. The passenger, a white female, was not wearing her seat belt. The deputy requested the passenger's identification due to the seat belt violation.
- In one case, the deputy stopped a Latino driver for no malfunctioning tail lights. The driver did not have a driver's license. The deputy determined that the passenger, a Latina, was the registered owner of the vehicle. The deputy allowed the passenger to drive the vehicle.
- In one case, the deputy stopped a white female for driving with a suspended registration. One of the passengers, a white female, offered her driver's license to the deputy, who then took it. The case involved an additional three occupants, a white male and two white females, who were not contacted by the deputy.
- In one case, the deputy stopped a Latino driver for criminal speeding. The deputy asked the driver to exit the vehicle. The deputy then asked the Latino passenger to produce the registration and insurance from the glove box of the vehicle, where the items were located. This action by the deputy is inconsistent with MCSO's policy, which requires that once a deputy has approached a vehicle closely enough, the deputy shall communicate with the driver and ask for the driver's license, vehicle registration, and proof of financial responsibility. We will follow up with MCSO on this issue.
- In one case, the deputy stopped a white male for driving with an expired registration. The white female passenger voluntarily provided her identification to the deputy.
- In one case, the deputy stopped a Black male for speeding. The passenger, a Black female, asked the deputy to give the driver a warning instead of a citation.
- In one case, the deputy stopped a white female driver for no license plate on the vehicle. One of the passengers, a Latina, spoke to the deputy, as she was the registered owner of the vehicle. The case also involved a Latino passenger who was not contacted by the deputy.
- In one case, the driver was stopped for speeding. During the stop, the passenger initiated contact with the deputy as she inquired about driver's school. This case involved a Latino driver and a Latina passenger.

- In one case, the deputy stopped a Latina driver for disregarding a traffic control device. The passenger, a white female, initiated contact with the deputy.
- In one case, the deputy stopped a white male for speeding. The driver's license was suspended. The passenger had been drinking alcohol. The deputy asked the passenger if she needed medical attention. The deputy also asked the passenger, a white female, if he could search the vehicle. She did not consent to the search of the vehicle.
- In one case, the deputy stopped a vehicle for speeding. The passenger requested directions from the deputy during the stop. This case involved a Latino driver and a white female passenger.
- In one case, the deputy stopped a Black female for speeding. The deputy's only contact with the passenger, a Black male, was to say hello. The deputy documented this as a passenger contact on the VSCF; however, a minor exchange of pleasantries such as this need not be documented as a contact.
- In one case, the deputy stopped a white female for disregarding a traffic control device. During the stop, one of the passengers, a child, was excited to see the deputy; and the deputy and the Posse member engaged in conversation with the child and provided him with stickers. This case involved two white male passengers.
- In one case, the deputy stopped a white female driver for excessive speeding, a misdemeanor. The deputy briefly detained the driver and advised her of her *Miranda* rights. The deputy contacted the passengers, a white male and a white female, and advised them of the situation. The driver was issued a citation and released.

We reviewed the demographic data of Maricopa County (according to 2014 U.S. Census data, 30.3% of the population is Latino), and found that the ratio of Latino drivers stopped during this reporting period was higher than in past reporting periods in comparison to the ethnicity of the population in the County. (See Paragraph 54.e.) Twelve (39%) of the 31 stops where passenger contacts occurred involved Latino drivers. A review of citizen complaints for the reporting period did not reveal any accusations against MCSO personnel that would indicate that deputies were conducting pre-textual traffic stops to question drivers or passengers regarding their ethnicity, or to determine whether they are unlawfully present in the country. 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.

During our previous ride-alongs with deputies during daylight hours, there were many instances where, at the time of the stop, we could not determine the ethnicity or gender of the driver or passengers until the vehicle was approached. During this reporting period, we observed that 42 of the 105 stops occurred during nighttime hours. During our visits to Districts 2, 3, and 4, and Lake Patrol in October 2017, 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 traffic stops generally were not based on race or ethnicity and reflected the general makeup of the population of the County. MCSO is in compliance with this Subparagraph.

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

Paragraph 25.f. requires deputies at the beginning of each stop, before making contact with the vehicle, to verbally contact dispatch and state the reason for the stop unless exigent circumstances make it unsafe for the deputy to contact Communications. When the deputy advises Communications of the location, tag number, and reason for the stop, this information is digitally logged on the CAD printout and it is audio recorded. (See Subparagraph 54.e.) We reviewed 30 CAD audio recordings and the CAD printouts; in each, the deputy advised dispatch of the reason for the stop. Through our reviews of BWC recordings and CAD printouts, we verified that the reason for the stop was voiced prior to making contact with the drivers in 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. In our review of 105 traffic stops, we determined that 15 stops were extended and justified due to the circumstances of the stops. In one additional traffic stop, there was no explanation provided for the extended duration of the stop. The particulars of these extended stops are as follows:

- A Black male driver, with a Black male passenger, was stopped for disregarding a traffic control device. The driver did not have a driver's license and the vehicle was impounded. The driver was issued a citation.

- A Black male driver, with two Black female passengers, was stopped for driving with one head light. The driver did not have a driver's license and the registration for the vehicle was not valid. The deputy seized the license plate. The driver was issued a citation.
- A Latino driver, with a Latina passenger and two other Latina passengers, was stopped for making an improper turn. The driver did not have a valid driver's license. One of the passengers, a child, was ill. The deputy requested a supervisor to the scene. An attempt was made to wait for the registered owner to arrive to the scene; however, due to the heat conditions and the child being ill, it was determined that the Latina passenger would be permitted to drive the vehicle. The deputy obtained verbal approval from the registered owner of the vehicle, via telephone, to allow the passenger to drive the vehicle. The driver was issued a citation and released.
- A white male driver was stopped for operating a vehicle with a cracked windshield. The driver's license was suspended. The deputy seized the driver's license and the vehicle's license plate and impounded the vehicle. The vehicle was occupied by two passengers, a Latino and a white male. The driver was issued a citation and released.
- A Latino driver was stopped for no tail lights. The driver did not produce a driver's license. The deputy investigated and determined that the driver's license was suspended. The vehicle was impounded, and the driver was issued a citation and released.
- A white male driver, with a white female passenger, was stopped for disregarding a traffic control device. The driver was unable to produce valid insurance paperwork for the vehicle. The deputy investigated further to determine whether the vehicle was properly insured. The driver was issued a citation and released.
- A Black male driver, with a Black female passenger, was stopped for speeding. The driver did not have a driver's license in his possession, the vehicle was not properly insured, and the vehicle's license plate was expired. The deputy seized the license plate and issued the driver a citation.
- A Black female driver, with a Black male passenger, was stopped for driving with a suspended registration. The deputy seized the license plate and explained the violation to the driver. The driver was issued a citation and released.
- A Latino driver was stopped for making an unsafe lane change. The driver did not produce any identification. During the stop, the deputy detected a strong odor of marijuana; and upon further investigation, seized marijuana from the interior of the vehicle. The driver was arrested for possession of narcotics and the vehicle was impounded.
- A Black female driver was stopped for speeding. She did not produce a driver's license. The driver claimed to have a valid driver's license from another state. The deputy investigated the status of her driver's license. The driver was issued a citation and released. The duration of the stop was 21 minutes.

- A white female driver was stopped for excessive speeding, a misdemeanor offense. The deputy detained the driver and verbally advised her of her *Miranda* rights. The driver was briefly detained in the patrol unit. The deputy prepared an Incident Report. The deputy also explained the situation to the two passengers, a white male and a white female. The driver was then released with a citation.
- A Latino driver was stopped for excessive speeding, a misdemeanor offense. The deputy detained the driver and prepared an Incident Report. The driver was issued a citation and released.
- A white male driver was stopped for speeding. The driver's license was suspended. The deputy impounded the vehicle. The driver was issued a citation and released.
- A white male driver was stopped for speeding. The deputy noted that the reason the stop was extended was due to him having a discussion with the driver regarding the insurance card for the vehicle. The driver was issued a citation and released.
- A white driver, with a white female passenger, was stopped for driving on the wrong side of the roadway. The stop involved the training of a deputy. The deputy noted on the VSCF that there were technical problems with entering the driver's information, the form fields would not auto-populate, and that the form had to be redone. The driver was issued a warning and released.
- An Asian/Pacific Islander male driver was stopped for speeding. The driver was issued a citation and released. There was no explanation for the extended stop. We will follow up on this issue with MCSO.

MCSO is 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 all 105 traffic stops. MCSO is in compliance with this Subparagraph, with 100% compliance.

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. Policy EA-11 (Arrest Procedures), most recently amended on June 15, 2016, provides a list of acceptable forms of identification if a valid driver's license cannot be produced. Only driver's licenses, with nine exceptions (drivers did not have a valid license on his/her person), were presented to deputies in all of the cases provided in our sample. Four of these exceptions involved a Latino driver and one involved a Latina driver. The nine cases are described in detail below:

- A Black male driver was stopped for disregarding a traffic control device. He did not have any identification on his person. The vehicle was occupied by two Black male passengers. The vehicle was impounded and the driver was issued a citation and released.
- A Black male driver was stopped for driving with one headlight. The driver produced an Arizona identification card. The vehicle was occupied by two Black female passengers. The vehicle registration was not valid. The deputy seized the license plate. The driver was issued a citation and released.
- A Latino driver was stopped for making an improper turn. The driver did not have any identification on his person. The vehicle was occupied by two Latinas. The driver was issued a citation and released.
- A Latino driver was stopped for operating a vehicle with no tail lights. He produced an Arizona identification card. The deputy determined that the driver's license was suspended. The vehicle was impounded and the driver was issued a citation and released.
- A Black male driver was stopped for speeding. He produced a California identification card. The vehicle was occupied by a Black female passenger. The deputy determined that the driver's license was suspended, the license plate was expired and the vehicle was not insured. The deputy seized the license plate. The driver was issued a citation and released.
- A Latino driver was stopped for making an unsafe lane change. He did not have any identification on his person. The deputy determined that the driver's license was suspended. The deputy arrested the driver for felony drug possession. The vehicle was impounded.
- A Latino driver was stopped for speeding. He did not have any identification on his person. He was issued a citation and released.
- A Black female driver was stopped for speeding. She did not have any identification on her person. The driver was issued a citation and released.
- A Latina driver was stopped for disregarding a traffic control device. She did not have any valid form of identification on her person. She was wearing a work identification card on her person. The deputy determined that the driver's license was suspended. The driver was issued a citation and released.

MCSO is in compliance with this Subparagraph.

Paragraph 25.j. requires MCSO to instruct deputies that they are not to ask for the Social Security Number or card of any motorist who has provided a valid form of identification, unless it is needed to complete a citation or report. EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance) prohibits deputies from asking for the Social Security Number of any motorist who has provided a valid form of identification. For this reporting period, we did not find any instances where a deputy requested, or was provided with, a Social Security Number by the driver or passengers. We reviewed 30 traffic stops to evaluate the body-worn camera video/audio interactions of the deputies to determine if they are abiding by the requirements of the Order. We did not find any evidence of deputies asking for Social Security Numbers or Social Security cards.

MCSO is in compliance with this Subparagraph.

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

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

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

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

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

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

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

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

Phase 1: In compliance

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

Phase 2: In compliance

During this reporting period, MCSO again reported that there were no immigration-related arrests or investigations. There were no arrests made for lack of identity documents, and no arrests or investigations for misconduct with weapons. There was one arrest for forgery involving a credit card and using the identity of another. Three other cases reported during this reporting period involved driver's license violations. Two arrests involved the failure to carry a driver's license, and one arrest was related to driving with a suspended driver's license. We reviewed the information provided for these incidents, and found that deputies acted appropriately. We noted no issues of concern. MCSO reported one incident involving a disciplinary action related to violations of MCSO policy, as it pertains to the requirements of this Paragraph. This incident is discussed in our reviews of Paragraphs 276, 281, and 283.

For July, August, and September, we received lists containing all incidents involving MCSO arrests and criminal citations. For each month, we requested a random sampling of arrests and criminal citations. In total, we reviewed 67 incidents involving arrests and 101 incidents involving criminal citations. We also reviewed a random sample of 249 Incident Reports for this reporting period. We found no evidence that would indicate a violation of this Paragraph.

The Monitoring Team carefully reviews field interviews and contacts with members of the community to assess compliance with Paragraph 26. These types of contacts, that do not involve traffic stops, are being documented in Non-Traffic Contact Forms. For this reporting period, we reviewed 83 NTCFs. Our reviews of the NTCFs for this reporting period did not reveal any issues of concern. In our last quarterly status report, we raised a concern over specific language used by supervisors in Blue Team notes, which suggested the existence of a quota for traffic stops. We addressed the issue with MCSO, and our reviews of Blue Team notes for this reporting period has demonstrated that MCSO has addressed this concern.

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

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

Phase 1: In compliance

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

Phase 2: In compliance

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

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

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

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

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

e. prohibit Deputies from relying on a suspect's speaking Spanish, or speaking English with an accent, or appearance as a day laborer as a factor in developing reasonable suspicion or probable cause to believe a person has committed or is committing any crime, or reasonable suspicion to believe that an individual is in the country without authorization;

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

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

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

Phase 1: In compliance

- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on October 24, 2017.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.

Phase 2: In compliance

During this reporting period, MCSO did not report any instances of deputies having contact with ICE/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 addition to reviewing MCSO submissions of incidents that would fall under the purview of this Paragraph, we continue to monitor arrests, investigations, traffic stops, and stops and detentions not related to traffic. In addition, our reviews of documentation provided for Paragraphs 24, 83, 90, 91, 93, and 94 have found no evidence to suggest a violation of this Paragraph.

e. Policies and Procedures Generally

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

Phase 1: Not applicable

Phase 2: In compliance

See Paragraph 30.

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

Phase 1: Not applicable

Phase 2: In compliance

MCSO continues to provide us, the Plaintiffs' attorneys, and the Plaintiff-Intervenors with drafts of its Order-related policies and procedures prior to publication, as required by the Order. We, the Plaintiffs' attorneys, and the Plaintiff-Intervenors review the policies to ensure that they define terms clearly, comply with applicable law and the requirements of the Order, and comport with current professional standards. Once drafts are finalized, incorporating the feedback of the Plaintiffs' attorneys, the Plaintiff-Intervenors, and the Monitoring Team, MCSO provides them to the Monitoring Team 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.

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

Phase 1: In compliance

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

Phase 2: In compliance

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

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

We advised MCSO that in cases where formal training is required by the Order, the E-Policy questions – which test comprehension of a policy – cannot serve as a substitute for the training. During this reporting period, MCSO issued (or issued revisions of) three Order-related policies, including: GC-4 (Employee Performance Appraisals); GE-3 (Property Management and Evidence Control); and GI-7 (Bias Free Tips and Information Processing).

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

During this reporting period, we reviewed Skills Manager System compliance reports for policies that were approved over 60 days prior to the start of this reporting period. Each report lists the MCSO personnel who are required, according to the Training Division, to receive the particular policy via the E-Policy System; and the date upon which the employee received and read the policy. We verified via the Skills Manager System compliance reports that at least 95% of relevant MCSO employees received the following policies within 60 days of their publication: EA-3 (Non-Traffic Contact); GC-7 (Transfer of Personnel); GC-17 (Employee Disciplinary Procedures); GC-22 (Critical Incident Stress Management Program); GG-1 (Peace Officer Training Administration); GG-2 (Detention/Civilian Training Administration); and GH-2 (Internal Investigations).

During our July 2016 site visit, we first learned that MCSO, as part of a Countywide initiative, intended to replace its E-Policy System with a new online software program, Cornerstone. Maricopa County now refers to Cornerstone as "the HUB," for it is the "center" for learning and performance activity.

After several delays related to licensing and other technical issues, on July 5, 2017, MCSO began its first phase of using the HUB. We received updates on the system during our July and October site visits. Training Division personnel have consistently noted that the HUB is more user-friendly and offers more features than E-Policy. The HUB allows users to, for instance, enroll in courses, view their schedules, and complete online courses. (The second phase of implementation, projected for January 2018, is scheduled to include testing, test analysis, and evaluations of both course content and instructor deliveries.) Yet during our October 2017 site visit, MCSO personnel informed us that, at least for the time being, MCSO continues to use E-Policy for all training mandated by the Orders, and it has not placed any non-Court-mandated training in the HUB.

We continue to follow these developments closely. In the meantime, we will continue to review MCSO's records in E-Policy for the training of relevant personnel on its published policies.

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

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

Since we began reviewing internal investigations conducted by MCSO, we have reviewed more than 560 administrative investigations involving Patrol personnel. During our reviews, we have observed deficiencies in both the investigations and the associated documentation.

During each site visit, we meet with 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. PSB has developed and implemented the use of an investigative checklist and specific format for the completion of internal investigations. These protocols have resulted in improvement in the structure and procedural completeness of the investigations. All supervisors who conduct investigations were trained in the use of these documents. Effective June 1, 2016, the use of these investigative protocol documents is required for all administrative investigations.

During the last reporting period, the revised policies related to internal investigations and discipline process were finalized and implemented. PSB personnel previously informed our Team that they intended to revise the investigative checklist as necessary, once these policies were finalized. They have now advised us that due to the details in the policy revisions and the content of the in-progress IA training, they do not believe that a revision to the checklist will be necessary. We agree that the checklist appears sufficient for its intended purpose, and do not oppose this decision. During our reviews of future investigations, we will ensure that the checklist is still sufficient. Should we identify any concerns that appear to necessitate checklist revisions, we will revisit this topic with PSB.

While we note continuing improvement in those investigations reviewed for compliance with this Paragraph, we are still reviewing cases that MCSO has not properly and thoroughly investigated. We continue to note concerns in our reviews, including: failure to conduct a timely investigation; failure to attempt to interview complainants in person; failure to audio- and video-record all interviews; failure to interview all parties; failure to properly conduct investigative interviews; failure to conduct a thorough investigation; and findings that are not supported by the facts of the investigation.

During our site visits, we have met with PSB to discuss our concerns with the overall quality of administrative investigations, and have provided specific case examples from the Paragraph 32 submissions that illustrate these concerns. PSB personnel have been responsive to our feedback. Both their investigations – and the reviews they conduct of those cases investigated by District personnel – have continued to show overall improvement. In many cases, we consider the investigations conducted by PSB to be excellent examples of complete and thorough investigations.

While we have also noted improvement in those investigations conducted at the District level, there continues to be deficiencies in many of the investigations they conduct. Many investigations are returned by PSB after review for additional follow-up or corrections. This review by PSB has allowed many District cases to be at, or near, full compliance when they are finalized. However, it has also continued to delay the timely completion of many of these same investigations. PSB has assigned liaison personnel to each District to provide assistance while the investigations are being conducted. We have noted the positive effects of PSB's efforts to assist investigators in the Districts. However, as noted in our previous reports, it continues to be necessary for PSB to dedicate significant personnel hours to ensure that others in the organization are properly completing their job responsibilities.

During our District visits in April and July 2017, members of our Team spoke with sworn supervisors in Districts 2, 3, 4, 6, and 7, and Lake Patrol about internal investigations. Several District personnel identified that they, or their subordinates, needed additional training on how to properly complete misconduct investigations. We were also informed that the completion of internal investigations is very time-consuming, and along with other administrative requirements, prevents supervisors from spending time in the field overseeing their personnel. They identified the difficulty in locating and attempting to arrange in-person interviews, the requirements to audio-video record interviews, and the 60-day timeframe for completion as significant challenges. We discussed these requirements, and reinforced that reasonable attempts must be made to conduct in-person interviews and audio- and video-record the interviews. We also acknowledged that we recognize there may be circumstances that may make in-person or recorded interviews unreasonable, or even impossible. In these instances, relevant documentation should be included in the report. We also discussed the 60-day timeframe, and reminded the supervisors that if an extension is needed for a legitimate reason and proper documentation is included, there is no adverse effect on the compliance findings.

During our District visits in October 2017, members of our Team spoke with sworn supervisors in Districts 2 and 3, and Lake Patrol about internal investigations. Again, MCSO personnel informed us that the completion of administrative misconduct investigations is time-consuming and prevents supervisors from actively supervising their personnel in the field. We discussed the requirements for proper completion of administrative investigations and the ongoing issues we have noted in our reviews. While not all the supervisors contacted during the District visits attended the 40-hour IA training, those that have advised us that it was both informative and useful in understanding the requirements for conducting these investigations.

During this reporting period, we conducted a review to determine how many investigations were completed by personnel in each District or Division outside of PSB, to assist us in assessing the workload that has been referenced by those supervisors we have contacted during our District visits. We found that of the total 16 investigations completed for this reporting period, there was only one instance where an individual supervisor completed more than one administrative misconduct investigation. We also found that no District or Division investigated and completed more than four administrative investigations for this reporting period. In two of the Districts, no administrative investigations were completed; and two other Districts each only completed one administrative investigation. While these numbers do not include any investigations that might be in process, the numbers of completed investigations do not support the assertion that District personnel are spending extensive time conducting these investigations. We acknowledge that conducting thorough and complete administrative investigations is time-consuming. However, the community and MCSO personnel should be able to expect that supervisors thoroughly and completely investigate misconduct allegations – irrespective of the amount of time it may take to do so.

During the last reporting period, we reviewed 45 administrative IA cases involving 65 sworn, Posse, or reserve personnel that were submitted in compliance with the requirements of Paragraph 32. Of those investigated by PSB, 65% were in full compliance with the Order. Of those cases investigated by District or Division personnel outside of PSB, 29% were in full compliance with the Order.

During this reporting period, we reviewed all 27 administrative IA cases submitted for compliance with this Paragraph. Sworn supervisors with the rank of sergeant or higher completed all of the investigations conducted at the District or Division level. There were 73 potential policy violations included in the 27 cases. Eighteen of the investigations resulted from external complainants, and nine were internally generated. All but three of the cases were both initiated and completed on or after July 20, 2016.

Of the 27 administrative cases we reviewed for compliance with this Paragraph, 13 resulted in sustained findings against one or more employees or volunteers. We concurred with all of the sustained findings, and concurred with the final discipline imposed in 10 of the 13 cases. The discipline included: four suspensions; two written reprimands; and seven coaching sessions. One employee resigned prior to the imposition of discipline. In all of these cases, the PSB Commander properly identified the category and offense number, as well as the presumptive range of discipline. In all but one of the 27 cases, we concurred with the findings. In one case, we believe a finding of sustained was supported and should have been made.

There were two cases we reviewed during this reporting period where we do not concur with the final disciplinary decision. In one of the cases, the PSB Commander appropriately identified the findings and the presumptive range of discipline. The Appointing Authority reduced the discipline from the presumptive range. While the Appointing Authority authored a justification for doing so, we do not believe that sufficient mitigating circumstances existed to justify a decision outside of the Discipline Matrix. In the second case, we disagreed with both the findings and the discipline imposed. We believe that the employee should have been sustained for more than a single policy violation, and that the discipline should have been greater than that assessed. We will discuss these cases with PSB and the Appointing Authority during our next site visit.

All 27 cases we reviewed this reporting period were completed on or after July 20, 2016. Sixteen of these investigations were conducted at the District level, and 11 were conducted by PSB. Of the 11 investigations conducted by PSB, five were not completed within the 85-day timeframe. All but one of the five investigations included both a request and an authorization for an extension. Ten of the 16 investigations conducted by District or Division personnel were not completed within the required 60-day timeframe. Four of the 10 did not include a request for, or an approval of, an extension. We have repeatedly emphasized during our site visits and District visits that if an investigation cannot be completed within the required time limits, an extension memorandum providing justification must be authored and approved when appropriate.

Ten of the 11 cases investigated by PSB were both initiated and completed after July 20, 2016. We continue to find that PSB investigations are generally thorough and well-documented. Of the 11 cases PSB investigated for compliance with this Paragraph, we found nine (82%) in compliance with all investigative and documentation requirements. This is an increase in compliance of 17% from the last reporting period. In one investigation, we believe a finding of sustained for one of the allegations should have occurred, and did not. In the second case, while a finding of sustained was properly determined, the investigator did not conduct all possible follow-up that could have affected the disciplinary outcome. In a third case, while the Appointing Authority assessed discipline less than that in the presumptive range, the PSB Commander had made the proper presumptive discipline decision.

District or Division personnel outside of PSB conducted 16 of the investigations MCSO submitted for review for this Paragraph. All but two were both initiated and completed after July 20, 2016. We found six (37%) in compliance with all investigative and documentation requirements. This is an increase in compliance of 8% from the last reporting period. We have some concern with the remaining 10 of these investigations. In addition to the procedural and documentation issues, we identified issues with: improper investigative interviews; failure to interview all witnesses or investigative leads; and failure to audio- and video-record interviews, without any explanation. We also identified numerous cases where the District Commanders failed to identify and correct investigative and procedural deficiencies prior to forwarding the cases to PSB. We continue to note that many of these District cases require correction, guidance, or additional investigation directed by PSB.

Our review of cases submitted for compliance with this Paragraph indicate a continuing effort on behalf of PSB staff to both complete proper investigations, and assist District personnel in completing their internal investigations. Generally, PSB investigators are completing proper investigations in accordance with this Paragraph, and we are confident that they will continue to do so. While we have also noted improvement in the quality of the cases investigated at the District level, there are still many instances where investigations are not properly completed or require significant corrections after being submitted to PSB for review. As we noted in the last reporting period, PSB can only provide so much assistance and guidance. Investigative deficiencies often cannot be corrected after the fact.

During this reporting period, MCSO began conducting the 40-hour IA investigation training. This training was designed to address how to properly conduct an administrative misconduct investigation and includes training on the specific requirements for compliance with the Second Order. We are hopeful that we will see additional improvement in the overall quality of misconduct investigations as a result of this training.

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 October 24, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: Not in compliance

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

MCSO has been in compliance with the requirements of this Paragraph for the past two reporting periods. During the last reporting period, we noted that two of the completed investigations had errors. We cautioned MCSO that all requirements of the Order related to the internal investigations covered by this Paragraph must be consistently met, or we would withdraw Phase 2 compliance.

During this reporting period, we reviewed four investigations submitted in compliance with this Paragraph. All were investigated by PSB. Three of the four were both initiated and completed after July 20, 2016.

One case involved numerous allegations of bias against the complainant during a traffic stop. We concur with MCSO's finding that there was no indication that race played a factor in any decisions made, and that the body-worn camera recording refuted the specific allegations of improper language and treatment that had been made by the complainant. The deputy made an error on the citation and was issued a coaching. We concur with MCSO's findings in this investigation.

In the second case, a complainant alleged that deputies made an improper finding that the complainant's son had been at fault in a traffic accident and that charges should have been filed against another involved party; and that the decision-making was partly based on bias. We concur with MCSO's findings of exonerated and unfounded for the alleged misconduct.

In the third case, a complaint was made that deputies who arrested the complainant did so partially because of bias due to the complainant's age. We concur with MCSO's findings of exonerated and unfounded for the alleged misconduct.

In the fourth case, the complainant alleged that deputies improperly seized and failed to properly return money belonging to the complainant, and that bias had been a factor in their investigation and decision-making. The investigation determined that all money was properly seized, accounted for, and retained by MCSO based on existing laws and MCSO policies. We agree with MCSO's findings of exonerated and unfounded for all allegations.

We generally found all of these investigations to be well-investigated and agree with the findings in all four cases. We noted during this reporting period that in two cases, an investigative error occurred. In both cases, this involved the failure to conduct, or attempt to conduct, all interviews. While we do not believe that in either case, conducting those interviews would have resulted in different findings, MCSO must be more diligent in ensuring that all investigative and documentation requirements are met.

As this is the second consecutive quarter in which investigations covered by this Paragraph have not complied with the requirements for the investigation of misconduct, we are withdrawing Phase 2 compliance for this Paragraph.

We reviewed five additional cases this reporting period that involved biased policing allegations. These cases were closed after July 20, 2016; involved members of the Plaintiffs' class; and were determined to be CRMs (Class Remedial Matters). They will be reported in the Paragraphs related to CRMs later in this report.

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

Phase 1: In compliance

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

Phase 2: In compliance

MCSO conducts annual policy reviews in conformance with GA-1 (Development of Written Orders). These annual reviews are intended to ensure effective direction is provided to MCSO personnel in a manner consistent with constitutional policing, current law, professional standards, and any Court Order or Judgment. All annual reviews are documented in writing and approved by our Team. These policies continue to receive extensive review and coordination with all other policies to ensure the inclusion of Order requirements and consistency with other policy updates and current best practices.

During this reporting period, six (11%) of the 52 required policies received their annual review: CP-5 (Truthfulness); CP-8 (Preventing Racial and Other Bias-Based Profiling); CP-11 (Anti-Retaliation); GA-1 (Development of Written Orders); GC-13 (Awards); and GF-1 (Criminal Data Justice Systems).

Section 5: Pre-Planned Operations

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

Phase 1: In compliance

- Special Investigations Division Operations Manual, currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- Special Investigations Division Organizational Chart, most recently amended on April 10, 2017.
- Memorandum from Executive Chief Trombi to Deputy Chief Lopez directing the elimination of the Criminal Employment Unit, dated January 6, 2015.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we previously confirmed 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 that it disbanded the Anti-Trafficking Unit and formed a new unit, the Fugitive Apprehension Investigative Team (FAIT), in April 2017. The primary mission of FAIT is to arrest subjects with outstanding felony warrants. We reviewed FAIT's mission statement and objectives, as well as the organizational chart for the Special Investigations Division. The ATU has been removed from the organizational chart, and the mission of FAIT does not include any reference to the enforcement of Immigration-Related Laws. MCSO is revising the Special Investigations Division Manual to formally reflect this change, as well as others.

The revised organizational chart for SID and documentation provided by MCSO regarding the implementation of FAIT support that the ATU no longer exists, and that there are no specialized units in MCSO that enforce Immigration-Related Laws.

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

Phase 1: In compliance

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

Phase 2: In compliance

Since the requirements for conducting significant operations were implemented, MCSO has reported conducting only one significant operation that invoked the requirements of this Paragraph. "Operation Borderline" was conducted from October 20-27, 2014, to interdict the flow of illegal narcotics into Maricopa County. MCSO met all of 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 showed that this operation was conducted from October 17-23, 2016. The documentation provided by MCSO was sufficient for us to determine that this operation did not meet the reporting criteria for this, or other Paragraphs, related to significant operations. The Plaintiffs also reviewed the documentation submitted by MCSO on this operation and agreed that the operation did not invoke the requirements of this Paragraph. We noted, as did the Plaintiffs, that "Operation Gila Monster" involved traffic stops of Latinos, and that those arrested were undocumented Latinos.

For this reporting period, we reviewed all documentation submitted by MCSO in response to this Paragraph requirement. Reports from each District, the Enforcement Support Division, and the Investigations Division, document that no significant operations were conducted by MCSO during this reporting period. We did not become aware of any potential significant operation through media releases or other sources. 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.

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

Phase 1: In compliance

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

Phase 2: In compliance

In late 2014, we reviewed all of 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 is has not conducted any operations that invoke the requirements of this Paragraph since October 2014.

(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.

Phase 1: In compliance

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

Phase 2: In compliance

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.

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

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

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), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

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 conduct any significant operations that invoked 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.*

Phase 1: In compliance

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

Phase 2: In compliance

Since MCSO developed 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 brought forward 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 the Office has not conducted any operations that meet the reporting requirements for this Paragraph since October 2014.

Section 6: Training

COURT ORDER VII. TRAINING

a. General Provisions

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

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

Phase 1: In compliance

- GG-1 (Peace Officer Training Administration), most recently amended on May 18, 2017.
- GG-2 (Detention/Civilian Training Administration), most recently amended on May 18, 2017.
- Training Division Operations Manual, most recently amended on September 21, 2017.

Phase 2: In compliance

During this reporting period, MCSO published the Training Division Operations Manual.

Our technical assistance and compliance site visits provide opportunities for us to observe and document MCSO procedures that could benefit from further development. For example, we recommend that MCSO improve the following training-related areas: the process by which tests are created; the procedures to document quarterly reviews of ride-alongs with deputies, as specified by GG-1; and instructor selection, including standardized processes for observing and evaluating instructors – in the areas of content expertise, delivery confidence, and classroom management. We also recommend that MCSO improve the manner in which it delivers Train-the-Trainer sessions – including adhering to the timelines identified in the Training Division Operations Manual for providing advance material to potential instructors, and allowing instructors the opportunity to actually teach segments of the particular program in the Train-the-Trainer setting.

During July, there were no recommendations for new instructors/FTOs.

In August, the Training Division recommended instructors to deliver this year's Annual Combined Training (ACT), the 2017 Early Identification System (EIS) Training, and the 2017 Supervisor Responsibilities Effective Law Enforcement Training (SRELE).

To deliver the ACT, 16 contracted attorneys were reviewed and recommended to instruct. Each attorney, as required by this Paragraph, holds a law degree from an accredited law school and provided the required curriculum vitae. We noted there were five of these individuals who did not attend the September 11, 2017 Train-the-Trainer.

A total of 19 individuals were reviewed and recommended to instruct the 2017 EIS. We noted that six of these individuals did not attend the September 14, 2017 Train-the-Trainer.

A total of 19 individuals were reviewed and recommended to instruct the 2017 SRELE. We noted that three individuals did not attend the September 15, 2017 Train-the-Trainer.

A total of 19 individuals were reviewed and recommended to instruct or assist with the 2017 Misconduct Investigative Training. One of these individuals did not attend the September 12-13, 2017 Train-the-Trainer.

All of the instructors met the requirements of GG-1. During our October site visit, we discussed our concern with the use of instructors who had failed to attend the required Train-the-Trainer. MCSO assured us that any instructor who had not participated in the Train-the-Trainer was required to observe the delivery of a class in its entirety prior to participating as an instructor or assistant. We were satisfied with this approach.

During September, there were no recommendations for new instructors/FTOs.

The Training Division did not conduct annual PSB reviews of incumbent instructors or of active FTOs during this reporting period. We will review additional instructor/FTO files during future site visits to ensure compliance with all requirements of GG-1.

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

Phase 1: In compliance

- GG-1 (Peace Officer Training Administration), most recently amended on May 17, 2017.
- GG-2 (Detention/Civilian Training Administration), most recently amended on May 17, 2017.
- Training Division Operations Manual, most recently amended on September 21, 2017.

Phase 2: In compliance

We verify compliance with this Paragraph by reviewing all completed tests, documentation of all failures, and all failure remediation efforts for each class delivered during the reporting period.

The Annual Combined Training (ACT) was not delivered during this reporting period.

Administrative Investigations Checklist Training was delivered during July to 12 sworn supervisors. One student required remedial testing.

Blue Team Training was provided in July and September to 16 sworn personnel. Remedial testing was not required.

Body-Worn Camera Training (BWC) was provided in July and September to 16 sworn personnel. Remedial testing was not required.

The Detention, Arrests, and Immigration Related Laws; Bias Free Policing Training was delivered once in July to a total of 69 personnel (15 sworn, 54 Posse). There were a total of four Posse members who required test remediation. Two individuals were successful, while two others failed to retest and are required to attend a future course. This training was not provided in August. In September, one course was delivered to 23 personnel (one sworn, 22 Posse). Only one student required test remediation.

The 2017 Early Identification System (EIS) training was delivered nine times during September. A Train-the-Trainer was provided to 21 personnel. No remedial testing was required. A total of 201 (133 sworn, 65 Detention, three civilian) personnel received this training during the reporting period. Three students required remedial testing.

Employee Performance Appraisal (EPA) Training was delivered once in July to a total of 12 students (12 sworn). Remedial testing was not required.

The 2016 Supervisor Responsibilities: Effective Law Enforcement (SRELE) Training was offered once in July to 12 sworn personnel. Remedial testing was not required. During our recent site visit, MCSO advised us that the previous year's SRELE training is being provided to new supervisors just at or prior to promotion as a means to maintain compliance with the requirements of Paragraph 52. The 2017 SRELE Train-the-Trainer was delivered on September 15, 2017. Remedial testing was not required. This curriculum was further delivered six times in September to 134 students. One individual required test remediation.

Surname Briefing was developed as a supplement to the SRELE training delivered during this reporting period. This briefing is intended to supplement content delivered during the SRELE training that was completed on October 31, 2017, and is delivered by supervisors in the Districts during pre-patrol briefings. This briefing is designed to provide heightened awareness to problems identified with deputies mismarking an individual's perceived Hispanic race on TraCS forms as "white" or "unknown" when the individual possessed Hispanic features and a Hispanic last name. Compliance with this briefing will be reviewed during the next reporting period.

TraCS Training was provided in July and September to a total of 18 sworn personnel. Remedial testing was not required.

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 May 17, 2017.
- GG-2 (Detention/Civilian Training Administration), most recently amended on May 17, 2017.
- Training Division Operations Manual, most recently amended on September 21, 2017.

Phase 2: In compliance

While reviewing the Master Training Calendar for this reporting period, we observed entries we noted to be inaccurate. During our October site visit, we spoke with Training command regarding these entries and learned that they were, in fact, errors that should have been reviewed and removed prior to publishing the calendar. Plaintiffs and we recommend that MCSO update the calendar on a timelier basis, to more accurately reflect class offerings. More in-depth descriptions of upcoming training would benefit MCSO deputies. The accuracy of the Master Training Calendar can affect the overall management of the training function.

We continue to review and monitor Master Personnel Rosters to determine the number of personnel required to receive Order-related training. As of the end of this reporting period, we determined that 708 sworn members, 23 reserve members, 34 retired reserve members, and 732 Posse personnel required Order-related training. These categories vary by reporting period, as a result 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

We continue to actively review and provide recommendations for all newly developed lesson plans, and all lesson plans under revision. GG-1 and GG-2 require the use of Train-the-Trainers for all programs utilizing multiple instructors. During our recent site visit, we recommended to the Training Division that these Train-the-Trainer programs should receive further direction in upcoming revisions to the Training Division Operations Manual. We recommended the development of standardized procedures that should include the requirement for instructors to participate in instructional sessions during the Train-the-Trainers. The Training Division should oversee and observe these instructional sessions. Each instructor should be evaluated with documentation maintained by the Training Division. Additional documented observations should occur during class deliveries. These activities would further improve instructor selection. MCSO should adhere to guidance the agency has developed, such as the distribution of training materials to instructors at least 14 days in advance of the Train-the-Trainers as directed by the Training Division Operations Manual.

During September of this reporting period, we participated in a five-day technical assistance site visit for assisting with the conduct of Train-the-Trainer programs for the 2017 ACT, Misconduct Investigative Training, EIS, and SRELE. Each of these programs were provided a single day for delivery, with the exception of the Misconduct Investigation Training, which took two days. Each Train-the-Trainer program was delivered in the same manner previously utilized by MCSO. The curriculum of the IA Misconduct Training, EIS, and SRELE received final approval for delivery upon completion. The ACT required further revision, and did not receive final approval until our October site visit.

The lesson plan for the ACT had received significant previous review but not final approval before Train-the-Trainer. As usually occurs during these sessions, the curriculum received further review and specific recommendations by the 11 instructors, a cadre of seasoned prosecutors. During our October site visit, we further revised this curriculum along with the Plaintiffs' attorneys, Plaintiff-Intervenors, and MCAO. The Parties and we approved this lesson plan for delivery after these discussions. The ACT was not delivered during this reporting period.

The Misconduct Investigative Training trainer program was comprehensive and in-depth. The entire lesson plan was created specifically to address the needs of MCSO. A total of 16 individuals participated in this extensive Train-the-Trainer session. During this program, the material was further edited and finalized. This program was approved for delivery during this reporting period.

The EIS Train-the-Trainer was provided to a cadre of 13 instructors. The EIS curriculum had received extensive review that first began in May 2017. During the Train-the-Trainer, as is usually the case, additional content revisions were identified and implemented. We observed that this material is highly technical in nature, incorporating all aspects of the EIS; but the primary instructor successfully transferred this knowledge and content. The instructors received technical training in the computer lab. The primary instructor adequately addressed these issues and continued with instruction using the lecture method. Technology problems are common during training delivery, and the methodology employed by the instructor allowed the training to continue without computer assistance.

After the Train-the-Trainer session, the Plaintiffs and Plaintiff-Intervenors raised some concerns that were discussed with MCSO and the Monitoring Team. After some modifications to the training materials, MCSO began the delivery of the training as initially scheduled.

The SRELE Train-the-Trainer was delivered to 16 individuals. Minor adjustments to the curriculum occurred, as usually do during these Train-the-Trainer sessions. This curriculum was approved for delivery during this reporting period.

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

Phase 1: Not applicable

Phase 2: In compliance

The Training Division provides all new and revised lesson plans and supporting materials for review by our Team and the Plaintiffs. The established review protocol assists with the timely review of these materials as an aid to continue compliance with this Paragraph.

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 May 17, 2017.
- GG-2 (Detention/Civilian Training Administration), most recently amended on May 17, 2017.
- Training Division Operations Manual, most recently amended on September 21, 2017.

Phase 2: In compliance

As noted in other Paragraphs, the Monitoring Team and the Parties are provided the opportunity to comment on lesson plans and training support material for all training required by both Orders. This includes the initial offering of training, and any annual retraining sessions. Where applicable, we, MCSO and the Parties ensure that the most recent developments in state and federal law are reflected in the training material.

The Training Division did not complete updates to the TraCS and BWC lesson plans during this reporting period.

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

B. Bias-Free Policing Training

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

Phase 1: Not applicable

Phase 2: In compliance

The Annual Combined Training (ACT) was not delivered during this reporting period.

Bias-Free Policing was delivered once during July and once during September. A total of 92 (16 sworn, 70 Posse, six civilian) attended this training. A total of five individuals required remedial testing.

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 updating the ACT curriculum and providing all documents for the Parties' and Monitoring Team's review.

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

The Annual Combined Training (ACT) was not delivered during this reporting period.

Training on Detentions, Arrests, and the Enforcement of Immigration-Related Laws was delivered once in July and once in September, to employees and volunteers who have not previously received this training. A total of 92 (16 new sworn deputies, 70 Posse members, and six civilians) attended this training. A total of five individuals required remedial testing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Phase 1: Not applicable

Phase 2: In compliance

During this reporting period, the Training Division continued updating the ACT curriculum and providing all documents for the Parties' and the Monitoring Team's review. During our October site visit, we approved this curriculum for delivery.

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

During July the 2016, SRELE training was provided once to a total of 12 students. All of these individuals successfully completed the training program. MCSO has chosen to provide the most recent SRELE training to individuals that are about to be promoted or have recently been promoted.

During September, the 2017 SRELE training was approved and delivered. A Train-the-Trainer was conducted prior to delivery of five additional classes. A total of 134 (sworn) personnel attended this class, with only one individual requiring remedial testing.

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 2017 SRELE training was reviewed and approved for delivery during this reporting period. This training, as previously reported, was designed as a companion training to the EIS training. In addition to all areas required by this Paragraph, it was designed to provide a foundation of necessary skills for supervisors to identify and effectively address deficient behaviors and respond to potential bias policing by employing alternative corrective actions. Because this was the first training provided that incorporated critical relationships – among Blue Team Supervisory Notes, Employee Performance Appraisals (EPAs), Body-Worn Camera (BWC) recordings, and the accuracy of TraCS data – we will gauge effects of the training by reviewing the operational implementation by supervisors. This will include reviewing Supervisory Notes, EPAs, BWC recording reviews, and the accuracy of deputy TraCS data for improvements in accuracy and thoroughness.

Section 7: Traffic Stop Documentation and Data Collection

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

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

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

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

Once we received files each month containing traffic stop case numbers from MCSO, denoting from which area they came, we selected a sample of up to 35 cases representing the areas and then selected a subsample averaging 10 cases, from the 35 selected cases, to obtain CAD audiotapes and body-worn camera recordings. Our sampling process involved selecting a sample of cases stratified by the areas according to the proportion of specific area cases relative to the total area cases. Stratification of the data was necessary to ensure that each area was represented proportionally in our review. Randomization of the cases and the selection of the final cases for CAD review were achieved using a statistical software package (IBM SPSS Version 22), which contains a specific function that randomly selects cases and that also allows cases to be weighted by the areas. Our 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

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EA-5 (Enforcement Communications), most recently amended on December 8, 2016.
- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.
- CP-8 (Preventing Racial and other Bias-Based Policing), most recently amended on October 24, 2017.
- GJ-3 (Search and Seizure), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: Not in compliance

To verify the information required for this Paragraph, MCSO created, and we reviewed, the Vehicle Stop Contact Form (VSCF), the Vehicle Stop Contact Form Supplemental Sheet, the Incidental Contact Receipt, and the Written Warning/Repair Order, all in electronic form, for those motorists who, during this reporting period, committed a traffic violation or operated a vehicle with defective equipment and received a warning. We also reviewed the Arizona Traffic Ticket and Complaint Forms issued for violations of Arizona Statutes, Internet I/Viewer Event Unit printout, Justice Web Interface printout, and any Incident Report associated with the event. We selected a sample of 105 traffic stops conducted by deputies from April 1-June 30, 2017, 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. Our review indicated that in the 105 vehicle traffic stops, there were 17 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 17 cases where there were multiple units or deputies on a stop, the deputy documented the name, badge, and serial number of the deputies and Posse members on the VSCF.

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

The identity of personnel on scenes is a core issue in this case, and we shall consistently evaluate the agency's measure of compliance with this requirement. The Order requires that all deputies on the scene be identified with their names, and serial and unit numbers, on the appropriate forms. We found that the deputies' names, and serial and unit numbers, were listed on all required forms and identified on the Vehicle Stop Contact Form. There were 17 instances where traffic stops involved deputies or Posse members, in addition to the primary units conducting the stop. All 17 cases had Vehicle Stop Contact Forms that identified all personnel present. MCSO's compliance rate for this reporting period is 100%.

Paragraph 54.b. requires MCSO to document the date, time, and location of the stop, recorded in a format that can be subject to geocoding. Our reviews of the CAD printout for all 105 traffic stops in our sample indicated that the date, time, and location is captured with the time the stop is initiated and the time the stop is cleared. In previous reporting periods, we noted instances where the GPS coordinates could not be located on the documentation received (CAD printout/I/Viewer). We contacted MCSO about this issue, and MCSO now provides us with the GPS coordinates via a separate document that lists the coordinates for the traffic stop sample we provide. MCSO uses GPS to determine location for the CAD system. GPS collects coordinates from three or more satellites to enhance the accuracy of location approximation. The data from the satellites can be decoded to determine the longitude and latitude of traffic stop locations should that be necessary. During our quarterly site visits, we review the GPS coordinates with CID personnel to ensure the accuracy of the data. The CAD system was upgraded in 2014 to include geocoding of traffic stops. CID continues to provide us with a printout of all case numbers in the sample containing the associated coordinates. For this reporting period, the CAD or I/Viewer system contained the coordinates in about 50% of the cases. In a separate spreadsheet, MCSO provided GPS coordinates for all 105 cases we reviewed, for 100% compliance with this portion of the Subparagraph.

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

During our April 2016 site visit, we discussed with ASU and MCSO the possibility of 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. Several additional TraCS technical changes were made and implemented in 2016. Some of the changes implemented include: a feature that automatically imports the CAD time onto the VSCF; mandatory fields requiring the selection of an ARS Offense Classification (Civil, Traffic, Criminal Traffic, Criminal, or Petty Offense); defining the reasons for an extended stop; the addition of help features to assist deputies while utilizing the TraCS system; the addition of a search feature that allows for the search of citations and warnings by a driver's last name or license plate; and permitting a reviewing supervisor to reject a VSCF if a deficiency is identified and to request that a deputy make the appropriate changes to the document.

The first change listed above should ensure that the start and end time of the stop from the CAD system and VSCF should be consistent. MCSO's compliance rate is 100% for this portion of the Subparagraph.

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

MCSO is 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. In 36 of the 105 traffic stops, the driver had one or more passengers in the vehicle (50 total passengers). The Vehicle Stop Contact Form, completed by the deputy on every traffic stop, is used to capture the total number of occupants and contains a separate box on the form for that purpose. Policy EB-2 (Traffic Stop Data Collection) requires deputies to collect data on all traffic stops using the VSCF; this includes incidental contacts with motorists. Our review of the sample data indicates that deputies identified the correct number of vehicle occupants in all cases. MCSO is in compliance with this Subparagraph.

Paragraph 54.e. requires MCSO to document the perceived race, ethnicity, and gender of the driver and any passengers, based on the deputy's subjective impression. (No inquiry into the occupant's ethnicity or gender is required or permitted.) In 36 of the 105 stops from the traffic stop data sample, there was more than one occupant in the vehicle (50 total passengers).

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

In our sample of 30 that contained body-worn camera recordings, our review, as well as BIO's inspection of traffic stops, identified one stop in which the passengers were identified as being of the female gender and the race or ethnicity was listed as "unknown-vision obstructed." A review of the BWC video revealed that the passengers were clearly visible and should have been listed as Latinas.

Sixty-six, or 63%, of the 105 traffic stops involved white drivers. Twenty-four, or 23%, of the 105 stops involved Latino drivers. Eleven, or 10%, of the 105 traffic stops involved Black drivers. Two, or 2%, of the 105 traffic stops involved Indian, Asian, or Asian Pacific Islander drivers. Two, or 2%, of the 105 traffic stops involved American Indian/Native Alaskan drivers. Fifty traffic stops, or 48%, resulted in citations. Fifty-five, or 52%, of the 105 traffic stops we reviewed resulted in a written warning. The breakdown of those motorists issued warnings is as follows: 33 white drivers (60% of the total who were issued warnings); 11 Latino drivers (20% of the drivers who were issued warnings); five Black drivers (9% of the drivers who were issued warnings); two American Indian/Alaskan Native drivers (4% of drivers who were issued warning); and one Asian Pacific Islander driver (2% of the drivers who were issued warnings). In the previous reporting period, 62% of the drivers who received warnings were white, 29% of the drivers who received warnings were Latino, 8% of the drivers who received warnings were Black, and 1% of the drivers who received warnings were Asian Pacific Islander drivers.

The Order requires deputies to document the perceived race, ethnicity, and gender of any passengers whether contact is made with them or not. By way of our reviews as well as BIO's inspections, MCSO has learned of deputies' failure to properly document the race or ethnicity of passengers. The Order does not require the names of passengers unless a passenger is contacted. Then the reason for the contact must be documented. In those instances where contact is made, the passenger's name should be listed on the Vehicle Stop Contact Form.

For this reporting period, there were 155 occupants (105 drivers and 50 passengers).

The issue of deputies misidentifying the race or ethnicity of drivers with Latino surnames has been an ongoing concern. More recently, the failure of deputies to properly identify the race or ethnicity and gender of passengers has become an issue. Reviews by both us and the Bureau of Internal Oversight (BIO) identified cases in which the race or ethnicity of certain passengers was not documented, reportedly due to the deputy's vision being obstructed; however, upon review of the BWC video, the passengers were clearly visible. In our sample of 105 traffic stops, there was one case in which two female passengers were listed as "unknown-vision obstructed." A review of the BWC video revealed that the occupants were removed from the vehicle and were clearly visible and should have been classified as Latinas. BIO identified the issue as part of an inspection. BIO issued an Action Form requiring that the VSCF be corrected. We will follow up on this case with MCSO during our next site visit.

Supervisors have been attending Supervisor Responsibilities: Effective Law Enforcement (SRELE) training that includes a video component, accompanied with a discussion, specific to traffic stops and properly classifying drivers and persons with Latino surnames on the VSCFs. During our October 2017 visit, MCSO reported that all but four supervisors had completed the SRELE training sessions, and that approximately 77% of the deputies and reserve deputies have completed the Surname Briefing. We discussed with MCSO whether the training and briefings addressed the proper identification and documentation of passengers. MCSO personnel responded that although the training and briefing do not include a component specific to passengers, they anticipated that deputies would likely be more aware of the issue of properly documenting the race or ethnicity of all of the occupants of vehicles based on the instruction provided.

MCSO had been in compliance with this Subparagraph in our past reviews. However, for this reporting period, we continue to defer our compliance assessment pending the completion of the SRELE training of supervisors and the Surname Briefing for deputies, as well as a noted improvement in the deputies' efforts to accurately document the race or ethnicity of the drivers and passengers. During our October 2017 site visit, MCSO reported that the agency received generally positive feedback on the SRELE training and Surname briefing. We continue to encourage MCSO to reinforce the policy requirement that deputies accurately document the race, ethnicity, and gender of drivers and passengers on the VSCF. MCSO anticipates that the roll-call briefings will be completed in December 2017. MCSO also reported that BIO is developing a methodology and matrix for conducting inspections to identify drivers that may have been misidentified, with the inspections scheduled to commence in January 2018.

Paragraph 54.f. requires that MCSO record the name of any individual upon whom the deputy runs a license or warrant check (including the subject's surname). For this reporting period, we found that all of the 105 traffic stops we reviewed included a check on the license plate. There were 98 stops where the driver or passengers had a warrant check run. In seven cases, there was no explanation provided as to why the deputies failed to perform a check on the drivers. BIO, which conducts monthly inspections of the traffic stop data, identified four out of the seven cases in which a warrant check was not run on the drivers. BIO issued Action Forms in those four cases, requiring that the VSCFs be corrected; however, in the remaining three cases, BIO did not identify the omissions and no Action Forms were issued. We will follow up with MCSO regarding the three additional cases.

MCSO's compliance rate is 100%, and is in compliance with this Subparagraph.

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

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

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

MCSO is 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 cases from the 35 cases we initially requested each month, and requested CAD audio and body-worn camera (BWC) footage for those cases. We listened to CAD dispatch audio recordings, reviewed the CAD printouts, and reviewed body-worn camera recordings for 30 traffic stops from the sample of 105 traffic stops used for this review; and found that the deputies advised Communications of the reason for the stop, location of the stop, license plate, and state of registration for all 30 stops.

For the remaining 75 traffic stops where body-worn camera recordings and CAD audiotapes were not requested, we review the CAD printout and the VSCF to ensure that the reason for the stop has been captured. These forms are included in our monthly sample requests. The dispatcher enters the reason for the stop in the system as soon as the deputy verbally advises Communications of the stop, location, and tag number. The VSCF and the CAD printout documents the time the stop begins and when it is concluded – either by arrest, citation, or warning. Deputies need to be precise when advising dispatch of the reason for the traffic stop, and likewise entering that information on the appropriate forms.

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

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

We did not find any traffic-related events where the stop or end time of the stop differed by more than five minutes between the Vehicle Stop Contact Form and the CAD printout. Some stops vary in time for any number of reasons that may, or may not, be justified. There were 17 extended stops. Seven extended stops involved white drivers, five extended stops involved Black drivers, four extended stops involved Latino drivers, and one extended stop involved an Asian Pacific Islander driver. We reviewed each stop, and found that 16 of the 17 stops had reasonable justification for the additional time expended. For one stop, there was no explanation for the extended stop documented on the VSCF by the deputy or the reviewing supervisor. The one case involved an Asian Pacific Islander male driver. The driver was stopped for speeding. He was issued a citation and released.

Supervisors conducted timely reviews and discussions of 104 of the 105 VSCFs reviewed. Deputies accurately entered beginning and ending times of traffic stops in all of the cases that we reviewed. MCSO accurately entered the time citations and warnings were issued in all 105 cases.

MCSO is in compliance with this Subparagraph.

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

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

We reviewed 105 traffic stops submitted for this Paragraph, and found that none of the stops involved any contacts with ICE/CBP. None of the stops we reviewed involved any inquires as to immigration status. In addition, our reviews of Incident Reports and Arrest Reports conducted as part of the audits for Paragraphs 89 and 101 revealed no immigration status investigations. MCSO is in compliance with this Subparagraph.

Paragraph 54.k. requires MCSO to document whether any individual was asked to consent to a search (and the response), whether a probable-cause search was performed on any individual, or whether a pat-and-frisk search was performed on any individual. There were no cases that met this criteria in our traffic stop sample of 105 traffic stops, so we pulled an additional 30 sample cases from the quarter involving only instances where the deputy indicated a search on the VSCF. In the sample of 30, there was one case that met the criteria specific to searches of individuals. In that case, a Black male driver was stopped for driving with an expired registration. There was a white female passenger. The deputy requested, and was granted, permission to conduct a search of the driver before arresting the driver for driving with a suspended driver's license. In this case, the deputy had the right to search the driver without seeking and obtaining the driver's consent. No contraband was found. The deputy documented the consent search on the VSCF and the BWC video. The remaining 29 cases were not specific to the requirements of this Subparagraph as they involved searches of individuals incident to arrest.

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. During our July and October 2017 site visits, we discussed this issue with MCSO. MCSO reported that deputies have electronic access to the Consent to Search Forms. We recommended 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.

MCSO did not provide a sufficient number of cases of searches of individuals for our review to determine if they were compliant with this Subparagraph. MCSO's compliance with this Subparagraph is deferred.

Paragraph 54.l. requires MCSO to document whether any contraband or evidence was seized from any individual, and the nature of the contraband or evidence. During our review of the collected traffic stop data (our sample of 105) during this reporting period, we noted three cases where the deputies seized a license plate and place it in evidence. These cases involved two Black male drivers and a Black female driver. In one case, involving a white male driver, the deputy seized the driver's license and the vehicle's license plate and placed the items in evidence. In one case, the deputy made a criminal traffic arrest and seized narcotics, narcotic paraphernalia and placed those items in evidence. The case involved a Latino driver. In one case, the deputy failed to document the seizure of the driver's license on the VSCF. The deputy documented the seizure of the driver's license on the citation. The case involved a white male driver.

In the 30 cases we reviewed for searches of individuals, there were four cases involving drivers arrested for driving under the influence in which evidence was seized from the drivers. In one case, the deputy documented on the VSCF that the driver's license was place in evidence. The seizure of the driver's license was also documented on the citation. This stop involved a white male driver. In one case, the deputy documented on the VSCF the seizure of the driver's license. The seizure of the driver's license was also documented on the citation. This case involved a white male driver. In one case, the seizure of the driver's license was documented on the VSCF and the citation. The deputy also seized marijuana from the white male driver in this case. The seizure was documented on the VSCF. In one case, the deputy seized the driver's license of a white male driver. The driver's license was suspended. The seizure was documented on the VSCF and the citation. MCSO is in compliance with this Subparagraph.

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

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

Phase 1: In compliance

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

Phase 2: In compliance

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

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

We visited Districts 2, 3, and 4 and Lake Patrol during our October 2017 site visit; and there were no indications from any personnel that there were recurring issues with the unique identifier, including duplicates. Once the deputy scans the motorist's driver's license, the system automatically populates most of the information into one or more forms required by the Order. If the data cannot be entered into TraCS from the vehicle (due to malfunctioning equipment), policy requires the deputy to enter the written traffic stop data electronically prior to the end of the shift. The start and end times of the traffic stop are now auto-populated into the Vehicle Stop Contact Form from the CAD system.

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

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

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), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- 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 samples we selected. While audits require in-depth analysis, quality control checks serve as more of an inspection or spot-check of the data. We also reviewed the BIO traffic stop audits for the months of July-September 2017, and found that the audits were thorough and captured most deficiencies. During our review of the identical dataset, we identified additional deficiencies, and brought them to the attention of CID while onsite; they are identified in other areas of this report.

We reviewed the draft EIU Operations Manual, which contains procedures for traffic stop data quality assurance. Deficiencies in the draft procedures were documented in a May 30, 2017 memorandum to MCSO. During our October 2017 site visit, we verified that MCSO was addressing the deficiencies documented in our May 30, 2017 memorandum in a revised draft of the EIU Operations Manual.

To expedite MCSO's implementation of a sound quality assurance process, we provided technical assistance in numerous sessions following our April 2017 site visit. These sessions resulted in workable protocols for quality assurance of traffic stop data used in the periodic analyses, as prescribed in Paragraphs 64-67 below. During our October 2017 site visit, MCSO confirmed that it would incorporate detailed information about the quality assurance process into its next revision of the EIU Operations Manual. We also learned that MCSO is now operationalizing the quality assurance process, as it held its first monthly meetings with ASU, the Technology Management Bureau, and EIU in September 2017. The meetings are scripted according to the data quality assurance process, which are centered around Communication of Change Reports that delineate ongoing data issues affecting the data pull for analyses of traffic stop data.

On September 8, 2015, MCSO issued Administrative Broadcast 15-96, which addressed the security of paper traffic stop forms. The procedure requires that paper forms (prior to April 1, 2014) be stored in a locked cabinet box at the District. The protocol also addresses any traffic stop data that may be handwritten by deputies in the field if the TraCS system is nonoperational due to maintenance or lack of connectivity. Any personnel who require access to those files must contact the division commander or his/her designee who will unlock the cabinet. Once the deputy accesses his file, a TraCS file log must be completed and signed by the deputy. During our October 2017 site visit, we inspected the written (hardcopy) files and the TraCS file logs at Districts 2, 3, and 4 and Lake Patrol. We verified that all records were locked and secure, and logs were properly maintained. Only authorized personnel had access to the files.

MCSO began auditing traffic stop data in January 2014; and beginning in April 2014, MCSO has conducted audits of the data monthly and provided those results to us. After the January 2014 audit, MCSO created new forms to collect, by hand, the data required by policy until full electronic data entry began on April 1, 2014. We reviewed BIO's monthly audits of the traffic samples from July 1-September 30, 2017, and found them to be satisfactory. MCSO audits the 105 traffic stop samples we request each reporting period. BIO 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. The approved policy also requires regularly scheduled audits on a monthly, quarterly, and annual basis.

During our October 2017 site visit, we verified that MCSO is incorporating protocols for quality assurance to include in the next draft of the EIU Operations Manual. Until the EIU Operations Manual is completed and approved, MCSO will not achieve Phase 1 compliance with this Paragraph. To achieve Phase 2 compliance with this Paragraph, MCSO must demonstrate ongoing use of procedures for ensuring 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), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GJ-35 (Body-Worn Cameras), 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. For this reporting period, deputies issued citations or written warnings in all 105 cases we reviewed. There were four cases in which the signature of the driver was not obtained on the citation or warning due to a computer or scanner malfunction. In each of the four cases, the deputy noted the issue on the VSCF. In another two cases, the deputies did not obtain the signature of the driver, and there was no explanation for the omission. In one case, a Latino driver was stopped for speeding. The driver was issued a warning and released. The signature field was blank. In one case, a white female driver was stopped for an expired registration. The driver was issued a warning and released. The signature field had the word "SERVED" in place of a signature.

In our review of passenger contacts, Subparagraph 54.g., and searches of individuals, Subparagraph 54.k., and passenger contacts, we identified four cases in which signatures were not on the citation or warning provided. The VSCFs do not contain an explanation as to why the signatures were not scanned. We recommend that deputies document on the VSCFs the reason that a signature was not obtained on a citation or warning. The compliance rate, excluding the four cases in which there was an explanation provided (of the 165 cases reviewed), the compliance rate is 96%. MCSO is in compliance for 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 began reviewing the BWC recordings to determine if stop times indicated by CAD were accurate.

During this reporting period, we reviewed 30 body-worn camera recordings. In one case, the deputy failed to properly position the BWC for approximately the first three minutes of the stop. The video image was dark during that time period. BIO, as part of an inspection of traffic stop data, identified the same issue and a BIO Action Form was issued to the District. In this case, there was audio available for the first portion of the video, which allowed us to verify the stop time to determine if it matches the times indicated on the VSCF or the CAD printout. We continue to note some instances where deputies turned off the BWC during extended stops, and then restarted them. Deputies need to remain attentive to the timely activation and proper placement of the BWCs. The compliance rate for the sample of 30 cases selected from the 105 for using the BWC to determine if deputies are accurately reporting stop length is 100%.

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

Phase 1: In compliance

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

Phase 2: In compliance

To verify compliance for this Paragraph, we reviewed the applicable policies and met with Technology Management Bureau personnel to determine if any unauthorized access to the systems had occurred during 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; and that any violation is subject to fine. No secondary dissemination is allowed. Every new recruit class receives three hours of training on this topic during initial Academy training.

The Chief Information Officer advised during our October 2017 site visit that MCSO had no breaches to their systems. All databases containing specific data identified to an individual comply with federal and state privacy standards, and MCSO limits access to only those employees who are authorized to access the system.

During our October 2017 site visit, the Chief Information Officer advised us that a procedure is in the development stages for PSB to utilize a standard method for submitting requests from the Technology Management Bureau specific to any investigations that may involve unauthorized access to any databases. The anticipated completion time for the procedure is during the next quarter. The Monitoring Team will review the procedure once it has been completed.

We will continue to observe the security issues outlined in Paragraph 58.

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

Phase 1: Not applicable

Phase 2: In compliance

Electronic traffic stop data capture began on April 1, 2014. The forms created by MCSO capture the traffic stop details required by MCSO policy and Paragraphs 25 and 54 of the Order. BIO provided the traffic stop data, which included a spreadsheet of all traffic stops from October 1-December 31, 2015, listing Event Numbers as described at the beginning of Section 7. We then requested a stratified sample from all traffic stops. All marked patrol vehicles used for traffic stops are now equipped with the automated TraCS system, and all Patrol deputies have been trained in TraCS data entry. MCSO has provided full access to all available electronic and written collected data since April 1, 2014. MCSO did not collect electronic data before this time. MCSO has continued to provide full access to the traffic stop data.

b. Electronic Data Entry

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

Phase 1: In compliance

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

Phase 2: In compliance

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

MCSO continues to conduct monthly traffic stop 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 2017 site visit, we met with MCSO and the Parties, and reviewed the deficiencies BIO and our reviews discovered for this reporting period, along with the results of the Action Forms generated by BIO.

We inspected marked vehicles at Districts 2, 3, and 4 and Lake Patrol to verify that MCSO vehicles used to conduct traffic stops on a routine basis are equipped with the ability to input traffic stop data electronically. Due to the size of the fleet, the number of marked and unmarked patrol vehicles fluctuates from month to month. Deputies have demonstrated their ability to access and use TraCS, as evidenced by the fact that their total time on a traffic stop continues to average 15 minutes or less.

c. Audio-Video Recording of Traffic Stops

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

Body-worn cameras were fully implemented and operational in May 2016, and the equipment has worked well. The BWC recordings are stored in a cloud-based system (on evidence.com) that can be easily accessed by supervisors and command personnel. The retention requirement for the recordings is three years.

We verified during our District visits that all Patrol deputies have been issued body-worn cameras. Records indicate that MCSO began distribution of the body-worn cameras on September 14, 2015, and full implementation occurred on May 16, 2016. Every reporting period, we review a printout provided by CID that documents each deputy, by District, who has been issued a BWC.

During our October 2017 site visit, we met with Districts 2, 3, and 4 and Lake Patrol supervisors and commanders; and inquired if Patrol supervisors had experienced any difficulty with the downloading or review of BWC recordings. We learned that there continue to be minor issues with cords breaking and batteries not lasting for deputies' entire shifts. There were also reports of incidents wherein deputies believed that the BWCs were properly activated, but they did not and the traffic stops were not recorded.

MCSO pilot-tested a newer BWC version from the same vendor during the summer of 2017 at Lake Patrol and District 1. MCSO reported that the feedback on the newer system was generally positive. The deputies wore the BWCs on their upper chest area, as opposed to the current wearing of the device on the head area with the use of eyewear or headgear. MCSO also reported that there were some deputies who reported experiencing discomfort and headaches from wearing the BWC in the current manner. In some instances, deputies had obtained notes from their personal physicians requesting that the deputies be exempted from wearing the BWC on their head areas.

MCSO is currently procuring the new BWC for all of its deputies. The new BWC will resolve the current issues of cords breaking and becoming disconnected since there is no cord. MCSO also anticipates that the issues related to battery life will be remedied with the new BWC. We have reviewed videos from the pilot-test and found that the BWC captures a wider view and that the image is sharper than what is being recorded by the current system.

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

Phase 1: In compliance

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

Phase 2: Not in compliance

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

To verify compliance for this Paragraph, we reviewed the body-worn camera recordings included in our monthly samples.

For our selection of a sample to review body-worn camera videos, we used the same sample we select for the CAD audio request. During this reporting period, we reviewed 30 cases where body-worn camera footage was available. Twenty-seven cases were in compliance with the deputy activating the video- and audio-recording equipment as soon as the deputy decided to initiate the stop, and continuing to record through the end of the stop. In one case, the deputy failed to properly position the BWC for approximately the first three minutes of the stop. The video image was dark during that time period. BIO, as part of an inspection of traffic stop data, identified the same issue and an Action Form was issued to the District. In one case, the deputy failed to activate the BWC upon the decision to make a traffic stop. BIO identified the same issue and an Action Form was issued to the District. In one case, a deputy responded to assist on a traffic stop and failed to activate his BWC. BIO identified this issue, as well, and issued an Action Form to the District. We also noted that in our sample of 30 body-worn camera recordings for Paragraph 54.k., 28 cases were in compliance with the deputy activating the video- and audio-recording equipment as soon as the deputy decided to initiate the stop, and continuing to record through the end of the stop. In two cases, there was no video-recording from deputies that responded to assist on traffic stops. In one of those case, the deputy noted on the Assisting Deputy and BWC Log that he thought he had activated his BWC until he noted the absence of the beeping sound from the equipment. The compliance rate for the sample of 60 cases is 92%.

MCSO has already discovered the value of body-worn cameras – including in instances where community members have lodged accusations against deputies and the recordings proved to be invaluable in resolving complaints. We consider body-worn cameras a core issue and encourage MCSO to continue striving for full compliance.

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

Phase 1: In compliance

- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GJ-35 (Body-Worn Cameras), 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 will follow the deputy to his/her new assignment. During our October 2017 site visit, we inspected the traffic stop written data files of Districts 2, 3, and 4 and Lake Patrol; to ensure that hardcopies of traffic stop cases are stored for a minimum of five years. We found that the files were in order and properly secured, and did not note any issues of concern.

d. Review of Traffic Stop Data

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

Phase 1: Not in compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GJ-33 (Significant Operations), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.
- 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 into EIU Operations Manual. To achieve Phase 2 compliance with this Paragraph, MCSO must demonstrate ongoing use of the methodology 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. Paragraphs such as these are at the heart of the Order, as they are intended to look for evidence of racial profiling or other bias-based policing.

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), most recently amended on December 14, 2016.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

MCSO designated the Early Intervention Unit (EIU) as the organizational division responsible for this Paragraph. EIU is to conduct analyses of traffic stop data on a monthly, quarterly, and annual basis to look for warning signs or indicia or possible racial profiling or other improper conduct as prescribed by Paragraph 64. The findings of its analyses must be reported to the Monitor and the Parties. As discussed in in our last quarterly status report, MCSO discovered serious problems with its traffic stop data, which ultimately required a reanalysis of the second annual evaluation. ASU, MCSO's consultant responsible for the annual and other periodic evaluations, completed the reanalysis of the second annual evaluation, which was posted by MCSO on its public website during the week of our October 2017 site visit.

The data problem affecting the annual evaluations of traffic stops also affected the quarterly report. MCSO produced its first quarterly report in March 2017, as required by this Paragraph, but subsequently withdrew it for reanalysis. During our October 2017 site visit, we learned that the re-analysis of the quarterly report was under review by MCSO. MCSO targeted releasing the quarterly report in draft form in November 2017.

MCSO resumed monthly analyses of traffic stop data in May 2017. Monthly analyses had been suspended since May 2016 because of our determination that the process used up to then was seriously flawed. MCSO implemented a new process that was statistically based and not subject to the arbitrary, unscientific method previously employed by MCSO. We note that MCSO's resumption in May 2017 of monthly analyses was a significant accomplishment.

However, during our July site visit, we expressed concern about the number of potential alerts the monthly analysis generated – a concern that MCSO also shared. We suspended the process during our July site visit to give us and EIU time to consider possible refinements to the existing methodology that would result in fewer but more significant alerts for supervisory review. The resumption of the process was further delayed because of the need for technical assistance related to selecting alerts identified in the second annual comprehensive evaluation of traffic stop data. During our October 2017 site visit, we discussed two options to refine the monthly analysis. These options are now being tested with monthly traffic stop data with the aim of resuming monthly analyses before the end of the calendar year. MCSO will achieve compliance with this Paragraph when the periodic analyses involve the consistent use of a statistical methodology designed to identify patterns of deputy behavior at odds with their peers, and data that accurately represents deputy traffic stop behavior over time.

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

Phase 1: In compliance

- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

MCSO has completed two 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 in a report dated May 24, 2016 titled, "Preliminary Yearly Report for the Maricopa County's Sheriff's Office, Years 2014 – 2015." The first annual comprehensive evaluation found that there are individual deputies engaged in racially biased policing when compared to the average behavior of their peers. MCSO released the second annual evaluation in draft on October 24, 2016, which became final on March 1, 2017. However, as discussed in Paragraph 65, the second annual comprehensive evaluation and the first quarterly report had to be withdrawn due to data problems. The revised second annual evaluation is dated July 28, 2017. Our review of the revised second annual evaluation found that there were no significant differences in findings. 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.

MCSO will achieve Phase 2 compliance with this Paragraph when it demonstrates an ability to conduct the annual comprehensive evaluation of traffic stop data in a consistent fashion each year using a statistical methodology supported by the peer-review literature and data that accurately represents deputy traffic stop behavior.

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

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

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

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

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

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

Phase 1: In compliance

- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.

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 misconduct involving traffic stops. As reported in EIU's May 2016 report ("Monthly Document Report Regarding Paragraph # 65, 66, 67, 74"), EIU's process for analyzing traffic stop data for the purposes of setting alerts for deputies potentially engaging in bias-based policing had been suspended to enable EIU to implement new thresholds and the methodology for using them as described in our May 2016 guidance. In a May 16, 2017 memorandum, MCSO reported that all benchmarks were operational at all required levels of analysis and had employed each of them using April 2017 traffic stop data. However, we suspended this process again during our July 2017 site visit due to address problems with the methodology that are described in detail below.

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). MCSO reported in its May 16, 2017 memorandum that the last areas awaiting completion (District-level analysis for benchmarks 67.a. and 67.b.) were completed. Since these three benchmarks are operational, 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). MCSO reported in its May 16, 2017 memorandum that Benchmark 4 became operational on March 1, 2017. Since this benchmark is now operational, 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 draft EIS Project Plan 4.0 reports that this benchmark became operational at the organization and beat levels as of March 10, 2017. 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. According to the draft EIS Project Plan 4.0, Benchmark 6 became operational by manual entry as of December 1, 2016. This is also the case for Benchmark 7. Since the three benchmarks are now operational, MCSO is in compliance with Paragraph 67.c.

Paragraph 67.d. establishes a benchmark pertaining to agency, unit, or deputy noncompliance with the data collection requirements under the First Order (Benchmark 8). This benchmark requires that any cases involving noncompliance with data collection requirements results in an alert in EIS. EIU published an Administrative Broadcast on November 28, 2016 instructing supervisors how to validate data in TraCS in those cases involving duplicate traffic stop records to deliver timely data validation for our review. The 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 a racial or ethnic disparities in passenger contact rates. Benchmark 11 is defined for non-minor traffic stops. The May 16, 2017 memorandum from MCSO reports that Benchmarks 9-11 are operational at the required levels of analysis. Therefore, MCSO is in compliance with Paragraph 67.e.

MCSO has completed operationalizing the benchmarks required by this Paragraph. That said, the monthly analysis that relies on these benchmarks generated a substantial number of alerts in the first two months of its use. The issue is that, collectively, the 11 benchmarks used in the monthly analysis of traffic stop data for May 2017 generate too many alerts (well over 100 a month), most of which lack enough detail to establish a pattern of problematic behavior for the individual deputies flagged by the methodology. We discussed concerns about the large number of alerts during our April and July site visits, as well as during conference calls with MCSO and the Parties in May 2017. We suspended the monthly analysis process during our July 2017 site visit to give us and EIU time to consider possible refinements to the existing methodology that would result in fewer but more significant alerts for supervisory review.

As was stated earlier in Paragraph 65, the resumption of the process was further delayed because of the TSAR technical assistance process. However, during our October 2017 site visit, we made several decisions about reinstating the process. We determined that four benchmarks (Benchmark 3, Benchmark 6, Benchmark 7, and Benchmark 8) should be resumed immediately. During our October 2017 site visit, EIU requested our approval to suspend the use of Benchmark 9 (search rate for traffic stops that is an outlier) added by MCSO under Paragraph 67.e. For many reasons discussed at our October 2017 meeting (e.g., how EIU is refining the coding of search rates that are not affected by an arrest), we agreed that there are too few data to make this Benchmark statistically valid. We requested that EIU formally request permission to suspend its use of this benchmark. We also decided that the refinement of the methodology using the remaining benchmarks will be tested starting with July 2017 data for purposes of exploring changes to the methodology used for these particular benchmarks—we have one proposed option to refine the methodology; EIU has another one. Both options will be tested and discussed before deciding on which option is the most useful for purposes of resuming the monthly analyses using these benchmarks. Until such time that the methodology is refined in a manner that redresses the problem of too many alerts, Phase 2 compliance with Paragraph 67 is deferred.

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

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

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

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

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

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

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

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

Phase 1: In compliance

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

Phase 2: In compliance

MCSO has not conducted a significant operation that met the requirements of the Order since Operation Borderline in December 2014. After learning about a joint operation with Customs and Border Patrol (Operation Gila Monster in October 2016), our review of the documents indicated that this operation did not meet the provisions of this Paragraph.

Our ongoing assessment of Phase 2 compliance rests upon document requests and interviews with District staff and deputies during site visits. CID provides monthly memoranda prepared by District command staff attesting to whether any Significant Operations or immigration-related traffic enforcement fitting the qualifications of the Order occurred within their jurisdiction for the prior month. For the months of July, August, and September, each District, as well as Enforcement Support and Investigations, reported no activity that met the specifications of this Paragraph. Also, during our July and October visits to each District, we staff ranging from captains to sergeants advised us that no such operations or enforcement occurred between July-September.

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

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

MCSO has placed into production all of the planned database interfaces with EIS, inclusive of Investigative Reports (IR), Non-Traffic Contact Forms (NTCF), and Arizona Office of Courts (AOC). The incorporation of this information into EIS provides supervisors with invaluable tools to employ in the oversight responsibility of their subordinates. We continue to work with MCSO to ensure that this information is readily available and comprehensible to supervisors and command staff. For these new interfaces to truly improve supervisory processes within the organization, MCSO will need to modify existing monthly reports/audits/inspections or create new ones. An example of such a modification is Attachment B in GH-5 (Early Identification System). This Attachment was produced during the same period that the 11 benchmarks from Paragraph 67 were added to the monthly alert report. This Attachment allows us to see exactly how supervisory personnel are employing the information provided to them in an alert, to evaluate whether their subordinates are acting within the confines of policy and the Orders. Once all the monthly reports are modified or created, we will be able to comprehensively evaluate whether MCSO is in Phase 2 compliance with the Order for this Paragraph. MCSO has made substantial progress toward these goals as a result of discussions occurring during our October site visit. We will report on these steps more completely in upcoming quarterly status reports.

The Traffic Stop Monthly Reports (TSMR) have been undergoing revision since April 2016. In January 2017, MCSO began producing monthly analyses including some of the 11 benchmarks from Paragraph 67 (disparities in stops for minor offenses, citation rates, immigration investigations, and the like). By April 2017, MCSO had completed the modifications necessary to include all 11 benchmarks in the TSMR, and began sending out alert investigations to supervisors based upon the data from traffic stops going back to January 2017. We became concerned with the increased number of alerts resulting from these benchmarks in the first two months of the TSMR. We initially voiced these concerns during our April site visit, and in subsequent calls with MCSO and the Parties. MCSO had developed a set of decision rules to employ in determining if alerts would be triggered as a result of these benchmarks. However, upon further evaluation it was clear that there was not enough information going to supervisors with these new alerts that would allow them to identify bias or inappropriate conduct even if it existed. During our July site visit, these issues were the focus of several meetings. As a result of these discussions, we advised MCSO to temporarily place a hold on any alerts arising from these benchmarks until a more complete analysis could be conducted. MCSO is currently running a pilot analysis of a new method involving rolling alert thresholds over a three-month period. In addition, during our October site visit, MCSO was allowed to begin sending out alerts for a subset of the 11 benchmarks that are not impacted by this new process. A more complete discussion of these issues is included in Paragraph 67. These alerts represent important mechanisms for supervisors to utilize in evaluating whether the deputies under their command may be engaging in biased or inappropriate activity when interacting with civilians. We will report on the dissemination and investigation of these alerts in subsequent quarterly reports.

Each month, EIU provides a list of all completed alert investigations. From the list, we select 15 cases to evaluate the effectiveness of the supervisory oversight. For the past several reports, we have noted that not all supervisors were using EIS tools to their advantage. As a result, EIU created, and received approval for, Appendix B for GH-5 (Early Identification System) that is attached to all alert investigations. This new appendix is designed to improve the level of information provided by supervisors regarding the investigations they have completed.

The development and inclusion of Attachment B has improved the information sent to supervisors, as well as resulting in better investigations and descriptions of activities being provided by supervisors. More importantly, we have observed that command personnel are commenting on the actions of line supervisors and requesting additional information or actions that require supervisors to amend their previous reports. MCSO forwards both the original Attachment B and any amended attachments that are produced. These represent significant improvements from what was occurring six months ago. However, we continue to receive a small number of alert investigations that are closed without sufficient information provided, or where the closure type of "no further action" was questionable. We have raised these latter issues with EIU either through memoranda or during site visit meetings. Two instances, one each from July and August, involved alerts arising from TSMR alerts triggered as a result of February 2017 traffic stop data. In each instance, there were questions about the conclusions of the supervisors and the tone of the response by the supervisors. During our October site visit, EIU addressed each of these investigations, and reported that the individual supervisors were apprised of the problems with their responses during the EIS training conducted in September. Additionally, all supervisors going through the EIS training learned how to properly investigate future alerts based upon TSMR analyses. This training should alleviate such problems in the future. We will continue to randomly review these investigations. In addition, we found two investigations in the September 2017 report, deposited for review in November 2017, that resulted in a request for clarification. The first of these involved "no further action" following external complaints, while the latter was referred to PSB for further investigation. We will address the response to these questions in our next quarterly status report. We also found two more instances included in the September report that showed that command staff are scrutinizing these reports and requesting clarifications when they find them to be inadequate.

BIO has routinely conducted inspections and audits of supervisory use of EIS and related Patrol activity information. When supervisors fail to use these tools appropriately, BIO has sent out Action Forms to the appropriate District command staff for review and action, typically resulting in counseling of supervisors. In May 2017, BIO and EIU personnel automated the transmission and response of the Action Forms within Blue Team. The automation of these has improved the efficiency and transparency of this process. During our October site visit, we discussed several ways that MCSO could create or modify existing reports to improve the transparency of how command staff are responding to the various Action Forms. BIO will be proposing these new alternatives, and we will evaluate the sufficiency of the proposal.

The Traffic Stop Review Inspection and Traffic Stop Discussion Inspection Reports from July, August, and September show that Districts 2, 3, 4, 5 and 7 identified supervisors who did not meet the 72-hour review requirement of VSCF forms, or who failed to discuss these stops with their subordinates within 30 days from the date of the stop. Even with these deficiencies, the organizational compliance rate for the Review inspection exceeded 95% for both months, while the organizational compliance rate for the Discussion inspection dropped from 96% in May 2017 to 77% in June 2017, and rose again to over 95% in both July and August. During our October site visit, we addressed these dramatic fluctuations with BIO personnel. They noted that the 26 instances of the failure to discuss the traffic stops in the June report resulted from three relatively new supervisors who conducted the required discussions with their subordinates, as noted in their respective Supervisory Notes, but had approved all of their discussions with a single key stroke, as a group, rather than approving each stop individually. Each supervisor was counseled by his/her respective lieutenant about the proper procedure (Administrative Broadcast 16-56) to be utilized in the future.

In a separate inspection of Traffic Stop Data, BIO conducts a simultaneous review of the randomly selected cases we choose as part of our monthly review of traffic stops. In July, BIO found deficiencies in three of the 35 cases it reviewed. The deficiencies were for failure to conduct a warrant check by a deputy, failure to activate the BWC at the time of a decision to make a traffic stop (both from District 4), and failure to identify post-stop ethnicity of passengers (District 7). The two instances from District 4 were handled by the supervisor counseling the deputy on the proper procedures to be taken during traffic stops. In the issue found in District 7, the deputy noted that his view of the passengers was obstructed and he could not ascertain the race of the passengers. However, upon review of the BWC footage, the BIO inspector notes that the passengers were removed from the vehicle and are clearly visible. During our October site visit, MCSO advised us that the deputy in District 7 had exhibited several deficiencies that violated MCSO policy, and his case was therefore referred to PSB for further investigation. This investigation is not yet complete, but we will comment on it in future quarterly status reports. The August and September Traffic Data Inspections show compliance rates in the low eightieth percentile, but involved deficiencies of warrant checks or improper code usage which were addressed through supervisory meetings with the deputy. With the automation of the BIO Action Forms, District staff appear to have responded to such deficiencies in timely fashion. We will evaluate whether the deficiency trends change following the completion of all SRELE and EIS training.

The Shift Roster Inspection Reports from July through September showed that MCSO had a compliance rate exceeding 99%, but the reports still included eight instances where Action Forms were sent to several Districts as individual supervisors had failed to complete the form in a timely fashion. BIO personnel stated that the return forms from July showed that these supervisors were individually counseled about time management and the need to complete all paperwork before the end of their shift. In its July Supervisory Note inspection, BIO inspected the notes of a sample of supervisors from across each District, and found 11 deficiencies in Districts 2, 3 and 4. These deficiencies ranged from failure to document two BWC reviews to insufficient performance appraisals by supervisors of their subordinates. The latter deficiencies included both sergeants and lieutenants. BIO sent out four Action Forms as a result, and received replies from the Districts stating that the particular supervisors were counseled by their respective captains to complete all required evaluations in a timely fashion as detailed in MCSO policy. The compliance rate for the organization as a whole dipped down to 86% in July from a previous high of 97% in March. The compliance rate in the August inspection went back up to 99%. BIO notes that these issues were to be covered in detail during the Supervisory Training conducted in August and September 2017. We will evaluate the effect this has on compliance in future quarterly status reports. Moreover, the tracking of these deficiencies should be improved when MCSO finalizes and implements a new inspection on BIO Action Forms that is currently underway. This will afford BIO the ability to accumulate a history of Action Forms by District and supervisory personnel.

MCSO also provided documentation in August of a supervisor who initiated an investigation of his subordinate following the review of body-worn camera footage as required by MCSO policy. The initial review by the sergeant suggested that the deputy did not accept as valid the presentation of a Mexican driver's license by a Latino civilian and therefore towed the person's vehicle. The sergeant discussed this with the deputy and another District supervisor. The deputy was apprised of MCSO policies on the towing of vehicles and traffic enforcement, as well as the state law on the validity of out-of-state drivers' licenses. The supervisor concludes his transmittal to EIU indicating that he believes the issue can be rectified with additional training and oversight by supervisory personnel. The supervisor in this case utilized EIS resources and properly initiated an action for EIU review.

MCSO also brought to our attention the final disposition of a case that began with the examination of BWC footage. In October 2016, a deputy conducted a questionable stop. The initial reason for the contact was not evident in the video footage; and once the stop was initiated, the deputy failed to notify supervisors of an identity investigation involving a Latino civilian, enlisted an unqualified person to interpret for him, and improperly completed and completed his traffic stop/tow documentation. As a result, the deputy was given a 32-hour suspension.

MCSO, and its personnel, are more actively using EIS tools, including BWC, to respond to and discover instances of problematic/bias behavior on the part of their deputies. We will continue to follow the disposition of this and similar cases as they arise.

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), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- EB-2 (Traffic Stop Data Collection), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

During this reporting period, MCSO, working with the Parties, drafted a strategy to address some of the systemic issues identified in the first two Traffic Stop Annual Reports (TSARs). MCSO identified nine goals, which are detailed in the Maricopa County Sheriff's Office Plan to Promote Constitutional Policing. The Plaintiffs and Plaintiff-Intervenors stipulated as to the contents of the plan; and the Court issued an Order in October 2017, approving the plan. The plan contains several action items with deadlines in the fourth quarter of 2017 and beyond. The Monitoring Team will assess the results of the initiatives listed in the Plan to Promote Constitutional Policing as part of our reviews relative to Paragraph 70. As part of that assessment, we have requested information pertaining to the items listed in the nine goals of the plan. We will begin reporting our findings in our next quarterly status report.

The most recent version of GH-5 (Early Identification System) clarifies how supervisors are to handle alert investigations and includes a template (Attachment B) that makes the process and requirements much more consistent and transparent. Additionally, the policy describes how a supervisor can set a "discretionary" alert based upon behavior s/he observes which has not yet triggered an official alert. MCSO began delivering SRELE and EIS training to supervisors in August and September 2017. During our October site visit, MCSO informed us that all but four supervisors had completed the SRELE training, and that two-thirds of the supervisors had completed EIS training. All supervisors were scheduled to complete this training by November 4, 2017. The feedback from MCSO regarding the training during our October site visit was largely positive. However, supervisors also described how they would improve the training in the future by providing more "hands-on" scenarios and detailed instructor-student communication opportunities in subsequent training processes. MCSO also noted that in the future, there would be less need to provide a comprehensive historical review of EIS since supervisors will have had sufficient experience with the system. We also heard from supervisors during District visits that a portion of the material presented appeared dated since they had been using the EIS system over the last year. Also, EIU is currently developing another draft of the EIU Operations Manual. An important feature of the manual is the memorialization of an ongoing "data quality" workgroup that meets on a monthly basis to discuss any changes/issues that may be occurring with the data being employed for the monthly, quarterly, and annual analyses. We have requested that MCSO provide the notes from these meetings each month so that we can ensure that the workgroup is anticipating any issues that might impact the quality of data for future reports.

The data quality workgroup was largely established due to the discovery and rectification of data-handling mishaps that had occurred in the creation of data used for the analysis of the Second Annual Traffic Stop Report (2015-2016). As anomalies in the results arose, MCSO discovered that the current method of drawing and passing data from one unit within MCSO to another and finally turning this data over to the ASU contractor for analysis was not sufficiently rigorous to ensure that all persons or units handling the data were advised of any changes that a prior unit might have made. Once these discoveries were made in March and April 2017, MCSO developed a more thorough and complete process of data-handling. As a result, the Second Annual Traffic Report was not completed until July 28, 2017. With the new data quality practices in place, and the memorialization of these in the EIU Operations Manual, we believe such problems will be minimized in the future.

For this Paragraph, the most important conclusions of the Second Report continue to be the finding of indications of possible bias by individual deputies and the potential for systemic biases across MCSO's traffic enforcement activities. We have noted the change in language from potential organizational bias in the First Annual Report to potential systemic bias within traffic enforcement in the Second Annual Report. While the nomenclature has changed, the same problems remain within MCSO. As a result, MCSO, ASU, the Plaintiffs' attorneys, the Plaintiff-Intervenors, and we have been working to develop intervention processes that will effectively reach individual deputies who appear as outliers in the Second Annual Report. MCSO has pilot-tested these strategies with two different subgroups of deputies appearing in the outlier group. Upon evaluation of all the materials produced during these pilot periods, we collectively found that the strategies developed were insufficient to achieve the desired outcome of mitigating past and future bias activities by deputies. In some instances, we found that supervisors spent too much time trying to refute the findings in the Second Annual Report; and in others, they determined that there were no actions that needed to be taken. Neither result was deemed appropriate, given the information provided to supervisory personnel. As a result, we collectively developed a third approach that provided supervisors with findings of disparate citation, warning, or arrest rates by race; and required them to conduct a thorough investigation of the source materials while EIU personnel shadowed this same process themselves. More importantly, both command staff and EIU will be involved in the discussions that occur between supervisors and their subordinates who have been found to be outliers. Finally, each supervisor will be required to develop an action plan for their respective deputy that must be approved by command and EIU personnel. This process will take several months. We will report on the outcome of this third attempt in future quarterly status reports.

We have also been collectively working with MCSO to refine the TSMR analysis that yields monthly alerts for deputies whose traffic stops indicate potential bias in a shorter timeframe. The TSMR was paused for nearly one year – May 2016 to April 2017 – while we investigated several alternative strategies to operationalize the benchmarks for Paragraph 67. MCSO reintroduced these alerts into the May, June, and July monthly alert reports. However, it became apparent after this brief period that there was insufficient data for supervisors to conduct meaningful investigations of their subordinates. We suspended the Paragraph 67 benchmarks again during our July site visit meetings. Subsequently, both we and MCSO developed new methods of accumulating information that is adequate for supervisors to conduct these alert investigations. The most significant change, developed by MCSO and approved by us, was to use a three-month rolling process of information regarding these benchmarks. MCSO is pilot-testing these processes at present, and we will evaluate the outcome as this information becomes available. We will describe this process more completely in future quarterly status reports. MCSO continues to send out alerts for a variety of other behaviors – use of force, unexcused absences, and the like – in its monthly reports. We have noted some improvement in the discussion of supervisors in the return documents. This is largely due to the creation of standard templates developed by MCSO that supervisors must complete and convey to command personnel.

We have also noted, in Paragraph 69, that command staff are now regularly returning these documents to supervisors for additional review when they find them to be inadequate. In our review of these monthly closed, alerts we have raised questions about the adequacy of a few two cases. When our concerns are brought to the attention of MCSO, they produce more complete documentation that addresses the issues that were raised. The process for alert investigations has become much more thorough than existed in the past. We anticipate that once all supervisors have completed the SRELE and EIS training the alert investigation process will yield better actions on the part of the organization to instances of individual deputy actions that appear to violate MCSO policy.

MCSO also brought to our attention in July the final disposition of a discipline process emanating from the questionable stop, processing and tow of a vehicle involving a Latino driver. The original event occurred in October 2016, and the case was closed in June 2017. The deputy received a 32-hour suspension for failing to follow MCSO policy on language interpretation, notification of supervision regarding an identity investigation, inadequate documentation of investigation, and improper towing procedures.

While we have noted some improvement in the alert investigation documents we have received, we remain concerned that supervisors are not finding and reporting more problematic/biased behavior independent of the analyses conducted by EIU. With the anticipated completion of SRELE and EIS training, we will continue to evaluate the sufficiency of supervisory oversight by examining Supervisory Notes, self-initiated alert investigations, and the completion of EIU-generated alert investigations.

During this reporting period, MCSO, working with the Parties, drafted a strategy to address some of the systemic issues identified in the first two Traffic Stop Annual Reports (TSARs). MCSO identified nine goals, which are detailed in the Maricopa County Sheriff's Plan to Promote Constitutional Policing. The Plaintiffs and Plaintiff-Intervenors stipulated as to the contents of the plan, and the Court issued an Order in October 2017, approving the plan. The Plan contains several action items with deadlines in the fourth quarter of 2017 and beyond. The Monitoring Team will be assessing the results of the initiatives listed in the plan to Promote Constitutional Policing as part of our reviews relative to Paragraph 70. As part of that assessment, we have requested information pertaining to the items listed in the nine goals of the plan. We will begin reporting our findings in our next report.

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

Phase 1: Not applicable

Phase 2: In compliance

MCSO has provided us with access to all existing data from monthly to annual reports, as well as inspections and audits. Due the transfer of personnel from CID, we experienced a delay in inspections and audits being posted in a timely fashion on the BIO website for August and September; however, MCSO has since remedied this oversight, and those materials have now become available. MCSO has also worked collectively with the Parties and us to modify and improve data-handling and supervisory processes related to the monthly, quarterly, and annual analyses of traffic data.

The Second Annual Traffic Stop Report (July 1, 2015-June 30, 2016) was originally delayed and republished in July 2017 due to problems uncovered with data-handling processes in February and March 2017 that impacted the data analyses for the report. MCSO quickly advised all parties of the discrepancy and worked diligently to overcome these problems. In addition, MCSO created, with our approval, a data quality control process involving all units or contractors who pull, add to or analyze traffic data. MCSO now routinely conducts monthly meetings involving units that pull and handle the data so that all parties are aware of any changes that may have occurred. This information is also being memorialized and shared with us and the contractor responsible for conducting data analyses for MCSO. The processes being employed to ensure data quality will also be memorialized in the next draft of the EIU Operations Manual. We and the Parties have been provided earlier drafts of the manual, and commented on changes we collectively believe will mitigate any future data issues. We will evaluate the sufficiency of the manual in upcoming quarterly status reports. At present, MCSO appears to be actively pursuing the elimination of data problems that may impact the agency's ability to publish analytic reports in a timely fashion. During our October 2017 site visit, we discussed the methodologies to be used for the Third Annual Traffic Stop report, and MCSO provided a written proposal for review.

In addition, we, MCSO, and the Parties have been evaluating the Monthly Traffic Stop Reports that are a part of a larger alert report produced by EIU. As noted in prior Paragraphs, we had suspended alert investigations stemming from the benchmarks of Paragraph 67 due to the arbitrary way the thresholds had been constructed. Once reinstituted in April/May 2017, we found that the information being relayed to supervisors was insufficient for them to evaluate whether their subordinates' behavior was problematic or biased. The transmission of alerts based off of the TSMR was again suspended in July 2017. Subsequently, we and MCSO devised methods to improve the ability of supervisors' reviews and respond to alerts stemming from the TSMR. MCSO is now testing these processes and will report on the findings. We will evaluate this in future quarterly status reports.

Finally, we, MCSO and the Parties have discussed the appropriate use of quarterly traffic stop reports. Rather than repeating analyses of either the monthly or annual reports, we have collectively agreed that the quarterly reports should be used as opportunities to conduct unique investigations of traffic data. We and MCSO have proposed four investigations to be undertaken during 2018. Once this is schedule is finalized, we will discuss the details in our subsequent quarterly reports.

MCSO is making strides to improve the quality and quantity of data available to review the actions of their employees. MCSO has shared this information with us as expected under this Paragraph.

Section 8: Early Identification System (EIS)

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

a. Development and Implementation of the EIS

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

MCSO continues to make advances in the implementation and use of the Early Identification System. During our October 2017 site visit meeting, MCSO advised us that – except for a small number of supervisors who were on leave – the SRELE and EIS training would be completed by the agreed upon target date. We, the Parties, and MCSO have been working to refine data-handling processes, develop adequate supervisory responses to both monthly and annual traffic stop analysis, and ensure the access and use of EIS tools by all field supervisors. As of July 2017, MCSO had implemented three additional database interfaces for Incident Reports (IRs), Non-Traffic Contact Forms (NTCFs), and Administrative Office of Courts (AOC) records. The linking of these remote databases with EIS affords supervisors the opportunity see all measures of deputy activity required by Paragraph 75 without having to search multiple data platforms or request assistance from other organizational units. The incremental nature of such a large undertaking will always lead to scrutiny and modifications as time goes on; however, MCSO has worked diligently with us and the Parties to address any issues that have arisen.

As noted in the last quarterly report, MCSO discovered a data anomaly in early 2017 that called into question the results for the Second Traffic Stop Annual Report. While these issues were surmountable, they delayed processes like training and supervisor interventions that were dependent upon its publication. However, the discovery of these issues also prompted MCSO to accept our suggestions to develop a more comprehensive data-handling system. As a result, MCSO has now formed a data quality committee, which includes members from each unit that pulls or modifies the data before it is used to conduct any analytic functions. Through monthly meetings and collaboration, this committee created a data quality assurance protocol that will be included in the EIU Operations Manual. We and the Parties have had the opportunity to comment on earlier drafts of the manual and we will fully evaluate the manual in future quarterly status reports when it is published.

More importantly, the correction to the data and publication of the Second Traffic Stop Annual Report has resulted in the creation of processes for supervisors to act upon the findings that some deputies may engaging in biased or problematic behavior with civilians. It has also prompted MCSO to develop its organizational Plan to Promote Constitutional Policing. The supervisory intervention process is meant to address those deputies who appear as outliers in statistical analyses in comparison to their peers for a variety of traffic-related activities from citation rates to seizures. MCSO, the Parties, and we have been working on this process since October 2016. MCSO has run two small-scale pilot supervisor intervention projects and all Parties have participated in the evaluation of their success. Each pilot project was lacking in some fundamental way: from requiring supervisors to understand complex statistical comparisons to allowing individual supervisors to be dismissive of the process. As a result, we have collectively modified and created templates and processes to minimize the requirements of individual supervisors and incorporated more persons in the chain of command. We will evaluate the success of these modifications in future quarterly status reports, but we are impressed by the resources and effort MCSO has expended in these efforts.

MCSO is also working with us to modify the monthly traffic stop report, which is a portion of the larger monthly alert process that addresses topics ranging from firearms deployment to unscheduled absences. We have requested the suspension of the TSMR on two occasions because we believed the original process was not grounded in accepted law enforcement practices, and the second did not provide sufficient information for supervisors to uncover whether deputies might be acting in biased ways. However, these setbacks have yielded a new process that MCSO is now pilot-testing with existing data. Additionally, MCSO is developing a proposal for the quarterly analysis that will afford statistical investigation of issues or topics that are beyond the scope of the current annual or monthly traffic reports.

EIU and BIO have automated, in Blue Team, alerts and Action Forms that may indicate behavior of concern regarding individual deputies and their supervisors. EIU has already developed a monthly reporting system of alerts that it continues to modify as the need arises. BIO is proposing to coordinate a similar tracking system for Action Forms related to supervisory oversight. Combined, these tools provide wide-ranging insight into the operation of the organization as whole.

For example, the EIS system automatically generated 240 alerts in July and 183 alerts in August. However, after initial processing by EIU personnel, only 104 and 29 of these alerts, respectively, were sent to supervisors for further investigation. Moreover, 57 of the 104 alerts for July arose from the TSMR – which, as noted above, is being revised to ensure that supervisors have adequate material to review. The two-step process – automatic generation and human review of alerts – is documented in policy and the early drafts of the EIU Operations Manual. It affords oversight of behavior that may be problematic, but reduces the impact of investigation resources by immediate supervisors because of the review of EIU personnel.

BIO Action Forms, on the other hand, require BIO personnel to evaluate a variety of supervisory activities including: review of deputy traffic stops within 72 hours; Supervisory Note inspections looking for BWC review; performance notes per deputy; and bi-monthly review of EIS data for subordinates. While all of the information is captured in the EIS database, it requires a BIO review to ascertain whether all of these activities fall within policy requirements of MCSO. BIO produces dozens of audits and inspections each month and sends out Action Forms to appropriate command staff. What lacks in this process is a clear reporting and accountability mechanism. BIO is working on a proposal to track persistent deficiency patterns, whether they occur at the District or individual level. As an example, in July, BIO published the TraCS "Discussion" and TraCS "Review" Inspection Reports, with compliance rates of 77% and 99% respectively. The "Review" report yielded two BIO Action Forms, and the "Discuss" report resulted in five BIO Action Forms. The "Review" report showed deficiencies in Districts 4 and 7; while the "Discuss" report showed problems in Districts 4 and 5. However, because there is no cumulative report, it is more difficult to ascertain whether this points to a problem with a particular supervisor or District. It turns out, after review with BIO personnel, that some sergeants in District 4 approved, in bulk, discussions of traffic stops they had with their respective deputies. While against policy, the remedy for the problem in District 4 is better training for supervisory personnel and appears less onerous than the 77% compliance rate suggests. Coordinating the dissemination and return of these forms will improve the accountability of each District and the organization as a whole. We will discuss the developments in these areas in future quarterly status reports.

We remain concerned about the data problems that gave rise to the delay of publication of the annual report and supervisory investigations/discussions that result from them. However, we are encouraged by the way in which MCSO has been forthcoming with these issues and worked with us to overcome them. We will continue to evaluate all data and policy processes related to this Paragraph as they are established or revised.

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 March 24, 2017.

Phase 2: In compliance

The EIU is a fully functioning unit. A lieutenant coordinates the unit, with three sergeants working on investigations, one analyst, and one administrative staff member under the auspices of BIO. Due to promotions, the coordination of EIU may change hands, but MCSO has put into place an effective mentoring process to alleviate any missteps given the fundamental nature of this unit.

EIU staff continues to conduct data analysis using data they have compiled from sources across the organization – including CAD, RMS, Blue Team, TraCS, EIPro, and others. EIU has overseen the development of the interfaces for IR, NTCF, and AOC data into EIS. All interfaces were placed in production, following testing, in July 2017. While certain information pertaining to Paragraph 75 requirements (training history, for example), continue to require manual entry by EIU personnel, they remain proficient and up-to-date on these processes.

Following the discovery of data issues that impacted the results of the Second Traffic Stop Annual Report, EIU began coordinating a data quality committee that includes all units responsible for data access and manipulation. The committee is developing a protocol for handling data that the Parties, Plaintiff-Intervenors, and we will comment on as it becomes available. This protocol will be included in the EIU Operations Manual. EIU is also coordinating the refinement of the Traffic Stop Monthly Report to ensure that adequate information is being provided to supervisors when they receive an alert for their deputies. Finally, EIU has been instrumental in spearheading the pilot-tests of supervisory discussion processes stemming from the annual report. While the first two pilot-tests were deemed inadequate, EIU is enacting a process that is less dependent on the investigation of individual supervisors and much more inclusive of command personnel. We will evaluate each of these in turn as results become available.

EIU continues to be a well-functioning unit facing tremendous demands and limited resources, and appears to rise to the level required to create and maintain accountable data and supervisory processes.

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 March 24, 2017.

Phase 2: Not in compliance

During the first few years of EIU creation and operation, we repeatedly noted that much of what EIU personnel had created was qualitative and not grounded in prevailing theory or analytic rigor. As a result, MCSO began to incrementally develop changes to policy, training, and database interfaces that were spelled out in the EIS Project Plan that was first created in October 2016. After meeting most of the target dates in the four versions of the Project Plan, EIU drafted the first EIU Operations Manual in April 2017. Following a comment period, EIU created the next draft in September 2017. Given the progress made between the first and second drafts, we are hopeful that the manual will be published shortly.

The Operations Manual lays out the responsibilities of EIU and the thresholds and benchmarks to be used in the analyses of TraCS data. Most importantly, the manual now includes a section on data quality protocols. As noted in earlier Paragraphs, EIU discovered that due to miscommunication between units that handled the data, there were problems impacting the results reported in the Second TSAR. If these new processes are followed, we believe it is less likely that MCSO will face similar data anomalies in the future. In addition, we are being provided access to the notes emanating from the monthly meetings of the data-quality subcommittee. The confluence of these changes should make data-handling, thresholds, and alert investigation processes much more transparent. EIU has also developed a set of templates for both annual and monthly alert investigations that improves the accountability of individual supervisors and command staff in determining whether interventions are necessary.

We will evaluate each process or document as they become operational. MCSO will have to publish the manual to achieve Phase 2 compliance with this Paragraph.

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

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

MCSO has made great strides toward the operationalization and use of data outlined in this Paragraph to fully implement the EIS system. This includes the interfaces of IR, NTCF, and AOC data – which were all placed into production by July 2017. MCSO is currently working on the expansion of the HUB (Cornerstone) software to replace E-learning and E-Policy programs related to Subparagraph 75.m. However, since the HUB will not communicate directly with EIS, MCSO is planning to develop an additional interface in the future. Until that time, EIU personnel continue to manually enter training information for each deputy to maintain a system that is up-to-date. MCSO also began training supervisors in supervisory (SRELE) and EIS responsibilities in August 2017; and anticipates the completion of these objectives as agreed to in prior Court filings.

EIU is also developing a comprehensive Operations Manual that incorporates significant lessons learned from October 2016-May 2017 as a result of projects and goals contained in the EIS Project Plan (versions 1 through 4). As noted in prior Paragraphs, this manual outlines the responsibilities of EIU; as well as the thresholds and benchmarks for the data and methodologies for the monthly, quarterly, and annual analyses. Due to the discovery of data issues relating to the miscommunication between units handling data and syntax that impacted monthly and annual analyses, MCSO also created a data-quality committee to oversee the creation and transmission of future datasets. MCSO will provide us with the notes from this committee's monthly meetings so that we can be kept apprised of any future problems that need to be addressed. The manual is currently undergoing a third revision and should be available for review by early January 2018. We are optimistic that MCSO has, or will, deal effectively and quickly with the collection, analysis and processes dependent upon the data for this Paragraph.

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.

EIU and PSB worked closely with their vendor, CI Technologies, during 2016-2017 to provide access to both open and closed complaint cases. Summaries of closed complaint cases and documents have been viewable by supervisors since July 2016. Open cases were more complex, as PSB had to develop protocols to ensure that any parties involved in the complaint could not view the summaries for those cases. Open case synopses became viewable in February 2017. PSB prepares the case summaries for view in IAPro. The two PSB personnel responsible for creating these summaries and access levels developed a set of rules to follow in the construction of these case summaries. During our April, July, and October site visit meetings, we viewed examples of these summaries; and found them to be complete, consistent, and effective in describing the underlying cases. We developed a new monthly document request to receive a random sample of these cases for review. PSB has also committed to specifying these rules and protocols in their Operations Manual, set to be released in draft form in January 2018. EIU continues to coordinate this process with PSB. During our July and October site visits, we noted that individual supervisors were able to access and easily interpret the summaries provided in IAPro.

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 complaints, internal investigation summaries also appear in the IAPro system. Closed complaints and documents have been viewable by supervisors for deputies under their command since July 2016, and open complaint summaries have been viewable since February 2017. As outlined above, PSB uses a standard set of protocols to develop the case summaries and access to internal complaints. PSB is currently working on the creation of an operations manual that will specify the rules to create case summaries. We reviewed examples of these summaries during our April, July, and October site visits; and found them to be thorough, clear, and consistent. We have also discussed with District supervisors their ability to access these case summaries for their subordinates. These supervisors have found that the summaries to provide sufficient information to understand the issues in both open and closed cases. We developed a new document request to receive a random sample of open and closed case summaries as viewed by supervisors on a monthly basis. We will address our evaluation of these in upcoming quarterly status reports.

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." In Paragraph 54, we describe how MCSO created several electronic forms to capture all relevant data related to traffic stops: Vehicle Stop Contact Forms and Supplemental Sheets, the Incidental Contact Receipt, and the Written Warning/Repair Order. MCSO keeps us apprised of the changes made to these forms through a monthly update, as well as during our site visits. In this way, we can view, in person, any changes that might be of significance. For instance, MCSO has created a drop-down menu to explain why a stop might be extended rather than allow a narrative format. We found this new drop-down menu to be a significant improvement. In addition, MCSO is proposing to change the way it captures search information that may occur during a traffic stop. MCSO has also operationalized the benchmarks for Paragraph 67; however, due to issues relevant to the sufficiency of information for supervisor review, we had temporarily suspended the dissemination of alerts to supervisors emanating from the TSMR. MCSO is currently testing a new procedure that we will evaluate once we are provided with more information. Until such time as these processes are finalized, MCSO will not achieve Phase 2 compliance with this Subparagraph.

For patrol activity, MCSO has placed into production the interfaces for IRs and NTCFs. Supervisors can easily access this information; and if additional information is necessary, the supervisors can go to those databases to acquire that material. We have observed the ability of District supervisors to access and explain the IR and NTCF information available in EIS. BIO already routinely audits Incident Reports and evaluates the sufficiency of these materials. We have requested that they develop a similar audit process for Non-Traffic Contact Forms. MCSO is developing a proposal to create a quarterly – rather than monthly – audit, due to the low number of NTCF events. We will evaluate these processes as MCSO develops them. In our discussions with command and supervisory personnel in the Districts (1, 2, and 4 and Lake) during our recent site visits, they have elaborated how they check IRs and other reporting mechanisms (patrol logs, field interviews, and body-worn camera recordings of civilian interactions) to ensure that their subordinates are conducting their activities according to training and policy.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.d. requires that the database include "all criminal proceedings initiated, as well as all civil or administrative claims filed with, and all civil lawsuits served upon, the County and/or its Deputies or agents, resulting from MCSO Patrol Operations or the actions of MCSO Patrol Operation Personnel." The Legal Liaison Section of MCSO currently evaluates and enters this information in EIS. Deputies are required to self-report any negative contacts they may experience with other agencies and can be disciplined for failure to do so. According to the thresholds included in the EIU Operations Manual, any two instances of said proceedings, contact, or claims within a rolling six-month period would result in a flag requiring a supervisor to investigate. Supervisors have demonstrated the ability to access this information during our July and October site visits.

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. Therefore, EIU, the Technology Management Bureau, and CI Technologies had to create an interface between the Jail Management System and EIS. Following extensive pilot-testing and the correction of communication problems, the interface became operational on July 1, 2017. During our visits to Districts 3 and 4 in July and October, supervisors demonstrated that they were able to access this field and review all arrests made by their subordinates. We and BIO already conduct routine audits involving probable cause included in IR documents.

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." EIU already captures this information through Incident Report Memorialization. Supervisors have the ability to memorialize these occurrences in one of two ways. First, a supervisor must check the IR reports for their deputies and sign off on their review by the end of the shift in which they occur. Second, if a court or prosecutor turns down a case due to lack of probable cause that was not found by the immediate supervisor, the supervisor is notified and the case is reviewed again and memorialized in an IR. These notes exist in Blue Team as Supervisory Notes pertaining to particular deputies under their purview. Additionally, the current version of EIPro allows supervisors to search relevant fields for key words and phrases when conducting their review of subordinates EIS profiles. BIO also conducts quarterly audits of Incident Reports. In the first and second quarters of 2017, the audits found no instances where cases were turned down due to a lack of probable cause. However, following the second quarter audit, BIO sent out 18 BIO Action Forms as a result of its review. Several of the deficiencies were due to the IR not being submitted or reviewed within policy timelines. Several more involved the failure of deputies to note the use/nonuse (and why) of their body-worn cameras, and two resulted from deputies' failure to notify their respective supervisors of an identity investigation. We will follow up with BIO regarding the outcome of these Action Forms. BIO found that of the 122 IRs included in the audit, the compliance rate was 99%. Since this Paragraph is specific to a lack of probable cause, we find MCSO is in compliance. Other actions by courts or prosecutors to decline or refuse prosecution are discussed in Subparagraph 75.i., below.

MCSO is in compliance with this Subparagraph.

Paragraph 75.g. requires that the database include "all arrests in which the individual was released from custody without formal charges being sought." 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. MCSO pilot-tested the interfaces for IR and NTCF data. These interfaces became operational prior to July 1, 2017; and MCSO demonstrated them during our July and October site visits. Up to this point, EIU had been manually entering this data; and the availability of this information to supervisors has been confirmed during our July and October site visits. We also found, as a result of inquiries during visits to the Districts, that individual supervisors have access to this information. We will continue to verify the ability of individual supervisors to view and search this information.

MCSO is in compliance with this Subparagraph.

Paragraph 75.h. requires that the database include "all Investigatory Stops, detentions, and/or searches, including those found by the Monitor, an MCSO supervisor, court or prosecutor to be unsupported by reasonable suspicion of/or probable cause to believe a crime had been committed, as required by law." If the incident does not involve a traffic stop, it should be documented in an Incident Report, which is scanned into FILEBOUND. While the FILEBOUND system does not communicate with EIS, MCSO – with the assistance of CI Technologies – created database interfaces for data from Incident Reports and Non-Traffic Contact Form documents. These interfaces have been pilot-tested and became operational prior to July 1, 2017. In addition, BIO conducts quarterly audits of Incident Reports, and found during the second quarter of 2017 that all IRs reviewed had "reasonable suspicion or probable cause for all investigative detentions, traffic and field contacts, searches and asset seizure, and forfeiture efforts."

MCSO reissued EA-3 (Non-Traffic Contact) on June 1, 2017. 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. MCSO is exploring additional ways to differentiate the types of searches that may occur during traffic stops. When approved, this will go into production and be reported upon in future quarterly status reports. Searches occurring within activities resulting in an Incident Report will be captured under Subparagraph 75.e., and NTCF searches fall under this Subparagraph. These interfaces were automated prior to July 1, 2017. MCSO is currently creating a proposal to include NTCF activities in the Incident Report audit noted above, or create a new audit covering only NTCF activities. We will evaluate this proposal as it becomes available. Following its introduction, we will verify that supervisors have the ability to search this field during our future site visits.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.i. requires that the database include "all instances in which MCSO is informed by a prosecuting authority or a court that a decision to decline prosecution or to dismiss charges, and if available, the reason for such decision." As noted in past quarterly status reports, some of these already exist in the database. In particular, cases involving the Maricopa County Superior Court have been available under "County Attorney Actions." Should a case be returned to the agency without prosecution, the arresting deputy and his/her immediate supervisor are notified; and supervisors are required to review these cases and make an entry in Blue Team. Command staff at the Districts also have the ability to view these entries for all persons under their command. These returned cases also include a designation of why prosecution was denied. These reasons range from "no likelihood of conviction" to "dismissal on motion of prosecution/defense." In its July and August County Attorney Action Reports, BIO inspectors evaluated a 10% sample of all dismissals; and found that there were no deficiencies that violated MCSO policy, including of a lack of probable cause.

MCSO had also been working with the Maricopa County Justice Court and other courts that report to the Arizona Office of the Courts (AOC). MCSO gained access to the data from these Courts involving employees of MCSO dating back to January 1, 2017. The interface for these data was pilot-tested and placed into production prior to July 2017. BIO has incorporated these data into the monthly County Attorney Turndown Inspection for July and August. The findings outlined above also cover the cases from AOC jurisdictions.

During our July and October site visits, BIO personnel showed several of these cases to us; and we were satisfied that the dismissed cases were not turned down for lack of probable cause, and usually involved diversion opportunities, a recommendation that another prosecuting agency should review the case, or the immediate case was being used to prosecute related cases. We have routinely requested a subset of turndown cases for fuller review, and have been satisfied with MCSO's conclusions. We will continue to evaluate these cases and the accessibility of this information to supervisors in the future.

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. MCSO has revised its policies to now include "coaching" in GH-5 (Early Identification System) as non-disciplinary action (see Subparagraph 75.k. below). The current version of EIPro also allows supervisors to search for the disciplinary history of their employees in EIS. Moreover, EIU produces a monthly alert report for Paragraphs 70, 71, 75, and 81. Tables 7 and 8 of this report indicate what types of dispositions occur for the current month's alerts, as well as those that remained open/pending from prior months. The vast majority of investigations result in "no further action" or "meeting with a supervisor." We have noted our concern about the thoroughness of supervisor alert investigations in the past. MCSO developed Attachment (B) to GH-5 to promote more complete investigations by supervisory personnel. We have noted a dramatic improvement in the discussions provided by supervisors, but each month we inquire about the sufficiency of investigations or descriptions in a few alert investigations we review. EIU follows up on these, but they rarely result in discipline. We have raised the issue of confirmation bias with EIU, who in turn included this as part of the EIS and SRELE lesson plans. We will continue to evaluate this material as it is produced each month to determine if the completion of training impacts the outcome of future cases.

Finally, we received confirmation of a 32-hour suspension of a deputy emanating from an October 2016 traffic stop. The stop involved a Latino civilian who did not speak English. The deputy received a suspension for failing to seek out a qualified interpreter during the stop, the failure to notify his supervisor of an identity investigation, and the improper completion of traffic and tow forms. We believe that a case such as this could be used as an effective training scenario to promote the thorough review of BWC footage by supervisors.

MCSO is in compliance with this Subparagraph.

Paragraph 75.k. requires that the database include "all non-disciplinary corrective action required of employees." Supervisory Notes and bi-monthly reviews of a deputy's performance are used by MCSO to fulfill this Paragraph. Furthermore, the monthly alert report described in the prior Subparagraph delineates what actions supervisors may have taken following an alert investigation. Supervisory Notes are searchable in the current version of EIPro through the use of key words or phrases. These notes reflect the supervisors' evaluation of a deputy's activity or a communication between a supervisor and their subordinate. Supervisory Notes also elaborate on briefings or training that supervisors may engage in with their squad.

In the July-September alert reports, Table 9 presents a breakdown of the disposition of investigations begun in the prior month. This table is more instructive than Table 8, since Table 8 is limited to investigations begun in the current month; and there may not have been enough time for supervisors to process the investigation. Table 9 indicates that of the 218 investigations begun in the preceding month, for this three-month period, 34 investigations were concluded with "no further action" while 13 resulted in a "discussion with a supervisor" and three were referred to PSB for further investigation. The remainder (168) remained open at the end of the reporting period. Our own examination of alert investigations finds that, for the most part, supervisors are justified in closing with no additional action necessary on their part. However, of the smaller group of cases resulting in the documentation of a supervisor meeting, several could have involved training or ride-along recommendations. Among non-disciplinary actions and the fact that few cases involve recurring deficiencies, it really remains a judgment call on the part of the supervisor. We remain concerned, however, that in the absence of an alert investigation prompted by EIU, there are very few instances where supervisors note corrective actions against their subordinates. We note one exception that occurred in July and resulted in a supervisor-initiated investigation. In this instance, the supervisor noted two anomalies in his review of BWC recordings for a deputy under his command: unwillingness to accept an out-of-state driver's license; and the tow of a vehicle as the result. The driver of this vehicle was Latino. The supervisor concludes that he believes this is a training issue for the deputy and engaged the deputy in some coaching. We will follow up on this case to determine if any further action has occurred. We are hopeful that with the completion of EIS and Supervisory Training, we will observe more supervisors taking active roles like that evidenced in the previous example. BIO also conducts inspections of Supervisory Notes looking for BWC review, review of Bi-monthly EIS data and performance notes for a deputy. As noted previously, we have observed fluctuating trends for this report. In July, the overall compliance was 86% resulting in four BIO Action Forms; while in August, the overall compliance rate was 99%, resulting in two BIO Action Forms.

MCSO is not in compliance with this Subparagraph.

Paragraph 75.l. requires that the database include "all awards and commendations received by employees." The EIU has completed its work with the Compliance Division and revised the awards policy. MCSO published GC-13 (Awards) on August 27, 2016. With this publication, EIU created categories for awards or commendations within EIS. With the introduction of the newest version of EIPro, these fields are also searchable by supervisors. During our July and October 2017 site visits, MCSO demonstrated updated award and commendation entries. In addition, during our visits to District substations, MCSO personnel demonstrated how supervisors are conducting regular reviews of their subordinates' EIS data.

MCSO is in compliance with this Subparagraph.

Paragraph 75.m. requires that the database include the "[t]raining history for each employee." MCSO uses a Skills Manager System (SMS) that is operated by the Training Division. According to the Technology Management Bureau, the SMS will not communicate with EIS. EIU took the initiative to retrieve the training history of deputies from SMS and enter them into EIS manually. EIU started this process, beginning with the training that began on October 1, 2016. EIU entered this data dating back to January 1, 2016 for all deputies. The introduction of the newest version of EIPro has also made this field searchable. During both our July and October 2017 site visits, EIU confirmed that the training information continues to be brought up-to-date each month.

MCSO has also begun using the HUB (Cornerstone) software system to take the place of E-Learning and E-Policy software systems. This software, however, does not communicate with EIS directly. MCSO is planning to develop a new interface once all of the issues with the software are addressed. In the meantime, we are satisfied with the manual entry of training history by EIU personnel.

MCSO is in compliance with this Subparagraph.

Paragraph 75.n. requires that the database include "bi-monthly Supervisory observations of each employee." Currently, the supervisors memorialize their meetings with employees in Supervisory Notes in Blue Team. The current version of EIPro allows supervisors to conduct searches of this field. MCSO demonstrated this ability during site visit meetings in both July and October 2017. BIO conducts an inspection of Supervisory Notes; one indicator BIO searches for are the bi-monthly notes of each employee. In its July and August inspection reports, BIO notes that the compliance rate for the two-note requirement was 84% and 100% respectively. Such fluctuations are indicative of what we have observed over time. We are hopeful that the SRELE and EIS training will reinforce the need of supervisors to remain up-to-date on their EIS entry responsibilities.

We will continue to evaluate these trends in subsequent quarterly status reports.

MCSO is not in compliance with this Subparagraph.

MCSO is making progress toward the development of a functioning relational database that is used consistently by MCSO personnel. With the operationalization of interfaces for Incident Reports, Non-Traffic Contact Forms and the Arizona Office of the Courts, 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 Court Order – most significantly with traffic data. We have also indicated several ways in which MCSO is proposing to track non-traffic actions of subordinates. The progress they have made is laudable. However, it is now up to the supervisors to actually use these tools to promote more effective and efficient law enforcement practices in the community. We are optimistic that supervisory compliance rates, as indicated by the high compliance rates in the August BIO inspections, may indicate a positive trend at the same time training is taking place. We will evaluate if supervisors are using the EIS tools more consistently in future quarterly evaluations.

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), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: In compliance

For traffic stops, MCSO meets these requirements in several ways. First, MCSO has incrementally created mandatory fields that deputies must complete before the form can be closed. This has dramatically reduced the amount of missing or erroneous data that impacted the first annual traffic stop analysis. Second, EIU has instituted a quality check process of VSCFs; that is, supervisors are required to review all traffic stops within three days before the form goes into the EIS database. Third, BIO conducts traffic stop data inspections and evaluates whether the deputy and civilian information matches the BWC and license and warrant checks. In both August and September, the overall compliance rate was 83% and 80% respectively. However, there were only two failures to run warrant checks in August and one in September. In the July inspection, the compliance rate is slightly higher, at 91%, but there was one deputy who failed to identify the post-stop ethnicity of two passengers, even though the BWC shows he had them exit the vehicle. According to BIO, this deputy had several other deficiencies and the case was forwarded to PSB. Since each month, 35 traffic stops are randomly selected, the failure of two deputies to collect the necessary information does not put MCSO out of compliance for this Paragraph.

Beginning in the summer of 2016, MCSO began to work on incorporating patrol data into EIS. The creation of an EIS Project Plan in October 2016 produced target dates for completion of these tasks. In May and June 2017, the final interfaces of data were included in EIS. These included Subparagraph 75.e.g. (all arrests in differing contexts), 75.h. (investigatory stops), and 75.i. (AOC court information). During our July and October site visits, MCSO demonstrated these fields. In addition, supervisors in the Districts demonstrated to us how they could view all of the information in EIS, including the name and race of persons stopped or involved in a non-traffic incident. MCSO must still memorialize several activities relevant to this Paragraph in the EIU Operations Manual. MCSO must also devise a plan – like the plan for traffic data – to audit patrol data. However, the data are currently operational in EIS; and therefore, MCSO is in Phase 2 compliance with this Paragraph.

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

Phase 1: Not applicable

Phase 2: In compliance

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

MCSO's Technology Management Bureau has regularly maintained an adequate supply of back-up equipment for distributing the Districts. Since the end of 2015, we have found that all marked patrol vehicles were properly equipped with TraCS equipment. MCSO has also ensured that if unmarked vehicles may be used for traffic enforcement that they must also be equipped properly. MCSO has 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 sub-station 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 2017 visits to Districts 4 and 7 and Lake Patrol, we spot-checked squad and detective cars. We found that they had functioning TraCS equipment, and each District office had available computers for any occurrence of system failures with vehicle equipment. Lake District command staff also advised that MCSO had upgraded the bandwidth in the area that improved connectivity, but problems persist in some zones and during certain weather conditions. The captain also noted that Lake had been part of the pilot program testing new body-worn camera options. The issue of connectivity was not addressed, but there were no cord issues that plagued the earlier cameras used. The only noted downside of the new cameras was that with the central body location of the camera will likely not capture the reason for the stop, since it will be blocked by the steering wheel for most average sized deputies.

At present, the technology and equipment available in the agency meets the requirements of the Order.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

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 for purposes of aggregate statistical analyses. These statements meet the requirements of the Order.

During our April 2017 site visit meeting on restricted database access, the Deputy Chief of the Technology Management Bureau informed us that, in preparation for an FBI audit of the system in February, the bureau found that there were, in fact, two instances of data breaches that had not been brought to the attention of Technology Management Bureau staff. These incidents occurred in 2011 and 2015, and involved employees improperly using NCIC for personal purposes. When these breaches were discovered by District or investigative personnel, Incident Reports were written and approved, but no one notified Technology Management Bureau personnel of these events. One employee was eventually prosecuted, and the other was dismissed from the agency. Since that time, the Technology Management Bureau has been developing a memorandum to address the deficiencies exposed as a result of these incidents. The memorandum is intended to inform all units across the agency that if any incident involving the security of any database occurs, they are required to contact the Technology Management Bureau, in addition to any other entity as prescribed by the type of data breach. Due to changes in leadership in the Technology Management Bureau, the memorandum has not yet been drafted. During our October site visit with Technology Management Bureau personnel, we discussed several issues that the memorandum should address. On November 6, 2017, MCSO published the operating procedure for System Log Audit Requests that became effective on November 30, 2017. The procedure outlines how PSB personnel will notify the Technology 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; and it met all of the concerns voiced since the February 2017 discovery mentioned above.

As our discussion of Subparagraphs 75. a. and b. suggests, the security of personal information is paramount to MCSO. In developing the summaries for complaints and internal investigations, PSB and EIU have collectively ensured that access levels are limited to immediate supervisors and command staff to maintain the integrity of ongoing investigations. PSB, following the development of the summaries, determines who may be a principal in an ongoing investigation and sets the access levels accordingly. The summaries are then entered into EIS so that immediate supervisors and command staff may view them as part of their oversight responsibilities. Should a supervisor be involved in any ongoing complaint, s/he would not be able to view the summary. PSB has the ability to modify access at any time during an investigation should such circumstances dictate a change. Assurance of the integrity and security of the data system is of primary concern for MCSO.

Finally, following the discovery of data problems that were discussed thoroughly in prior Paragraphs (64-67 and 70-71), MCSO created a working group to ensure that the data quality used to conduct statistical analyses. This committee meets on a monthly basis to discuss any changes or modifications to the process of pulling data or to the data itself. While the security of the data was never a concern arising from the data issues that have occurred, this committee is tasked with maintaining the integrity of the data so that it can be employed in all future analyses. EIU has produced two drafts of the EIU Operations Manual, which will include the protocols developed by this committee to ensure the comprehensiveness and quality of the data. When finalized we will evaluate the manual for this and other Paragraphs. Since neither the memorandum anticipated from the Technology Management Bureau nor the EIU Operations Manual supersedes the security requirements of GH-5, MCSO is in compliance with this Paragraph.

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

Phase 1: In compliance

- GH-5 (Early Identification System), most recently amended on March 24, 2017.

Phase 2: Not in compliance

MCSO completed the operationalization of three interfaces linking remote databases for Incident Reports, Non-Traffic Contact Forms, and Arizona Office of Courts case outcomes and turndowns with the EIS database in July 2017. This greatly improved access to traffic and patrol data for review by supervisors. However, due to issues raised below, MCSO is continuing to refine the accumulation and availability of Paragraph 67 benchmarks for supervisors. The monthly alert report produced by EIU continues to be an invaluable tool for supervisors. The inclusion of the monthly traffic stop analysis will add significant information to this report once the refinements are finalized. BIO is also developing a proposal to create, or modify, existing inspection reports to include the tracking of BIO Action Forms, as well as NTCF. With the introduction of AOC case information to EIS, BIO has already modified the County Attorney Turndown Inspection Report to include a review of these cases. We will evaluate the Phase 2 compliance of MCSO for this Paragraph once the TSMR and NTCF issues are finalized.

EIU continues to enter training information (Paragraph 75.m.) manually each month as the current Skills Manager System (SMS) does not communicate directly with EIS. This information is up-to-date as of our October 2017 site visit. MCSO is implementing the HUB (Cornerstone) to eventually take the place of the E-Learning and E-Policy systems. During our July and October site visits, the Training and Technology Management Bureau representatives stated they were planning to develop an interface with EIS once the transition to the HUB (Cornerstone) is complete. Given the ability of EIU to enter this information manually into EIS, the interface is not a requirement for compliance.

MCSO has been working to include Paragraph 67 benchmarks in the monthly EIU alert report since May 2016 when they were initially suspended because they lacked analytic or professional foundations. MCSO began introducing the Paragraph 67 benchmark analysis into the monthly alert report in April/May 2017 using data from January and February. However, as we and MCSO began reviewing the alert materials and outcomes, we concluded that there was insufficient information for supervisors to determine whether the deputies under their command were acting in a biased or inappropriate fashion. Rather than inundate supervisors with investigations based upon insufficient material, we advised MCSO to place the TSMR alerts on hold in July 2017. The data for TSMR alerts from August 2017 to the present continues to be stored in EIS and will be used to determine if investigations need to be sent to supervisors once the appropriate protocol is developed. We and MCSO developed optional methods to provide the necessary material to supervisors. MCSO is currently testing the method and we will report on this in future quarterly status reports.

EIU and BIO continue to pull together data to conduct audits and analyses of deputy and supervisor activity. Both units have automated aspects of the alert and Action Form processes using Blue Team for transmission of information to and from the Districts. EIU has also created a supervisor checklist – Attachment B of GH-5 (Early Identification System) – due to the fact that return alert investigations were inconsistent. Automating Attachment B has resulted in more thorough investigations by the supervisors assigned them. While we still receive a few alert investigations per month that lack sufficient detail, we have noted that command staff are taking a more active role in the review process and have routinely returned incomplete reports to supervisors for additional processing. EIU has also developed a regular notification process to ensure that investigations do not get overlooked or fall through the cracks. BIO has not yet created a monthly report format to track Action Forms. During our site visit in October 2017, we discussed the options at length with BIO personnel. The purpose of tracking these forms is to uncover patterns by deficiencies, supervisors, Districts, and time to closure. We will evaluate the sufficiency of this proposal and pilot-tests in future quarterly status reports. BIO is also working on how to conduct inspections of NTCF events now that the interface has been completed. During our most recent site visit, we discussed whether these could be added to the existing Incident Report Inspection Report. BIO will evaluate this option and notify us with a proposal.

The creation of more automated processes has made the activity of BIO more transparent. However, as noted above, we continue to find in the monthly reports and document requests of both units that supervisors have not yet fully embraced the tools available to them. Some supervisors do not add sufficient information to their alert investigations for a reader to determine what information they referenced and processes they completed during their review. BIO inspections of Review, Discuss, and Supervisory Notes show dramatic fluctuations in compliance. Some of this is due to the addition of new supervisory personnel across the organization. We anticipate that with the completion of SRELE and EIS training, we should see changes in the compliance rates in the future. That and the ability of BIO to more precisely track where Action Form deficiencies occur could lead to substantial improvements. We will report on these issues as they arise.

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 March 24, 2017.

Phase 2: Not in compliance

MCSO had scheduled EIS and SRELE training to be delivered in early August, even before all training materials for these programs had been completely approved. From May 2017 through our July site visit, we conducted conference calls and meetings surrounding both curricula since they are meant to complement one another and be delivered in succession. EIU steadfastly affirmed the need to train employees to the basics of EIS, since there had been no in-person training for EIS in the past. Additionally, EIU included multiple scenario-based components to the training to ensure that supervisors would see how to take the concepts of the training into the field. During our October site visit, MCSO advised us that only four supervisors had yet to undergo SRELE training due to being on leave. Over two-thirds (397 of 585) of supervisors had completed the EIS training as of our October site visit. During District meetings, supervisors informed us that both curricula (EIS and SRELE) provided information that they had not been aware of; however, they also suggested that the basic nature of the EIS training seemed rudimentary given that everyone has over two years' experience with the system.

In our next quarterly status report, we will provide additional information about the completion of both EIS and SRELE training. Since this report covers the period of July to September 2017, MCSO is not in compliance with this Paragraph.

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 March 24, 2017.

Phase 2: Not in compliance

EIU and BIO produce monthly/quarterly analyses, audits and inspections pertinent to this Paragraph. EIU has conducted monthly traffic stop analysis for two years. The goal of the analyses is to look for behavior that is outside the norm so that supervisors might investigate whether any underlying bias or behavioral issues account for the variation. However, in the beginning, we were critical that the analyses was not based upon any scientific or professional foundations and appeared to be largely, qualitatively, rooted in personal opinion. The analyses conducted by EIU have improved over time. Yet, we have recommended on two different occasions that EIU discontinue sending alerts out based upon these analyses to supervisors. The first, in May 2016, was to allow EIU to develop more statistically grounded methods to derive the benchmarks from Paragraph 67. EIU completed this process in March 2017 and began introducing this analysis into the monthly alert report in April 2017. As we reviewed these alerts, and the outcomes received from supervisors, we and MCSO became concerned that the traffic analysis alerts contained insufficient information for supervisors to conclude what might underlie the behavior of interest. Therefore, the second suspension of alert activity, in July 2017, was to develop methods/procedures that would produce more meaningful information for supervisors to evaluate. MCSO is currently pilot-testing a new process that we will evaluate when it is provided to us.

BIO also produces inspections and reports of supervisor activity. When BIO discovers a deficiency, an Action Form is transmitted to the relevant command staff via Blue Team and is returned to BIO in the same way. This is a dramatic improvement over the old email system. However, while automated, BIO does not have a reporting mechanism that shows the potential repetitive nature of Action Forms, the frequency of Forms to specific supervisors or Districts, or the closing time of Forms. BIO is now working on a proposal to develop a routine report to satisfy each of these concerns. We will evaluate this proposal and pilot-tests as they become available.

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. EIU continues to conduct the monthly analyses, but is holding the results in EIS until the new methods for alert thresholds are approved.

During the production of the first quarterly report MCSO, realized that a key measure of deputy assignment used in both the quarterly and annual analyses was seriously flawed. As a result all production on the quarterly analyses stopped and all efforts were put into finding an appropriate solution to the data problems that existed. After some pilot-testing, MCSO completed the Second TSAR (July 1, 2015-June 30 2016) on July 28, 2017. We, the Parties, and MCSO have subsequently been developing processes for supervisors to intervene with those deputies found to be outliers in the analysis. Following two unsuccessful pilot projects, we have collectively developed a third strategy that is less dependent on individual supervisors and draws into the deputy-supervisor discussion a representative of EIU as well as command staff. We will evaluate these processes more completely in future quarterly status reports. MCSO has also proposed a number of special analytic topics to be conducted on a quarterly basis during 2018. When these projects are finally approved, we will elaborate on the goals and outcome of each.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.b. requires that MCSO's EIS protocols include "identification of warning signs or other indicia of possible misconduct." The publication of GH-5 (Early Identification System), on March 24, 2017, provides significant direction for employees and supervisors alike to understand what type of behaviors will be viewed as problematic. Both the annual and monthly traffic analyses were focused on identifying deputies who deviated significantly from the norm for activities like citation or warning rates, arrests, or searches/seizures based upon the race/ethnicity of the driver or passengers. While the annual analyses encountered problems that caused delays in publication, and the monthly traffic alerts have been suspended as new methods, described in 81.a., are being explored, we remain confident that MCSO is working diligently to meet the requirements of the Order.

EIU has also recently modified TraCS to include a pull-down menu of reasons a traffic stop may be lengthened. We believe this will make future analysis much more accessible. The old method of having deputies fill in a free-form column describing why a traffic stop was extended yielded far too many differences that could not be easily condensed. EIU is also proposing to create a similar process for searches conducted during traffic stops, as there appear to be some confusion among deputies regarding how to categorize these. We will report on these modifications in the future.

BIO also conducts monthly inspections of Traffic Stop Data, comparing information from CAD to the VSCF and comparing both of these to footage from BWCs. While these inspections typically yield an 80-90% compliance rate (July, 91%; August, 80%; and September, 83%), the major findings usually consist of a failure to activate cameras, incorrect codes, or failure to run a warrant check. However, in the July report, BIO personnel reported that as they were reviewing the BWC and VSCF of a deputy in District 7, they found that the deputy indicated he could not identify two passengers' race or ethnicity because of an obstruction. Yet, while viewing the video, BIO observed that the deputy had the passengers exit the vehicle, at which time it was clear that they were Latino. This resulted in the initiation of a PSB investigation. We will follow up on this case in future reports.

We will continue to evaluate the reports of both EIU and BIO pertaining to this Paragraph, as well as discuss these issues with supervisors in the field.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.c. requires that MCSO's EIS protocols include "MCSO Commander and Supervisor review, on a regular basis, but not less than bimonthly, of EIS reports regarding each officer under the Commander or Supervisor's direct command and, at least quarterly, broader, pattern-based reports." BIO included the bi-monthly review of EIS data to the monthly "Supervisory Note Inspection Report" in January 2017. In July, the overall compliance rate for the Supervisory Note inspection was 86%. One measure of the inspection captures whether supervisors make two independent notes on deputy activity per month; in July, only 84% had the required two entries. Another bi-monthly measure of supervisor activity is whether they review EIS data for each deputy. In July, the compliance rate was 80%. The majority of deficiencies in July occurred in District 3 by a lieutenant supervising deputies. During our October site visit, BIO indicated that the lieutenant was temporarily filling an unexpected gap in manpower and had not completed all of the functions necessary of a line-level supervisor. In August, the overall compliance rate was 99% for the Supervisory Note inspection. BIO has not yet provided the Supervisory Note inspection for September. These reports typically are produced within weeks of end of a calendar month. We will include a reference to the September inspection, along with the ensuing three-month period in our next report. However, in the future, if we do not receive our requested documents in a timely fashion, we will deem MCSO to be not in compliance for the time periods we are missing.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.d. requires that MCSO's EIS protocols include "a requirement that MCSO Commanders and Supervisors initiate, implement and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS." MCSO published GH-5 (Early Identification System) on March 24, 2017. Most significant for this Paragraph is the development of Appendix B, "Early Identification Alert Response Form," to this policy. This form provides a template for supervisors to follow while conducting an alert investigation. This form requires the supervisor to note when an intervention is enacted and what the outcome of the intervention was. This form will be saved within EIS and can be searched and tracked for future reference. Out of all alert cases closed each month, we randomly select 15 for closer examination. Our review of these alerts shows that most supervisors have completed Appendix B as expected. More importantly, we are now seeing command staff actively intervene when they find that an investigation or description appears to insufficient. They return the documents through Blue Team and specify what more needs to be done. During July and August, we found five such instances, whereas none had occurred in the prior quarter. However, as it pertains to this Paragraph, EIU informed us during our October site visit that there have been no interventions beyond "discussion with a supervisor" and "coaching."

We have received information regarding two cases in July that were referred to PSB or resulted in a supervisor-sponsored alert: the first was found during a BIO review of Traffic Data and the second was reported by an immediate supervisor. Both cases involved Latino civilians. However, as those cases are ongoing, there is no immediate intervention to track. We will continue to evaluate the implementation of Appendix B and the introduction of any proposal for tracking interventions in future quarterly status reports.

MCSO is not in compliance with the Subparagraph.

Paragraph 81.e. requires MCSO's EIS protocols include "identification of a range of intervention options to facilitate an effective response to suspected or identified problems. In any case where a Supervisor believes a Deputy may be engaging in racial profiling, unlawful detentions or arrests, or improper enforcement of Immigration-Related Laws or the early warning protocol is triggered, MCSO shall notify the Monitor and Plaintiffs and take reasonable steps to investigate and closely monitor the situation, and take corrective action to remedy the issue. Interventions may include but are not limited to counseling, Training, Supervisor ride-alongs, ordering changes in practice or procedure, changing duty assignments, Discipline, or other supervised, monitored, and documented action plans and strategies designed to modify activity. All interventions will be documented in writing and entered into the automated system."

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. In July, August, and September we found five instances where command staff returned the investigation to the immediate supervisor, asking for further investigation or a more thorough description of what they had done during the original investigation. This is a significant improvement over the previous quarter. Additionally, the number of inadequate investigations that have not been caught by command personnel has gone down to one case per month during this reporting period. Each of these observations suggest that the creation of the template, Attachment B, by EIU has made the process easier for supervisors to complete. The only actions taken by supervisors up to this point include "discussions" with a subordinate or "coaching." In fact, EIU advised us during our October site visit that there have been no interventions falling under GH-5 that have resulted in the need for a follow-up period or involvement beyond the supervisors' immediate actions.

GH-5 (Early Identification System) requires that each incident of potential bias-related contact or immigration-related inquiry result in an alert investigation. In July, August, and September, there were no reported immigration inquiries noted in the monthly reports.

In response to our ongoing request for documentation on identity investigations undertaken by MCSO employees, we received two cases in September and one in July. The July case involved a credit card theft and forgery investigation conducted by patrol. An arrest was made for the theft and forgery counts. One of the September incidents involved a traffic stop where the driver, with a suspended driver's license, provided a false name to the deputy. After some time, the civilian correctly identified himself, and the deputy found there was an outstanding warrant. The subject was taken into custody for the warrant and issued citations for the traffic stop. The second September incident involved a traffic accident in which one driver did not have his license on him, but provided truthful information to the deputy. The driver was cited and released. None of these cases required additional follow-up.

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." MCSO took this into account in GH-5 (Early Identification System), which was published on March 24, 2017. EIU also meets the requirements of this Subparagraph by using "geographic peers" in the analysis of traffic stop data. This means that when a comparison of traffic stops is made within a District, it will only involve deputies who made similar stops in the same geographic District. MCSO is also revising an earlier draft of the EIU Operations Manual, which includes the consideration of an employee's assignment in the setting of thresholds.

Following the publication of the Second TSAR, we, MCSO, and the Parties began to hold conference calls and in-person meetings to discuss how to proceed with intervention discussions with deputies who had been found to be outliers due to citation or warning rates, arrests, or searches/seizures by race or ethnicity. Following several months of document creation, we collectively believed we had developed an effective process that would allow supervisors to conduct investigations of the underlying materials provided to them and subsequently engage in a discussion with the deputy about what they had found. The first pilot group of deputies was chosen by MCSO. The results were largely negative, as supervisors appeared to do a cursory review of the materials and suggested no interventions were necessary. Our review of the deputies selected by MCSO was that they were not strong candidates to be included in the pilot group. As a group, we gathered again and evaluated over 30 deputies who were considered outliers on at least one dimension described above in the annual analysis. We selected what were believed to be seven strong candidates for the second pilot study. Upon return of the materials, we again noted lack of investigative rigor, despite supervisors' claims that they worked hours in preparation for the discussion with their subordinates. Once again, no interventions were recommended.

For the third and final set of 23 deputies, we modified the process dramatically. Now both EIU and supervisors will create an evaluation of the background materials. The supervisor's background investigation will be checked against that of EIU to ensure that they are on the right track. Most importantly, EIU and command staff will be present during the supervisory discussion with the deputy. Moreover, rather than leave the decision of an Action Plan to the supervisor, there is a mandate that some plan must be put into place. The Action Plan will be devised following a debriefing with all supervisors and command personnel who witnessed the supervisory discussion. Finally, the supervisory discussion will be videotaped. MCSO, the Parties, and we have expended an enormous amount of time and resources to create an effective intervention process. We will evaluate the outcome of these efforts in the months to come.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.g. requires that MCSO's EIS protocols include "a process for prompt review by MCSO Commanders and Supervisors of the EIS records of all Deputies upon transfer to their supervision or command." MCSO has noted the need for a prompt review in both the "Supervisor Responsibilities" and "Command Staff Responsibilities" sections of GH-5 (Early Identification System). Our interviews with supervisors of Districts 3 and 7 during July 2017, and District 4 and Lake in October indicate that command personnel were aware of this requirement and that they typically look up EIS data as soon as they are given access. Both the District 3 Captain and a lieutenant also noted that they typically have a discussion with the prior immediate supervisor of anyone transferring to their command. The Lake District Captain stated that he typically review the EIS material of a transferee within the first week s/he is transferred. EIU has also incorporated these requirements into the proposed EIS and Supervisory Training that began in August 2017.

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." Over the past year, EIU has repeatedly proposed modifications to existing practices to improve effectiveness. This began with creating mandatory fields on Vehicle Stop Contact Forms to reduce missing or erroneous data. As noted above, they continue to explore ways to improve the data on which all supervisory review or intervention will occur. In addition, EIU has created and modified Attachment B to GH-5 (Early Identification System) to overcome the fact that supervisors were not effectively conducting alert investigations. Since the introduction of this Attachment in April 2017, we have noted fewer inadequate reports making it through the chain of command. In fact, we have noted that in this reporting period, there were five instances where command staff reviewed the investigations or discussion of line supervisors and sent the investigations back for further review or clarification. We had only found this occur once previously. Moreover, EIU has committed to becoming more actively involved in the supervisory discussion process emanating from the Second TSAR. They will conduct an independent audit of all 23 deputies' historical materials and check their findings against those of the immediate supervisor. In addition, EIU will be participating in the supervisory discussion along with command personnel and the immediate supervisor. We believe that these actions demonstrate the commitment MCSO has shown to improving the quality of law enforcement and supervision within the organization.

BIO also conducts audits of a wide range of supervisory activities ranging from Supervisory Notes to Incident Reports to the Review and Discussion of traffic stops for their subordinates. We have discussed repeatedly the fluctuating results reported by BIO. During some months, we see compliance rates in the high ninetieth percentile; and in other months they fall below the eightieth percentile, with little indication of what may be causing such dramatic shifts. When such deficiencies are found, BIO sends out Action Forms to the Districts asking for their intervention and feedback. BIO automated these forms in April 2017 in Blue Team. However, in our discussions with BIO personnel, they were not able to show how these deficiencies may relate to one another. BIO is now preparing a proposal for a monthly report that would track Action Reports by supervisor, District, deficiency and time to closure to see if any patterns might arise. BIO, like EIU, is attempting to improve the level of compliance across the agency through the creation of new reporting processes. We will evaluate the progress made in subsequent quarterly reports.

MCSO is not in compliance with this Subparagraph.

Paragraph 81.i. requires that MCSO's EIS protocols include "mechanisms to ensure monitored and secure access to the EIS to ensure the integrity, proper use, and appropriate confidentiality of the data." MCSO has addressed the security and integrity of data in GH-5 (Early Identification System), as well as instituted facility inspections throughout the Districts – including the security of terminals, access to information, and mobile displays. Further, we regularly inspect facilities during our site visits. During our July and October visits to Districts 1, 3, and 4 and Lake Patrol, each District maintained the security of paper VSCFs in a locked file cabinet.

MCSO is in compliance with this Subparagraph.

MCSO is meeting some requirements of Paragraph 81. For instance, MCSO has demonstrated how the agency evaluates the supervisory use of EIS tools provided; the fact that supervisors can easily search fields within EIS; and the ability of EIU and BIO to conduct monthly analyses on existing data. MCSO has, however, had to suspend for a second time the alerts generated by the TSMR. MCSO is currently testing a methodology that may provide sufficient information for supervisors to conduct traffic alert investigations. In addition, the initial two attempts to conduct supervisory discussions with deputies who were found to be outliers in the Second TSAR were largely unsuccessful. Yet, MCSO along with us and the Parties have continued to develop modifications to the documents, orientation and process to arrive at a more effective intervention strategy. We will evaluate the effectiveness of these modifications in the future.

MCSO has also established a committee to ensure that data used for traffic analyses is validated each time the data moves from one unit to the next to overcome any potential for error in transition. This is fundamental if we are to have any confidence in the reports being produced by MCSO. Several of these issues will be incorporated into the EIU Operations Manual, which is currently under revision. We are satisfied that MCSO is committed to improving all aspects of EIS that the agency can control. We will continue to work with MCSO in developing supervisory processes that meet the requirements of the Order.

Section 9: Supervision and Evaluation of Officer Performance

COURT ORDER X. SUPERVISION AND EVALUATIONS OF OFFICER PERFORMANCE

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

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

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: In compliance

During our October site visit, we met with MCSO command staff regarding supervision and compliance with this Paragraph. MCSO informed us that the resource allocation study that we previously discussed during our site visits was underway. MCSO contracted with an outside vendor to conduct the study. The preliminary data collected suggests that Patrol is short on deputies. One contributing factor to the shortage was the promotion of several deputies. At the time of our meeting, the analysis only included the data from 2016; MCSO advised us that the 2017 data would be reviewed in a second phase of the project. MCSO personnel also stated that they have a number of deputy vacancies, and that filling these vacancies will take some time. We agree that the recruitment, background investigation, and subsequent academy training of personnel to fill existing vacancies will likely be a lengthy process. In the meantime, there are alternative ways – some of which we discussed during our site visit – to manage and reduce calls for service.

During our October 2017 site visit, we interviewed supervisors and commanders from two Districts to determine if there was compliance with MCSO policies and the requirements of this Paragraph. We met with the District 3 Commanding Officer and two lieutenants from District 3. We learned that several deputies and supervisors are requesting a return to the three-day, 13-hour shift configuration, and that a formal proposal was being drafted. MCSO personnel advised us that some supervisors and deputies believe that the 4/10 shift configuration leads them to work longer hours on more days of the week. With regard to work schedules, the 4/10 has been successfully employed by many law enforcement agencies. From our perspective, as long as the supervisor-deputy ratio is met on a daily basis and effective supervision is provided, we defer to MCSO on how to best manage their resources. Based on our reviews, the supervisor-to-deputy ratio in all Districts has been in compliance. The District 3 Commanding Officer stated that some of the District's supervisors have received the Investigative Misconduct Training, and it has proven to be beneficial. The only constructive criticism provided was that they wished the course had been offered earlier. We inquired if the District has had any concerns or complaints regarding the body-worn cameras. MCSO informed us that some deputies were experiencing headaches from the head-worn cameras due to the pressure these cameras apply to the temple area. This problem should be resolved with the new generation of cameras that MCSO is acquiring. The new BWCs are mounted on the shirt, at chest level.

We met with the Lake Patrol Commanding Officer, a lieutenant, and two sergeants. Lake Patrol District has a large recreational area within its boundaries, so this requires that the staff work irregular hours. Search and rescue personnel are also on-call for emergencies. The office days and hours of operation are Monday through Sunday, 6:00 a.m. to 12:00 a.m. During our last visit, we learned that MCSO had increased the bandwidth to the District office. The District had been experiencing slow Internet and intranet connectivity. During this visit, we were informed that the increased bandwidth definitely helped, but that the systems are still underpowered. There are still many areas of the District where deputies do not have connectivity to data, and there are areas where radio communication is a problem. Lake Patrol is in-between seasons, so crime patterns are changing. The break-ins and DUIs that are prevalent in the summer generally decline in the fall, and search-and-rescue events increase in the cooler months. The District Commander advised us that he has noted a slight increase in service complaints. Lake Patrol has received approximately 15 administrative complaints in a one-year period. The Investigative Misconduct Training has been received well, and the review process has been refined and appears to be working well. The biggest challenge with investigating complaints is the timeline requirements. Contacting complainants and witnesses has been the cause of the delays in many cases,.

We reviewed a representative sample of 74 Incident Reports for June 2017**,** for the randomly selected date of June 17, 2017. We found no significant issues, as 73 of the 74 Incident Reports were reviewed and memorialized within the required seven days, and all of the nine vehicle crash reports were reviewed within the required timelines. Six of seven Arrest Reports were reviewed within the required 72 hours. We conducted a quality check on a 10% random sample of the reports we reviewed; except for sporadic grammatical issues, we found no significant deficiencies.

We reviewed a representative sample of 83 Incident Reports for August 2017**,** for the randomly selected date of August 15, 2017. Eighty-two of the 83 Incident Reports were reviewed and memorialized by a supervisor within the required seven days. All of the 13 Arrest Reports were reviewed and signed by supervisors within the required 72 hours. All 15 vehicle crash reports were reviewed within the required seven days. We conducted a quality review on a 10% random sample of the reports we reviewed, and found some spelling errors in a few reports, but no significant deficiencies.

We reviewed a representative sample of 92 Incident Reports for September 2017**,** for the randomly selected date of September 4, 2017. All 92 Incident Reports were submitted on time by deputies. Ninety-one of the 92 Incident Reports were reviewed and signed by supervisors within the required time constraints. All 14 Arrest Reports were reviewed and signed by supervisors within 72 hours. MCSO provided us with a printout of vehicle crash reports that documented supervisory review and approval; all of the 10 vehicle crash reports were reviewed and approved within the required timeline. We conducted a quality review on a 10% random sample of the reports submitted and found no significant deficiencies.

For each month of the quarter, the Monitoring Team selected a supervisor and a squad of deputies from each District. We requested several documents, including Patrol Activity Logs, for each deputy. We reviewed PALs for each month of the quarter to assess if the PALs were turned in by the end of each shift, and if supervisors had been reviewing each PAL. For July, all of the 28 deputies' Patrol Activity Logs contained documentation of supervisory review. All six supervisors' Patrol Activity Logs had documentation of command level review. For August, we reviewed Patrol Activity Logs for 34 deputies and seven supervisors. All 34 deputies' PALs had documentation of supervisory review. All seven supervisors' PALs included documentation of command level review. For September, we reviewed Patrol Activity Logs for 33 deputies and seven supervisors. All of the 33 deputies' PALs had documentation of supervisory review; all of the seven sergeants' PALs included documentation of command level review. MCSO fell short of compliance with supervisors' reviews of Patrol Activity Logs during the last reporting period. We are pleased to report 100% compliance with reviews of PALs in this reporting period.

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 chosen in July, there were a total of 11 supervisor-deputy field contacts reported by deputies and seven field contacts reported by supervisors. For the sample dates chosen in August, there were a total of 50 supervisor-deputy field contacts reported by deputies and supervisors. For the sample dates chosen in September, there were a total of 26 supervisor-deputy field contacts reported by deputies and supervisors.

For July, August, and September, we reviewed the submissions of non-traffic incidents involving stops and detentions, which were recorded in Non-Traffic Contact Forms (NTCFs). As noted in our previous report, in June 2017 MCSO began using NTCFs to record stops and investigatory detentions that were not predicated by traffic violations. For July, the Monitoring Team selected a random sample of 25 NTCFs to review. All NTCFs had been reviewed and approved by supervisors; 22 of the 25 had been reviewed within 72 hours as required by the First Order. For August, we selected 23 NTCFs to review. All NTCFs had been reviewed and approved by supervisors; 21 of the 23 NTCFs had been reviewed within the required timeline. For September, we selected 34 NTCFs to review. All NTCFs had been reviewed and approved by supervisors; 32 of the 34 NTCFs had been reviewed within the required 72 hours. The requirement of Paragraph 83, that supervisors review all field interview cards, or in this case NTCFs, has been met for compliance with this Paragraph. The requirement set forth by Paragraph 90 that stops and detentions be reviewed within 72 hours is discussed in our review of compliance for Paragraph 90.

For each month of the quarter, MCSO submitted a breakdown of deputy hours spent on calls related to community engagement and community policing events. For July, there were 404 reported hours, for August there were 851 reported hours, and for September there were 852 reported hours for these community events. We conclude that there is sufficient documentation provided with regard to community engagement to satisfy the requirements of this Paragraph. We encourage MCSO to continue to emphasize, at the line level, the importance of interaction with the community, as well as collaborative problem-solving between deputies and residents.

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

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on February 1, 2017.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the third quarter of 2017. During this reporting period, consistent with our methodology, for July we reviewed a sample of shift rosters from Districts 1 and 2; for August, we reviewed a sample of shift rosters from Districts 3 and 4; and for September, we reviewed a sample of shift rosters from Districts 6 and 7, and Lake Patrol. Monthly and daily rosters showed that deputies were assigned to one single consistent supervisor and that supervisors were generally assigned no more than eight deputies.

District 1 had one day in July where a squad listed a ratio of 1:13. There was one day when one squad had a ratio of 1:10 and another day when a squad had a ratio of 1:9. District 3 listed four days in August where one squad had a ratio of 1:9. The seven instances noted in this quarter where squads exceeded the 1:8 supervisor-deputy ratio are concerning, as it places MCSO below the minimum acceptable compliance rating for the period in review. This Paragraph has two requirements. The first is that deputies be assigned to a single consistent supervisor. The second requirement of Paragraph 84, as it pertains to span of control, was amended in the Second Order to a ratio of 1:8. During this reporting period, MCSO was not in compliance with the second requirement of this Paragraph, as amended by the Second Order. We will continue to monitor supervisor-deputy ratios in Patrol, and if we find that the span of control requirement is not met consistently, we will change our compliance rating. Additional comments are provided under Paragraph 266. In September, Districts 6 and 7 and Lake Patrol managed to maintain their supervisors' span of control at or below the required ratio on a consistent basis.

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

Phase 1: In compliance

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

Phase 2: In compliance

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

Paragraph 85 requires that supervisors discuss traffic stops at least once per month with their deputies. To efficiently manage this requirement along with other administrative and operational duties, supervisors generally conduct several traffic stop-related discussions with each deputy during the month. Supervisor-deputy discussions of traffic stops that occurred toward the latter part of the month may not get reviewed until the following month. Our selections for these discussions changes every month, so to obtain complete records for each deputy, MCSO holds the submission until all 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 were: District 1, 19; District 2, 42; District 3, 21; District 4, 13; Lake Patrol, 12; District 6, 7; and District 7, 101. There were a total of 216 traffic-related events in June for all Districts, and sergeants discussed 207 of those with the deputies who conducted them, for a compliance rate of 96%.

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, 41; District 2, 10; District 3, 2; District 4, 5; Lake Patrol, 75; District 6, 54; and District 7, 106. There were a total of 293 traffic-related events in July for all Districts, and sergeants discussed 278 of those with the deputies that conducted them, for a compliance rate of 95%.

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, 4; District 2, 30; District 3, 20; District 4, 10; Lake Patrol, 42; District 6,17; and District 7, 79. There were a total of 210 traffic-related events in August, and sergeants discussed 202 of those with the deputies who conducted them, for a compliance rate of 96%.

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 February 1, 2017.

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. For July, we reviewed Districts 1 and 2; for August, we reviewed Districts 3 and 4; and for September, we reviewed Districts 6 and 7, and Lake Patrol. Our reviews of monthly and daily rosters indicated that deputies were assigned to and worked the same schedules as their supervisors.

MCSO deputies' and sergeants' activities are captured in Patrol Activity Logs (PALs). We selected a random sample of one day per month, and one squad per District, for review. For

July, we requested PALs for six sergeants and 28 deputies, which we reviewed. We noted a total of 18 field supervisor-deputy contacts between the combined deputies' and sergeants' PALs for the selected dates. For August, we requested PALs for 34 deputies and seven sergeants. We received and reviewed all requested PALs, and noted a total of 38 field supervisor-deputy contacts on the deputies' PALs, and 12 field contacts listed on the supervisors' PALs. For September, we reviewed PALs for 33 deputies and seven sergeants; and noted a total of 23 field supervisor-deputy contacts on the deputies' PALs, and three field contacts listed on the supervisors' PALs. With no notable exceptions, our reviews of the documentation provided 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-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: Not in compliance

Consistent with our methodology, we requested the names of all deputies and supervisors who were evaluated during this reporting period. From the lists of employees submitted, we requested a representative sample. We received and reviewed performance evaluations submitted for 11 deputies and five supervisors who received performance evaluations in July 2017. One EPA was completed in January, so it seems to have been lost in transit at some point. One deputy had a disciplinary action that was documented and discussed in the narrative section, but the rater did not make the appropriate entry in the face page of the EPA. Three of the EPAs exhibited excessive Blue Team entries, appended without notation linking them to specific rating dimensions. There were two very well-written EPAs. Three of the five supervisors' EPAs contained all of the required elements and documented specific behaviors that supported the ratings. One of the supervisors' EPAs was very well-written with supporting documentation; unfortunately, it missed two of the areas that require commentary. One supervisor's EPA had 14 pages of unlinked Blue Team notes that made it quite cumbersome to review and to ascertain what dimensions of the appraisal they pertained to. All five of the supervisors' EPAs rated the employees on the quality and effectiveness of their supervision. Four of the five supervisors' appraisals included comments related to the supervisors' ability to identify and respond to misconduct, and three of the five rated the supervisors on the quality of their reviews.

We received and reviewed performance evaluations submitted for six deputies and eight supervisors who received evaluations in August 2017. All six of the deputies' EPAs reviewed were of acceptable quality. Six of the eight supervisors' EPAs contained comments on all of the required rating dimensions. Six of the eight of the supervisors' EPAs rated the supervisors on the quality and effectiveness of their supervision; two had no direct reports. Six of the eight supervisors' appraisals included comments related to the supervisors' ability to identify and respond to misconduct. Two of the EPAs did not rate or discuss the supervisors' skills in conducting reviews. Again, we noted that one of the supervisors' EPAs had Blue Team entries that were not correlated to any specific dimension; this EPA was completed in the new format.

We received and reviewed performance evaluations submitted for 10 deputies and 11 supervisors who received appraisals in September 2017. Nine of the 10 deputies' EPAs reviewed were properly completed and contained documentation to support the ratings. One EPA lacked any supporting documentation. In one EPA, the supervisor received a reprimand during the evaluation period; the EPA discussed the disciplinary action in detail in the comments section, but failed to note it in the face page, as required. One supervisor's EPA was very well-written; the rest were of acceptable quality. Five of the 11 supervisors' EPAs addressed all required dimensions. All of the supervisors' EPAs rated supervisors on the quality and effectiveness of their supervision. Six of the 11 supervisors' EPAs rated the supervisors on the quality of their reviews; two had no direct reports. Six of the 11 EPAs rated supervisors on their ability to identify and respond to misconduct.

The Employee Performance Appraisal Training was completed and the new EPA format was implemented on September 1, 2017. Most of the EPAs reviewed for this quarter were completed in the legacy format. We reviewed a limited number of EPAs completed in the new format, and although we noted improvement, some of the deficiencies noted in the past have continued. Although there seems to be greater consistency in the documentation, we continue to note Blue Team Supervisory Notes that are inserted without reference to a specific rating dimension. In some cases, several pages of notes were appended. We recommend that when supervisors make entries into Blue Team, they identify the purpose of the note. If the comment is related to a behavior that will be used in the evaluation of performance, the rating dimension should be identified on the note. Blue Team Supervisory Notes that are attached to an EPA, but not identified with a rating dimension, tend to become a distraction by leaving the reader to decipher the purpose of the entry.

With regard to supervisors' performance evaluations, there are two areas that have been consistently overlooked in the past: the quality of supervisory reviews and the supervisors' ability to identify and effectively respond to misconduct. In the new EPA format, the quality of supervisory reviews is listed as "Quality of Supervisory Review/Supervisor Accountability." Comments related to this dimension should assess how well supervisors review their subordinates' work product. We are hopeful that the addition of this dimension on the new EPA form will address past shortcomings. Insofar as the second area of underperformance, a supervisor's ability to identify and respond to misconduct should not be mistaken with the supervisors' proficiency in conducting administrative investigations, as per the requirements of Paragraph 176. The supervisor's role is to guide, direct, teach, and discipline subordinates. Commanders should be consistently evaluating supervisors on their ability to identify behaviors that violate policies and established procedures, as well as assessing the actions taken to correct those behaviors.

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

Phase 1: In compliance

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

Phase 2: In 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 July, August, and September, we received lists containing all incidents involving MCSO arrests and criminal citations. For each month, we requested a random sampling of arrests and criminal citations. In total, we reviewed 67 incidents involving arrests and 101 incidents involving criminal citations. We also reviewed a random sample of 249 Incident Reports for this reporting period. We found no evidence of enforcement of immigration-related laws.

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

Phase 1: In compliance

- EA-11 (Arrest Procedures), most recently amended on June 15, 2016.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: In compliance

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 MCSO submitted covered the period of July 1 to September 30, 2017. Any incident wherein a deputy requests supervisory permission to contact Immigration and Customs Enforcement (ICE) or Customs and Border Patrol (CBP) – to ascertain the legal status of an individual involved in a stop, detention, or any incident being investigated by MCSO – falls under the reporting requirements of this request. MCSO did not report any cases involving immigration status investigations or immigration-related crime.

In our last two quarterly status reports, we commented that we were following the progress of a PSB investigation of a traffic stop that occurred on October 15, 2016. The investigation has been completed and the involved employee and his supervisor were disciplined. This case is further discussed in our reviews of Paragraphs 276, 281, and 283.

For this reporting period, MCSO submitted four incidents as responsive to this Paragraph. There were two cases submitted for July. One incident involved an individual who was arrested for several charges related to the fraudulent use of a credit card. The second incident involved a traffic stop where an individual was issued a criminal citation for not having a driver's license. There were no cases submitted for August. We reviewed two cases submitted for September. One incident involved an individual who was cited and released for driving while his license was suspended. The other incident was a vehicle crash where the party at fault was issued a criminal citation for failure to stop at a stop sign, and not having a driver's license in his possession. We reviewed the documentation provided for the arrests and criminal citations and found no issues of concern.

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 67 incidents resulting in arrest and 101 incidents involving criminal citations. 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 15, 2016.

Phase 2: In compliance

We reviewed 35 incidents involving traffic stops for July 2017. There were 11 stops related to speeding, eight of which resulted in citations. Ten stops were related to equipment violations, and 13 stops were for moving violations other than speeding. One stop was related to an expired registration. Eleven of the stops resulted in citations, and 24 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 235 VSCFs. We reviewed the data for July, and the compliance rate for timely supervisory reviews of VSCFs was 98%.

We reviewed 35 incidents involving traffic stops for August 2017**.** Nineteen of the 35 traffic stops were related to speeding. Nine citations were issued for speeding, and 10 drivers were issued warnings. Three stops were related to equipment violations. Eight stops involved moving traffic infractions other than speeding. Five were stops related to expired registrations. Of the 35 stops, 13 resulted in citations, and 22 resulted in warnings. All 35 VSCFs were reviewed by supervisors within 72 hours. For August, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 251 VSCFs. Of the 251 VSCFs, 238 were reviewed by supervisors within 72 hours, for a compliance rate of 95%.

We reviewed 35 incidents involving traffic stops for September 2017**.** Nineteen of the 35 traffic stops involved speeding violations. Seventeen citations were issued for speeding, and two drivers were issued warnings. Four stops were related to equipment violations. Eight stops involved traffic violations other than speeding. Four stops were related to expired registrations. Of the 35 stops, 21 resulted in citations and 14 resulted in warnings. All 35 Vehicle Stop Contact Forms we reviewed noted the serial number of the reviewing supervisor, and date and time of supervisory review. Supervisors reviewed 33 of the 35 VSCFs within 72 hours. For September, MCSO submitted a spreadsheet documenting each VSCF by District, for a total of 193 VSCFs. We reviewed the data, and the compliance rate for timely supervisory reviews of VSCFs in June was 99%.

For July, the Monitoring Team selected a random sample of 25 NTCFs to review,. All NTCFs had been reviewed and approved by supervisors. Twenty-two of the 25 had been reviewed within 72 hours. For August, we reviewed a random sample of 24 NTCFs. Of the 24 VSCFs inspected, all had been reviewed and approved by supervisors, with 22 of the 24 being reviewed within 72 hours. For September, we reviewed a random sample of 34 NTCFs. Of the 34 samples reviewed, all had been reviewed and approved by supervisors. Thirty-two of the 34 had been approved within the required timelines. In total, we reviewed 83 NTCFs for the quarter. Seventy-six of the 83 NTFCs were reviewed within the required 72 hours, for a compliance rate of 91.6%. 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 for this quarter was 96.6%. With regard to the quality of supervisory reviews of VSCFs and NTCFs, our examination of the documentation provided has not revealed any evidence of boilerplate or conclusory language, inconsistent or inaccurate information, or lack of articulation, as it relates 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 15, 2016.
- EB-1 (Traffic Enforcement, Violator Contacts, and Citation Issuance), currently under revision, though the proposed revisions do not affect the language pertaining to this Paragraph.

Phase 2: Not in compliance

We reviewed traffic stop data reported by MCSO for its July inspection (BI2017-0102). To determine compliance with this Paragraph, for July, the Monitoring Team randomly selected 35

traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 32, or 91% had no deficiencies. This was an 8% increase from the June compliance rate. As a result of the inspection, BIO issued two BIO Action Forms. We reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance assessment for Paragraphs 25 and 54. Our examination revealed that six of the 35 stops had deficiencies that supervisors did not identify during their reviews. 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 235 traffic stops, and determined that supervisors had completed timely reviews in 98% of the cases.

For July, MCSO reported 39 corrective actions. Corrective actions are documented on Blue Team Supervisory Notes. We reviewed all Supervisory Notes and we could not determine the type of deficiencies or corrective actions on five of the 39 Supervisory Notes submitted. Of the 34 relevant actions, eight were related to 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. Eight notes were related to inaccurate or missing information on VSCFs, citations, or written warnings. Eleven corrective actions were related to procedural or policy violations related to traffic stops, and two corrective actions were policy or procedural violations not related to traffic stops. Two corrective actions were related to deputy safety. Two corrective actions were related to technical malfunctions, and one corrective action was related to deputy performance.

We reviewed traffic stop data reported by MCSO for its August inspection (BI2017-0110). The Monitoring Team randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 28, or 80%, had no deficiencies. The compliance rate for August decreased by 11% compared to July. All of the deficiencies noted in the BIO inspection were related to faulty documentation of information or the failure to follow proper procedures after the stop. As a result of the inspection, BIO issued nine BIO Action Forms. We reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance assessment for Paragraphs 25 and 54. Our examination revealed that eight of the 35 stops had deficiencies that supervisors did not identify during their reviews.

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 251 VSCFs and determined that supervisors had completed timely reviews in 95% of the cases.

For August, MCSO reported 49 corrective actions. We reviewed all Supervisory Notes and determined that of the 49 corrective actions, 15 were related to 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. Eleven were related to inaccurate or missing information on VSCFs, citations, or written warnings. Fourteen corrective actions were related to procedural or policy violations related to traffic stops. One corrective action was related to a procedural violation, not involving a traffic stop. Three corrective actions were related to deputy safety. One corrective action was related to a deficiency noted on a Patrol Activity Log and four corrective actions were generated as a result of technical failures or malfunctions.

We reviewed traffic stop data reported by MCSO for its September 2017 inspection (BI2017-0123). The Monitoring Team randomly selected 35 traffic-related events, which BIO then audited for compliance. Of the 35 traffic-related events, MCSO reported that 29, or 83%, had no deficiencies – a 3% increase in compliance from August. As a result of the inspection, BIO issued six BIO Action Forms. We reviewed the same traffic-related events, independent of BIO's audits, as part of our compliance assessment for Paragraphs 25 and 54. Our examination revealed that 10 of the 35 stops had deficiencies that supervisors did not identify during their reviews.

For September, MCSO reported 41 corrective actions. We reviewed all Supervisory Notes and we could not determine the type of deficiencies or corrective actions taken on three of the 41 Supervisory Notes submitted. Of the 38 remaining corrective actions, 16 were related to body-worn cameras and recording issues: failure to activate the BWC; late activation of the BWC; turning off the camera before the event was concluded; or poor positioning of the BWC. Six deficiencies were related to inaccurate or missing information on VSCFs, citations, or written warnings. Thirteen corrective actions were related to procedural or policy violations related to traffic stops. Two Blue Team entries were related to technical malfunctions or system errors. One corrective action was related to deputy safety.

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 193 VSCFs and determined that supervisors had completed timely reviews in 99% of the cases.

This Paragraph requires that supervisors 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. As stated in our comments in Paragraph 90, our reviews for this quarter indicate that deputies, in the majority of cases, are acting within legal guidelines in conducting stops and detentions.

We are still finding deficiencies that have been overlooked by supervisors in the documentation that deputies have completed on traffic stops. Our reviews of traffic stop information for Paragraphs 25 and 54, for this reporting period, indicated that 24 of the 105 traffic stops reviewed had deficiencies that were not identified and addressed by supervisors. These deficiencies were not related to the legal basis of the traffic stops; they were associated with the documentation of information pertaining to the stops and the failure to follow MCSO policies after the stops.

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 September 6, 2017.

Phase 2: Not in compliance

Employee Performance Appraisal Training was completed during this reporting period, and MCSO initiated the new EPA format on September 1, 2017. EIS training was completed in September. The Employee Performance Appraisals completed for this reporting period, discussed in detail under Paragraph 87, did not meet the requirements of this Paragraph.

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 15, 2016.

Phase 2: In compliance

We reviewed a representative sample of 74 Incident Reports for July 2017**,** for the randomly selected date of July 17, 2017. Seventy-three of the 74 Incident Reports reviewed were turned in by the end of the shift, and 73 of the 74 Incident Reports were reviewed by supervisors and approved, or reviewed and returned for corrections within the required seven days. All Incident Reports involving arrests or criminal citations were reviewed by supervisors and approved, or reviewed and returned for corrections within the required 72 hours. All nine vehicle crash reports were reviewed within the required timelines. We conducted a quality review on a 10% random sample of the reports we reviewed. We noted that one report that had no narrative and was missing documentation of supervisory review. We believe there may have been documents missing from this report. Another submission was a property receipt – not an actual Incident Report. Our reviews of the remaining reports did not note any significant deficiencies related to quality.

We reviewed a representative sample of 82 Incident Reports for August 2017**,** for the randomly selected date of August 15, 2017. Eighty-one of the 82 Incident Reports were turned in by the end of the shift. Eighty of the 82 Incident Reports were reviewed by supervisors and approved, or reviewed and returned for corrections within the required seven days. One Incident Report was turned in late and was not reviewed within the required timeline. One submission was related to an abandoned vehicle, but had no Incident Report attached. All incidents involving arrest were reviewed and approved within timelines. All 15 vehicle crash reports were reviewed and approved within seven days. We conducted a quality review on a 10% random sample of the reports we reviewed and, other than spelling errors noted on some reports, there were no issues related to quality.

We reviewed a representative sample of 92 Incident Reports for September 2017**,** for the randomly selected date of September 4,. All 92 Incident Reports were turned in by the end of the shift. Ninety-one of the 92 Incident Reports were reviewed by supervisors and approved, or reviewed and returned for corrections within the required seven days. All 14 Arrest Reports were reviewed and approved by supervisors within 72 hours. MCSO provided us with a printout of vehicle crash reports that documented supervisory review and approval; all 10 vehicle crash reports were reviewed and approved within the required timeline. We conducted a quality check on a 10% random sample of the reports we reviewed, and noted no significant deficiencies.

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

Phase 1: In compliance

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

Phase 2: In compliance

For this reporting period, we received nine Incident Memorialization Forms (IMFs). Three IMFs were generated in reference to improperly conducted or improperly documented searches. One IMF involved a subject who was cited for disorderly conduct, for throwing candy at deputies. The subject should have been charged with assault or criminal littering; instead, he was charged with disorderly conduct. In two cases, IMFs were issued because deputies failed to charge arrestees with the correct violation. In one incident, the subject was cited and released for domestic violence; this individual should have been arrested. One IMF was generated for a domestic violence case, wherein several errors were made, including writing an inaccurate charge on the Arrest Report. One IMF was issued for a deficient burglary report.

We reviewed the Inspections Report for County Attorney Dispositions (BI2017-0101). BIO reviewed 22 of 219 dismissals of criminal cases from the Maricopa County Justice Court and found no deficiencies. Six cases from the Maricopa County Superior Court were reviewed and no deficiencies were found. For July, we reviewed 25 Arrest Reports and 31 incidents involving criminal citations. We noted one criminal citation involving a boating violation where there was no documentation of supervisory review.

We reviewed the Inspections Report for County Attorney Dispositions (2017-0114). BIO reviewed 24 of 245 dismissals by the County Attorney's Office, and found no deficiencies in the combined Superior Court and Justice Court cases it reviewed. We reviewed the documentation provided by MCSO for August, for this Paragraph. We reviewed 21 Arrest Reports and 28 criminal citations for August and found that all reports contained the necessary information.

For September, we reviewed 20 Incident Reports involving arrest and 41 incidents involving criminal citations. There were no concerns noted with the 20 Arrest Reports we reviewed, and all were reviewed and approved by supervisors within required timeframes. There were no deficiencies noted in the 41 criminal citations, and we verified timely supervisory review on 39 of the 41 cases.

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 September 6, 2017.

Phase 2: Not in compliance

MCSO is developing a process that will document proof of compliance, as it relates to this Paragraph and supervisors' responsibilities in using EIS to track violations and deficiencies. Employee Performance Appraisal Training was completed during this reporting period, and the new EPA format was initiated on September 1, 2017. EIS training was completed in September. The Employee Performance Appraisals completed for this reporting period, discussed in detail under Paragraph 87, did not meet the requirements of 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 15, 2016.

Phase 2: In compliance

For this reporting period, we received nine Incident Memorialization Forms (IMFs). Three IMFs were generated in reference to improperly conducted or improperly documented searches. One IMF involved a subject who was cited for disorderly conduct, for throwing candy at deputies. The subject should have been charged with assault or criminal littering; instead, he was arrested for disorderly conduct. In two cases, IMFs were issued because deputies failed to charge arrestees with the correct violation. In one incident, the subject was cited for domestic violence; this subject should have been arrested. One IMF was generated for a domestic violence case wherein several errors were made, including a deputy writing a wrong charge on the Arrest Report. One IMF was issued for a deficient burglary report.

Based on our reviews of the documentation provided for this Paragraph, for this reporting period, we conclude that commanders completed timely reviews of Incident Memorialization Forms.

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 March 24, 2017.

Phase 2: Not in compliance

As per MCSO policies 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. Review of broader pattern-based reports, as required by Paragraph 81.c., and assessments of interventions as required by this Paragraph, has not been sufficiently documented to meet compliance with this Paragraph. MCSO previously submitted memoranda stating that they have no policy in place for the Blue Team notes pertaining to Commander's quarterly review of EIS and assessments of the quality and effectiveness of interventions. The requirement described in Paragraph 81.c. is covered in GH-5, under "Command Staff Responsibilities." However, it does not specify that the documentation should be noted in Blue Team.

Consistent with our methodology, for every month of the quarter, we selected a supervisor and a squad of deputies from each District. We then reviewed the documentation provided as proof 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 67 employees, which included the ranks of deputy, sergeant, lieutenant, and captain., Of the 67 employees, 59 had the two required EIS reviews in the month, for an 88% compliance rate. For August, we reviewed Supervisory Notes requested as proof of compliance for 58 employees. Of the 58 selected employees, 54 had appropriate documentation, for a compliance rate of 93%. For September, we received Supervisory Notes as proof of compliance of EIS reviews for the selected 59 employees. Of the 59 employees, 49 had appropriate documentation of compliance with this Paragraph, for a compliance rate of 83%. During the period in review, MCSO did not have a methodology for capturing information, as it pertains to proof of compliance with the assessment of interventions. MCSO is developing this process.

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 September 6, 2017.

Phase 2: Not in compliance

Employee Performance Appraisal Training was completed during this reporting period, and the new EPA format was initiated on September 1, 2017. The Employee Performance Appraisals completed for this quarter, discussed in detail under Paragraph 87, did not meet the requirements of this Paragraph.

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 September 6, 2017.

Phase 2: Not in compliance

Employee Performance Appraisal Training was completed during this reporting period, and the new EPA format was initiated on September 1, 2017. Although the new EPA format is expected to resolve some of the deficiencies noted with the previous format, it was implemented during the last month of the reporting period. Most of the EPAs reviewed for the third quarter were completed in the legacy format. The reviews of the Employee Performance Appraisals completed in this quarter are discussed in detail under Paragraph 87**.**

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 September 6, 2017.

Phase 2: Not in compliance

We reviewed Employee Performance Appraisals for 24 supervisors and commanders who received EPAs during this reporting period. All 24 of the appraisals rated the quality and effectiveness of supervision. Sixteen of the 24 appraisals contained comments and/or rated the supervisors' demonstrated ability to identify and effectively respond to misconduct. Thirteen of the 24 appraisals rated supervisors on the quality of their reviews. Four of the supervisors whose Employee Performance Appraisals we reviewed had no direct reports. Thirteen of the 24 EPAs reviewed in this reporting period, or 54%, were in compliance with the requirements of this Paragraph. The quality of supervisory reviews, a mandated area of assessment in this Order, was added to the revised performance appraisal process. The new EPA form includes a mandatory rating dimension that specifically addresses this requirement. The dimension is listed as "Quality of Supervisory Review/Supervisor Accountability." Commanders completing EPAs should make comments that specifically address supervisors' proficiency in reviewing their subordinates' work.

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

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

Phase 1: In compliance

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

MCSO has no specialized units whose mission includes the enforcement of human smuggling laws as part of their duties. MCSO is in Phase 1 compliance with this Paragraph.

Phase 2: In compliance

MCSO does not have any specialized units that enforce immigration-related laws. Therefore, by default, MCSO is in Phase 2 compliance with this Paragraph. We continue to monitor arrests and detentions as part of our review process to ensure that MCSO is in compliance with its own directives on this issue.

For each month of this reporting period, we received a list of all incidents involving MCSO jail bookings, and a list of criminal citations. For each month, we requested a random sampling of arrests and criminal citations. We reviewed 67 incidents involving arrests and 101 incidents resulting in criminal citations for this reporting period. In addition, we reviewed 249 Incident Reports for this reporting period. We found no evidence of enforcement of immigration-related laws. We will continue to review Arrest Reports, criminal citations, and Incident Reports for compliance.

Section 10: Misconduct and Complaints

COURT ORDER XI. MISCONDUCT AND COMPLAINTS

a. Internally-Discovered Violations

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

Phase 1: In compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.

Phase 2: In compliance

During our assessment of this Paragraph, we reviewed hundreds of misconduct investigations involving MCSO personnel. Many of them have been internally generated.

During this reporting period, we reviewed 19 administrative misconduct investigations that were initiated internally. Twelve of these investigations involved sworn personnel, five involved Detention personnel, and two involved civilian personnel.

MCSO is consistently identifying and addressing misconduct that is brought forward by other employees or observed by supervisory personnel. While some of these investigations did not meet all requirements for the proper completion of misconduct investigations, these failures are addressed 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

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

Although we had originally envisioned that PSB would be primarily responsible for the requirements of Paragraph 103, in 2016, MCSO raised the prospect of shifting integrity testing responsibilities from PSB to BIO. As previously noted, the Order does not require that any particular organizational component fulfill all of the requirements in Paragraph 103. Following our January 2017 site visit, we agreed with BIO that it could assume responsibility for the "regular, targeted, and random integrity audit checks" required by this Paragraph. BIO established the Audits and Inspections Unit (AIU) to take responsibility for these requirements.

Sometime prior to our April 2017 site visit, MCSO provided us and the Parties with a first draft of an Audits and Inspections Unit (AIU) Operations Manual outlining how the AIU would fulfill the "targeted" Paragraph 103 requirements. We reviewed this draft in detail with MCSO and the Parties during our April visit; during our July visit, MCSO informed us that it needed to revise the manual again once it had finalized the methodology for complaint intake testing. After receiving another iteration of the draft manual, we provided additional comments on the manual following our October site visit. We await the next iteration of the manual from MCSO.

In the meantime, MCSO has set up a structure for AIU that includes one lieutenant, four sworn sergeants, and one Detention sergeant. As of our October site visit, the AIU lieutenant and the four sworn sergeants had completed the first of a two-part training course on law enforcement audits and inspections offered by a private consultancy. One of the sergeants completed the second part, as well, and received his certification; the other personnel, per AIU, were scheduled to complete the second part in November.

AIU also reported during our October site visit that as a means to explore possible avenues for integrity testing, it had begun meeting with analysts from both PSB and the Training Division to discuss information on complaint and other trends, and that it would meet with EIU personnel in the near future to identify top outliers. During our October site visit meeting, we discussed briefly with AIU personnel some examples of integrity tests that the unit could conduct that would satisfy the requirements of this Paragraph without being too resource-intensive. For example, we suggested that AIU consider reviews of body-worn camera footage or deputies with patterns of not sustained complaints.

While the review process of the operations manual is still underway, for this reporting period, BIO submitted several completed inspections in support of the "regular" and "random" elements of this Paragraph. The inspections examined, for example, Supervisory Notes, County Attorney turndown dispositions, and employee email usage; we reviewed these reports and believe that they comport with the Paragraph 103 requirement for "regular" and "random" integrity audit checks.

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 May 18, 2017.

Phase 2: In compliance

In the fall of 2015, MCSO developed a draft checklist and investigative format for administrative investigations. All of 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 are required to use these forms. MCSO is consistently meeting this requirement, and MCSO has included the checklists in administrative investigations forwarded for our review.

During this reporting period, we reviewed 74 administrative misconduct investigations. Thirty-six involved sworn MCSO personnel. All were completed on or after June 20, 2016 and included the use of the required investigative format and checklist. We noted that deputies consistently appeared for scheduled interviews, provided all required information to investigators, and cooperated with the investigations. There were no instances where a supervisor failed to facilitate a deputy's attendance at a required interview.

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

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

Our reviews of investigations conducted by MCSO 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 26 sustained misconduct investigations. Fifteen involved misconduct by sworn personnel, seven involved Detention personnel, one involved a civilian employee, and three involved Posse members. We found that in all sustained cases, the PSB Commander determined the findings and preliminary discipline range for the 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 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.*

Phase 1: Not applicable

Phase 2: In compliance

MCSO has two obligations under this Paragraph: to maintain and make records available. The Paragraph also covers the requirement that MCSO make 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.

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. *As part of its Community Outreach and Public Information program, the MCSO 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 MCSO shall consult with Plaintiffs' representatives and the Community Advisory Board on the locations of the meetings. 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 MCSO shall clarify for the public at these meetings that it does not enforce immigration laws except to the extent that it is enforcing Arizona and federal criminal laws.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that MCSO 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 Order requires MCSO to consult with Plaintiffs' representatives and the Community Advisory Board on the location of the meetings, and to use the meetings to inform community members of the policy changes or other significant actions that MCSO has taken to implement the provisions of the Order. The Order also requires that MCSO provide summaries of audits and reports completed by the MCSO pursuant to this Order and that MCSO clarify for the public at these meetings that it does not enforce immigration laws except to the extent that it is enforcing Arizona and federal criminal laws.

During this reporting period, MCSO began the transition to assume responsibility for its Community Outreach and Public Information Program. As part of this transition, coinciding with our July 2017 site visit, MCSO held a public meeting, on July 19, 2017, at Carl Hayden High School, at 3333 West Roosevelt Street, in Phoenix, in MCSO Patrol District 1. Approximately 200 community members attended this meeting.

The meeting was 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. Sheriff Penzone was unable to attend the meeting, but in a video presentation, he stated that MCSO aimed to be a transparent organization committed to improving the quality of service to the community, showing community members MCSO's progress in complying with the Court Orders, and hearing the questions and concerns from the community members. Summaries of audits and reports completed by the MCSO pursuant to this Order were available, and MCSO representatives clarified for the attendees that it does not enforce immigration laws except to the extent that it is enforcing Arizona and federal criminal laws

Since the amended Order (Document 2100) was not issued prior to the July 19, 2017 community meeting, we will defer our assessment of this Paragraph until the next reporting period. MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

Paragraph 110. *The meetings present an opportunity for MCSO representatives to listen to community members' experiences and concerns about MCSO practices implementing this Order, including the impact on public trust. MCSO representatives shall make reasonable efforts to address such concerns during the meetings and afterward as well as explain to attendees how to file a comment or complaint.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that MCSO's quarterly community meetings present an opportunity for MCSO representatives to listen to community members' experiences and concerns about MCSO practices implementing the Order; and that MCSO representatives make reasonable efforts to address such concerns during the meetings and afterward as well as explain to attendees how to file a comment or complaint.

As noted above, during this reporting period, MCSO began the transition to assume responsibility for its Community Outreach and Public Information Program. As part of this transition, coinciding with our July 2017 site visit, MCSO held a public meeting, on July 19, 2017, at Carl Hayden High School, at 3333 West Roosevelt Street, in Phoenix, in MCSO Patrol District 1. The approximately 200 meeting attendees were given ample opportunity to ask questions or offer comments. Community members raised concerns that MCSO is collaborating with ICE by allowing ICE to operate within the Maricopa County jails; and regarding the perception in the community that the community was not consulted regarding the formulation of the MCSO's Plan to Promote Constitutional Policing, and that key elements were missing from the plan. MCSO representatives announced that complaint forms were available in the back of the meeting room for any attendees who wanted to provide a written complaint. After the meeting, representatives of MCSO – as well as representatives of the Monitoring Team, the ACLU of Arizona, CAB, and DOJ – remained behind to individually answer questions.

Since the amended Order (Document 2100) was not issued prior to the July 19, 2017 community meeting, we will defer our assessment of this Paragraph until the next reporting period. MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

Paragraph 111. *English and Spanish-speaking MCSO Personnel shall attend these meetings and be available to answer questions from the public. At least one MCSO supervisor with extensive knowledge of the agency's implementation of the Order, as well as an MCSO Community Liaison, shall participate in the meetings. The Monitor, Plaintiffs' and Plaintiff-Intervenor's representatives shall be invited to attend and MCSO shall announce their presence and state their availability to answer questions.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that both English- and Spanish-speaking MCSO personnel attend MCSO's quarterly community meetings; at least one MCSO supervisor with extensive knowledge of the agency's implementation of the Order participate in these meetings; and that MCSO invite the Monitor, Plaintiffs' and Plaintiff-Intervenors' representatives to attend the meeting, and announce their presence and state their availability to answer questions.

As noted above, during this reporting period, MCSO began the transition to assume responsibility for its Community Outreach and Public Information Program. As part of this transition, coinciding with our July 2017 site visit, MCSO held a public meeting, on July 19, 2017, at Carl Hayden High School, at 3333 West Roosevelt Street, in Phoenix, in MCSO Patrol District 1. MCSO provided a bilingual MCSO employee to act as an interpreter at the meeting at Carl Hayden High School to ensure that Spanish-speaking attendees could understand all remarks, questions, and responses. Several MCSO personnel who participated in and attended the meeting play instrumental roles in the implementation of the Orders.

In addition, the Monitor and representatives of the ACLU of Arizona, DOJ, and the CAB were invited by the MCSO representative to offer remarks.

Since the amended Order (Document 2100) was not issued prior to the July 19, 2017 community meeting, we will defer our assessment of this Paragraph until the next reporting period. MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

Paragraph 112. *At least ten days before such meetings, the MCSO 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. 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 in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that MCSO widely publicize, in English and Spanish, its quarterly community meetings at least 10 days before such meetings and after consulting with Plaintiffs' representatives and the CAB regarding advertising methods.

As noted above, during this reporting period, MCSO began the transition to assume responsibility for its Community Outreach and Public Information Program. As part of this transition, coinciding with our July 2017 site visit, MCSO held a public meeting, on July 19, 2017, at Carl Hayden High School, at 3333 West Roosevelt Street, in Phoenix, in MCSO Patrol District 1. MCSO advised the CAB and the ACLU of Arizona of the site selection, advertisement in local radio and print media in English and Spanish, agenda creation, and meeting logistics. Members of the Monitoring Team had numerous discussions with the MCSO regarding preparations for the public meeting.

MCSO's selection of the venue for the meeting was based on accessibility, adequate meeting space, adequate parking, and ease in locating the meeting site. MCSO publicized the meeting in with advertisements in both English and Spanish print media. MCSO also ran radio spots in Spanish and English, and distributed flyers in the vicinity of the meeting venue.

Since the amended Order (Document 2100) was not issued prior to the July 19, 2017 community meeting, we will defer our assessment of this Paragraph until the next reporting period. MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

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: Not in compliance

Phase 2: Not in compliance

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, 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 (COD), which is responsible for public communications and questions regarding MCSO.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

As noted above, during this reporting period, MCSO began the transition to assume responsibility for its Community Outreach and Public Information Program. Shortly after the issuance of Document 2100, MCSO informed us that it had selected a bilingual MCSO employee to serve as its Community Liaison Officer. The MCSO public website includes information about the Community Outreach Division – such as its mission, staffing, and contact information; however, the hours for the COD are not listed on the MCSO website.

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: Not in compliance

Phase 2: Not in compliance

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that the Community Outreach Division (COD) be responsible for the following: coordinating MCSO's quarterly community meetings; providing administrative support for, coordinating, and attending meetings of the CAB; compiling complaints, concerns, and suggestions submitted to the COD by members of the public about the implementation of the Orders, and to respond to the complainants' concerns; and to communicate such concerns from the community at regular meetings with the Monitor and MCSO leadership.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

As noted above, during this reporting period, MCSO began the transition to assume responsibility for its Community Outreach and Public Information Program. Shortly after the issuance of Document 2100, COD – in collaboration with CID – began coordinating the required community meetings.

Also during this reporting period, the COD – also in collaboration with CID – began working with and providing support to the CAB. On September 13, 2017, the newly established CAB held its first meeting at a restaurant in Phoenix. Sheriff Penzone and five additional representatives from MCSO attended the meeting and discussed with CAB members how MCSO can provide administrative support – such as offering meeting locations and other resources.

During our October site visit, we discussed with COD representatives how the division might compile complaints, concerns, and suggestions submitted by members of the public to the COD. A few weeks after our visit, COD provided us with a draft form for capturing such information and sharing it with the Monitoring Team.

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 MCSO and the community, and to provide specific recommendations to MCSO about policies and practices that will increase community trust and ensure that the provisions of this Order and other orders entered by the Court in this matter are met.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that MCSO have specific duties in relation to the Community Advisory Board (CAB). MCSO and Plaintiffs' representatives are required to work with community representatives to create a CAB to facilitate regular dialogue between MCSO and community leaders, and to provide specific recommendations to MCSO about policies and practices that will increase public trust and ensure that the provisions of this Order and other orders entered by the Court in this matter are met.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

As noted above, during this reporting period, MCSO began the transition to assume responsibility for its Community Outreach and Public Information Program. Shortly after the issuance of Document 2100, MCSO and the Plaintiffs' counsel selected the CAB members, and MCSO began providing support and guidance to the CAB.

The reconstituted CAB held its first meeting, on September 13, 2017, in Phoenix. Representatives of MCSO (as well as the Plaintiffs' attorneys and Plaintiff-Intervenors) attended the meeting and participated in the discussion about CAB's role in facilitating regular dialogue between MCSO and the community. Also during this reporting period, MCSO invited CAB members to provide recommendations about policies and practices that will increase community trust by sharing with CAB members a draft iteration of MCSO's Plan to Promote Constitutional Policing and soliciting feedback.

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. A member of the MCSO COD and at least one representative for Plaintiffs shall attend every meeting of the CAB, but the CAB can request that a portion of the meeting occur without COD or the Plaintiffs' representative. The CAB shall continue for at least the length of this Order.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, reconstitutes the CAB so that it is comprised of five members – two selected by MCSO, two selected by Plaintiffs' attorneys, and one member jointly selected by MCSO and Plaintiffs' attorneys.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

During this reporting period, on September 1, 2017, MCSO and the Plaintiffs' counsel announced their selection of the CAB members. 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 appointed four new CAB members, resulting in a total of five members; two selected by MCSO, two selected by the Plaintiffs' representatives, and one jointly selected by MCSO and Plaintiffs' representatives. None of the CAB members are MCSO employees, named class representatives, or attorneys involved in this case.

The reconstituted CAB held its first meeting during this reporting period, on September 13, 2017 in Phoenix. Representatives from MCSO – including Sheriff Penzone – and the ACLU (as well as the Plaintiff-Intervenors) attended the meeting.

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 MCSO shall coordinate the meetings and communicate with CAB members, and provide administrative support for the CAB.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that the CAB hold either public or private meetings at regular intervals; and that MCSO should provide a suitable place for such meetings, coordinate the meetings and communicate with CAB members, and provide administrative support to the CAB.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

As noted above, during this reporting period, on September 1, 2017, MCSO and the Plaintiffs' counsel announced their selection of the CAB members. The reconstituted CAB held its first meeting during this reporting period, on September 13, 2017 at a restaurant in Phoenix. MCSO communicated with CAB members and provided administrative support to the CAB by offering assistance with setting up the meeting and the agenda.

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 COD for investigation and/or action. Members may also hear from MCSO Personnel on matters of concern pertaining to the MCSO's compliance with the orders of this Court.*

Phase 1: Not in compliance

Phase 2: Deferred

On August 3, 2017, Document 2100, Amendments to the Supplemental Permanent Injunction/Judgment Order, amended Document 670 to direct MCSO to conduct a District community outreach program. This Paragraph, among the provisions of Document 2100, requires that at their meetings, CAB members relay or gather concerns from the community about MCSO practices that may violate the provisions of the Orders; this Paragraph also allows for the CAB to hear from MCSO personnel on matters of concern pertaining to MCSO's compliance with the Orders.

MCSO will achieve Phase 1 compliance with this Paragraph after it establishes a policy outlining these requirements.

As noted above, during this reporting period, on September 1, 2017, MCSO and the Plaintiffs' counsel announced their selection of the CAB members. The reconstituted CAB held its first meeting on September 13, 2017, with participation from MCSO, the Plaintiffs' attorneys, and the Plaintiff-Intervenors. During this reporting period, CAB members did not hold any public community meetings in which CAB members received concerns as defined by this Paragraph from community members. While MCSO representatives attended the September 13, 2017 CAB meeting, they did not share with CAB members matters of concern pertaining to MCSO's compliance with the First and Second Orders.

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 January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on October 24, 2017.
- CP-8 (Preventing Racial and Other Biased-Based Profiling), most recently amended on October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- EA-2 (Patrol Vehicles), most recently amended on December 8, 2016.
- GA-1 (Development of Written Orders), most recently amended on November 3, 2016.
- GB-2 (Command Responsibility), most recently amended on February 1, 2017.

- GC-4 (Employee Performance Appraisals), most recently amended on September 6, 2017.
- GC-7 (Transfer of Personnel), most recently amended on May 17, 2017.
- GC-11 (Employee Probationary Periods), most recently amended on December 7, 2016.
- GC-12 (Hiring and Promotion Procedures), most recently amended on February 1, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), published on October 13, 2017.
- GE-4 (Use, Assignment, and Operation of Vehicles), most recently amended on October 7, 2017.
- GG-1 (Peace Officer Training Administration), most recently amended on May 17, 2017.
- GG-2 (Detention/Civilian Training Administration), most recently amended on May 17, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.
- GI-5 (Voiance Language Services), most recently amended on December 21, 2016.
- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.
- GJ-26 (Sheriff's Reserve Deputy Program), currently under revision.
- GJ-27 (Sheriff's Posse Program), currently under revision.
- GJ-35 (Body-Worn Cameras), most recently amended on January 1, 2017.
- Audits and Inspections Unit Operations Manual, currently under revision.
- Body-Worn Camera Operations Manual, published on December 22, 2016.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.
- Training Division Operations Manual, currently under revision.

We received a majority of the above documents within one month of the entry of the Order. The Monitoring Team and the Parties conducted an initial review and returned the revised documents, with additional recommendations, to MCSO for additional work. During this reporting period, MCSO did not publish any policies related to this Paragraph. MCSO continues to revise the remaining policies and operations manuals related to misconduct investigations, Employee Performance Appraisals, Sheriff's Reserve Deputy and Posse Programs, 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 January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we review administrative and criminal misconduct investigations.

For the last reporting period, we reviewed 91 closed administrative investigations. Fifty-three of the investigations involved sworn personnel. Three involved a Posse member. Thirty of the cases involved Detention personnel, and five involved civilian personnel. Sworn or Detention personnel assigned to PSB conducted 61 of the investigations. Sworn supervisors in Districts conducted 28 of the investigations. One investigation was conducted by the Compliance Division, due to an identified conflict; and one was investigated by an outside law enforcement agency, also due to an identified conflict.

During this reporting period, we reviewed 74 closed administrative misconduct investigations. Thirty-six cases involved sworn personnel. Four cases involved Posse members. Thirty-one cases involved Detention personnel, and three involved civilian personnel. Sworn or Detention personnel assigned to PSB conducted 54 of the investigations. Sworn supervisors in Districts or other Divisions outside of PSB investigated the remaining 20 cases.

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 no instances where a potential conflict of interest was identified that would affect the investigation, findings, or discipline in any investigation. Our case reviews did not discover any potential conflicts that should have been reported.

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 74 completed administrative investigations for this reporting period did not reveal any instances where a conflict of interest by an MCSO member responsible for discipline was identified. There are pending investigations that have been previously outsourced by PSB based on the Court's May 2016 Findings of Fact. Those cases outsourced to another law enforcement agency have been completed. The cases assigned to the contract investigator are still in progress.

Paragraph 167.c. requires that investigations into truthfulness be initiated by the Chief Deputy or the PSB Commander. There were two completed misconduct investigations during this reporting period where the Chief Deputy or the PSB Commander authorized a truthfulness allegation. We did not note any additional cases where we believe MCSO should have conducted a truthfulness investigation and did not do so.

Paragraph 167.d. requires that any MCSO employee who observes or becomes aware of misconduct by another employee shall immediately report such conduct to a supervisor or directly to PSB. During the period in which the Monitor has authority to oversee any operations of MCSO, any employee may also report alleged misconduct to the Monitor. Of the 74 completed administrative cases we reviewed for this reporting period, there were nine investigations where an employee reported potential misconduct by another employee. There were no indications that any employee failed to report potential misconduct by another employee 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. Of the nine cases where employees brought forward potential misconduct, eight were properly documented and forwarded by the supervisor in a timely manner. In one case, a Posse Commander failed to report the misconduct in a timely manner and an internal investigation into this misconduct was initiated.

Paragraph 167.f. provides for the potential for a disciplinary sanction or other corrective action if an employee fails to bring forth an act of misconduct. During this reporting period, one misconduct investigation was initiated when a Posse Commander failed to immediately report potential misconduct he had been made aware of.

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 January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations that were completed during this reporting period.

During this reporting period, there were no completed investigations where there were allegations of reprisal, discouragement, intimidation, coercion, or adverse actions against any person because that person reported misconduct, attempted to report misconduct, or cooperated in any misconduct investigation. MCSO also reported that there were no grievances or other documents filed with PSB or the Compliance Division that alleged any conduct 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 January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations that were completed during this reporting period. None contained allegations of retaliation for reporting or investigating misconduct. MCSO also reported that there were no grievances or other documents submitted to PSB or to the Compliance Division that alleged any 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 May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 74 completed administrative misconduct investigations conducted during this reporting period. We also reviewed 19 criminal misconduct investigations. Sixty-four of the total 93 investigations resulted from external complaints. Twenty-nine were generated due to employee reports of misconduct, or discovery of potential misconduct by MCSO supervisory personnel.

Of the investigations reviewed this reporting period, three involved anonymous complaints from external parties. Four external third-party complaints were also received. All were completed as required for compliance. We have not become aware of any evidence that indicates that MCSO has refused to accept and complete investigations in compliance with the requirements of this Paragraph. None of the 93 misconduct investigations that we reviewed during this reporting period included any allegations indicating that any third-party or anonymous complaint were 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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

We determined that six of the 74 completed administrative investigations involved complainants who sought to withdraw their complaints; or were unavailable, unwilling, or unable to cooperate. MCSO completed all six investigations and reached a finding as required. We also found that in five of the 74 investigations, the principal resigned during the investigation. MCSO completed all five of these investigations and reached a finding. Of the 74 investigations we evaluated for compliance, none were prematurely terminated.

Paragraph 172. *Employees are required to provide all relevant evidence and information in their custody and control to internal affairs investigators. Intentionally withholding evidence or information from an internal affairs investigator shall result in discipline.*

Phase 1: In compliance

- CP-5 (Truthfulness), most recently amended on October 24, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph during this reporting period, we reviewed 74 completed administrative misconduct investigations conducted by MCSO personnel. There were no investigations identified by MCSO where an employee failed to accurately provide all information or evidence required during the investigation. We did not identify any cases during our reviews where we believe an employee intentionally failed to provide all required information or evidence during an investigation and MCSO failed to act.

Paragraph 173. *Any employee who is named as a principal in an ongoing investigation of serious misconduct shall be presumptively ineligible for hire or promotion during the pendency of the investigation. The Sheriff and/or the MCSO shall provide a written justification for hiring or promoting an employee or applicant who is a principal in an ongoing investigation of serious misconduct. This written justification shall be included in the employee's employment file and, during the period that the MCSO is subject to Monitor oversight, provided to the Monitor.*

Phase 1: Not in compliance

- GC-4 (Employee Performance Appraisals), most recently amended on September 6, 2017.
- GC-11 (Employee Probationary Periods), most recently amended on December 7, 2016.
- GC-12 (Hiring and Promotion Procedures), most recently amended on February 1, 2017.

Phase 2: Deferred

During our April 2017 site visit, we met with PSB representatives regarding the status of several policies. PSB command personnel affirmed that the current process to ensure compliance with this Paragraph is that when the promotion list is established for Detention or sworn personnel, PSB receives the promotion list of candidates. Prior to any finalized promotion, PSB conducts a disciplinary check in the automated system (IAPro). The results of the checks are provided to attendees at the promotion meeting as part of the promotional consideration process. Additionally, the PSB Commander generally attends the promotion meetings for both Detention and sworn promotion candidates. When an employee is moved from a civilian employment position to a sworn employment position, MCSO conducts a thorough background investigation. The process involves an updated review of the candidate's PSB files, which is completed by Pre-Employment Services. The candidate's background from his/her original hire into a Detention position is refreshed when s/he is considered for the sworn position. We have a standing monthly document request to MCSO to ensure that MCSO informs us of any circumstance associated with this Paragraph.

During our site visit in October 2017, we reviewed promotion files for numerous employees who had been promoted during the previous months. In our reviews, we found multiple instances of employees with open IA investigations who were promoted. Several of the files we reviewed did not include any justification for these promotions. It was MCSO's position that although these employees had open IA investigations, none would likely have resulted in a finding of serious misconduct. We also found that because different personnel at MCSO conduct the reviews of past discipline and pending investigations, there were some disparities in the information that was provided. We offered input to MCSO regarding the necessity to conduct consistent reviews of each employee's IA and discipline history.

Since our October 2017 site visit, we have received a justification memo for each employee who was promoted with an open IA investigation. Some of the investigations have now been completed, with findings that support MCSO's assertion that serious discipline would not have resulted. In one case however, the case is still pending; and MCSO noted in the justification memo that MCSO did not believe it would likely result in a finding of serious misconduct.

As noted in our last quarterly status report, we cannot find MCSO in compliance with the requirements of this Paragraph, given promotions based on the belief that there will not be a finding of serious misconduct without the proper written justification. During future site visits, we will review all promotions and the associated complaint history of the employees considered for promotion to ensure that MCSO fully meets the requirements of this Paragraph. Until we have an opportunity to review additional promotion files and ensure that MCSO has addressed the disparity in their reviews and is providing proper justification documents, we will continue to defer our compliance assessment.

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 February 1, 2017.

Phase 2: In compliance

During this reporting period, we requested and received the names of employees hired, promoted, and transferred for each month of the quarter. For transfers to or from PSB, CID, and BIO, we reviewed the resumes and disciplinary histories of the affected employees. MCSO submitted the resumes and disciplinary history of six incoming transfer requests to PSB, CID, and BIO for approval. In addition, five employees were transferred out of these units. We reviewed the documentation submitted for each transfer request to ensure that each employee transferred into these units met the requirements of this Paragraph. We also reviewed each outgoing transfer to ensure that they were based on need, and were not a result of punitive measures. We approved all of the submitted transfers based on the information provided. For employees hired or promoted, the documentation provided included any applicable disciplinary actions. The only new hires that would fall under this category, that may have had previous discipline, are civilian or Detention employees who have been upgraded in classification, to sworn. We reviewed the documentation provided for new employees and found no issues of concern. During our October site visit, we audited the files of the transferred employees to verify the accuracy of the information submitted. We did not note any issues of concern with transferred employees.

As part of our personnel file inspection related to this Paragraph, we reviewed the files of employees who were promoted during this reporting period. During our reviews, we noted that several employees had disciplinary actions that were not accounted for in the summaries submitted to us as part of the requirements of this Paragraph; we describe those in detail below. MCSO promoted two employees whose disciplinary histories required written justification under the requirements of this Paragraph; MCSO provided memorandums detailing the justification of their promotions. MCSO also promoted employees who had open PSB investigations at the time of their promotions; these are covered in our assessment of compliance with Paragraph 173.

We selected the files of 25 promoted employees for inspection during our October site visit. Eight of those employees had disciplinary actions in their files that were not previously disclosed when the documents pertaining to compliance with this Paragraph were submitted. One employee had two open internal investigations that were not listed in his disciplinary profile. One employee had a coaching session not listed in his disciplinary profile. One employee had a written reprimand and an internal investigation not listed in his disciplinary profile. One employee had a sustained violation of CP-2 (Command Responsibility) and an open internal investigation not listed in his disciplinary profile. One employee had two reprimands as a result of two internal investigations, and a separate internal investigation, that were not listed in his disciplinary profile. One employee had an eight-hour suspension, a letter of instruction, and two verbal counseling sessions not listed in his disciplinary profile. One employee had 12 internal investigations, two of which were open, not listed in his disciplinary profile. One employee had a letter of instruction, a written reprimand, and a verbal counseling session that were not listed in his disciplinary profile. At the conclusion of our inspection, we emphasized the need for MCSO to provide proper documentation in the summaries submitted for promoted employees. These issues were discussed at length with Human Resources and PSB, and we believe that our expectations regarding to the accuracy of the information provided were understood. During our next site visit, we will conduct an inspection of selected files of transferred and promoted employees to ensure continued compliance with this Paragraph.

Regarding the promotion of individuals with past disciplinary histories, this Paragraph does not preclude MCSO from promoting employees with multiple sustained allegations of misconduct or a Category 6 or 7 violation, so long as a justification is provided. We have reviewed the justification documentation provided, and although we understand the limitations of the existing pool of candidates, we are still concerned. In addition, several of the promoted employees that do not fall within the restrictions of this Paragraph have less than stellar disciplinary histories.

We find that MCSO was not in compliance with the requirements of this Paragraph for this quarter. We will continue to monitor the quality of individuals promoted. Consistent with our methodology, if we find that MCSO does not meet the requirements of this Paragraph in the forthcoming quarter, we will withdraw Phase 2 compliance in our next report.

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 March 24, 2017.

Phase 2: Not in compliance

Per MCSO policy, an EIS review is to be conducted within 14 days of an affected employee's transfer. We requested documentation of EIS reviews of those employees that were transferred during this reporting period. We received and reviewed the Blue Team Notes submitted as proof of compliance with this Paragraph. We then compared the Supervisory Notes with the list of transfers received for each respective month of the quarter.

For July, MCSO submitted 125 Supervisory Notes in response to our request for proof of compliance. The transfers included sworn, Detention and civilian personnel. When we compared the Supervisory Notes to the list of employees transferred, we were unable to verify compliance of EIS reviews for 53 sworn employees and 27 combined Detention and civilian employees. Compliance for July was 36%.

For August, there were 50 Supervisory Notes submitted as proof of compliance with this Paragraph. The transfers that occurred in August included sworn, Detention, and civilian personnel. When we compared the Supervisory Notes submitted to the list of employees transferred, we were unable to verify EIS reviews for 29 Detention employees and two sworn employees, for a compliance rate of 33%.

For September, the transfer lists included 18 sworn personnel transfers and 27 Detention personnel transfers. There were a total of 30 Detention transfers listed; but one was delayed, one was rescinded, and one was listed in error. Of the 18 sworn employees transferred in September, we were able to verify EIS reviews on six. Of the 27 Detention employees transferred in September, we were able to verify EIS reviews on two. The compliance rate for September was 18%.

The total combined compliance rate for the reporting period was 29%.

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 September 6, 2017.

Phase 2: Not in compliance

We reviewed Employee Performance Appraisals for 24 supervisors and commanders who received EPAs during this reporting period. All 24 of the appraisals rated the quality and effectiveness of supervision. Sixteen of the 24 appraisals contained comments and/or rated the supervisors' demonstrated ability to identify and effectively respond to misconduct. Thirteen of the 24 appraisals rated supervisors on the quality of their reviews. Four of the supervisors whose Employee Performance Appraisals we reviewed had no direct reports. Although we have noted an increase in EPAs that address the requirements of this Paragraph, these requirements were not consistently addressed in the EPAs reviewed during this quarter. As previously stated, most of the EPAs submitted during this quarter were completed in the legacy format. As a result of the recently completed EPA training and the new EPA format, started in September, we expect to see increased compliance in the next period of review

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 May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 74 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 ¶ 165 of this Order, the Sheriff will have provided all Supervisors and all personnel assigned to the Professional Standards Bureau with 40 hours of comprehensive training on conducting employee misconduct investigations. This training shall be delivered by a person with subject matter expertise in misconduct investigation who shall be approved by the Monitor. This training will include instruction in:*

a. investigative skills, including proper interrogation and interview techniques, gathering and objectively analyzing evidence, and data and case management;

b. the particular challenges of administrative law enforcement misconduct investigations, including identifying alleged misconduct that is not clearly stated in the complaint, or that becomes apparent during the investigation;

c. properly weighing the credibility of civilian witnesses against employees;

d. using objective evidence to resolve inconsistent statements;

e. the proper application of the appropriate standard of proof;

f. report-writing skills;

g. requirements related to the confidentiality of witnesses and/or complainants;

h. considerations in handling anonymous complaints;

i. relevant MCSO rules and policies, including protocols related to administrative investigations of alleged officer misconduct; and

j. relevant state and federal law, including Garrity v. New Jersey, and the requirements of this Court's orders.

Phase 1: Not applicable

Phase 2: Deferred

During this reporting period, in September, we provided technical assistance that culminated in the approval and delivery of the Misconduct Investigative Training Train-the-Trainer. A total of 18 sworn PSB personnel attended this delivery and successfully completed the training. Training continued with a total of two additional classes delivered prior to the end of the reporting period for a total of 69 (63 sworn, six Detention) personnel who completed training. Only one individual required remedial testing. Delivery of this curriculum continued into 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: Not in compliance

- GG-1 (Peace Officer Training Administration), most recently amended on May 17, 2017.
- GG-2 (Detention/Civilian Training Administration), most recently amended on May 17, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

During this reporting period, classes began for the initial Misconduct Investigative Training. All required personnel had not completed the initial training during this reporting period. The annual in-service training required by this Paragraph becomes applicable one year after the initial Misconduct Investigative Training has been provided. During our October site visit, we began discussions for curriculum development for this in-service. Potential topics for PSB personnel include investigation of sexual harassment, sexual misconduct, and domestic violence. District-level investigators would benefit from a "refresher" in general investigative techniques and training geared toward addressing the deficiencies that continue in their investigations.

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

- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

MCSO utilizes the E-Policy platform to inform employees to read new or revised policies. Employees then attest that they have indeed read the required policies. To determine compliance with this Paragraph, we reviewed attestations related to policies CP-2 (Code of Conduct), CP-3 (Workplace Professionalism Discrimination and Harassment, GB-2 (Command Responsibility), GH-2 (Internal Investigations), GC-17 (Employee Disciplinary Procedures), and GC-16 (Employee Grievance Procedures). These policies provided the necessary background to develop the Misconduct Investigative Training and the E-Learning Complaint Reception and Processing Training. All of these policies were published between December 2016 and September 2017. Approximately 4,009 personnel were required to review these policies. MCSO has achieved a 94% compliance rate.

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 May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: Deferred

In August of this reporting period, we approved the E-Learning curriculum for Complaint Reception and Processing to be delivered to all employees. Training delivery began in September. Approximately 3,837 individuals are required to receive this training. During September, 2,070 (369 sworn; 24 reserves; 1,077 Detention; 311 civilians; 289 Posse) personnel successfully completed this training (54%). During the next reporting period, approximately 1,767 individuals remain to be trained. During our recent site visit, we inquired if MCSO has experienced any testing issues similar to those we observed during the initial Fourth and Fourteenth Amendment training programs. The E-Learning platform had systemic issues, and on several occasions, the testing process closed prior to completion without saving completed work. The deputy would then be required to login, and the test documentation would indicate a prior failure when none had occurred. MCSO advised us that no individuals experienced testing issues that hampered their successful completion.

Phase 2 compliance is deferred until the training, which commenced in this reporting period, is completed. We anticipate that this will occur in the next reporting period.

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 May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

The requirements of this Paragraph have been addressed in several training curricula. The 2017 SRELE, ACT, EIS, and Misconduct Investigative Training programs each provide adequate direction to supervisors and deputies alike.

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 May 18, 2017.

Phase 2: Not in compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 74 completed administrative misconduct investigations conducted during this reporting period.

Of the 74 cases, there were five (7%) where the final investigative finding reached was not based on an appropriate standard of proof. This is a noted improvement from the 18% and 11% of cases we reviewed during the prior two reporting periods, where the findings were not based on an appropriate standard of proof. In these five cases, we noted failures to interview all parties, failure to hold an employee accountable for all misconduct supported by the facts of the investigation, and the lack of a thorough investigation. Three of these investigations involved Detention personnel, and Detention personnel assigned to PSB conducted the investigations. Two of the cases involved sworn personnel. One of these cases was investigated by a District supervisor and the other by a supervisor in an Investigative unit other than PSB.

During our next site visit, we will discuss these investigations with MCSO 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 May 18, 2017.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed a total of 74 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

In all but one of the 74 administrative cases we reviewed, PSB was properly and immediately notified of the complaint. In one case, a Posse Commander became aware of potential misconduct and did not immediately report it to his supervisor or to PSB. As a result, PSB initiated a misconduct investigation.

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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

During our October 2016, January 2017, and July 2017 site visits, we met with the PSB lieutenant who serves as the primary administrator for the IAPro database system. The demonstration that was provided represented IAPro as a technology instrument that meets the compliance criteria of this Paragraph, to include logging of critical dates and times, alerts regarding timelines and deadlines, chronological misconduct investigation status, notifications, and dispositions. The lieutenant conducts a weekly evaluation of closed cases to ensure that data is entered into the system. A monthly review is conducted to audit timelines associated with open investigations. The tracking system provides estimates of key timelines for all investigators to ensure that they learn of previous and upcoming investigative milestones.

PSB confirmed that civil notice claims are entered into the tracking system. The IAPro system integrates exceptionally well with the EIS and Blue Team technology systems. The system can be accessed remotely. Additionally, PSB has hired a management analyst dedicated to the administration of the centralized tracking system. The documentation that is provided to us for review, and the direct user access that one Monitoring Team member 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 74 of the administrative misconduct investigations were properly assigned a unique identifier. All but four of the cases were both initiated and completed after July 20, 2016. Fifty-five of the cases involved an external complainant requiring that PSB provide the complainant with this unique identifier. There were four cases (7%) where this identifier was either not provided to an external complainant or not supplied in the case files MCSO produced for our reviews.

During the last reporting period, MCSO was not in compliance with the requirements of this Paragraph, and we reminded MCSO that Phase 2 compliance could be withdrawn. MCSO has now been not in compliance with this Paragraph for two consecutive reporting periods.

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 May 18, 2017.

Phase 2: In compliance

To determine compliance with this Paragraph, we verified that PSB maintains both hardcopy and electronic files intended to contain all of the documents required per this Paragraph.

A Monitoring Team member has inspected the file rooms where hardcopies of investigations are stored and randomly reviewed case files to verify compliance. Criminal and administrative investigation files are stored in separate rooms, and access to these rooms is restricted. A Monitoring Team member also has access to IAPro and has verified that case files are maintained in an electronic format.

Paragraph 188. *Upon being notified of any allegation of misconduct, the Professional Standards Bureau will make an initial determination of the category of the alleged offense, to be used for the purposes of assigning the administrative investigation to an investigator. After initially categorizing the allegation, the Professional Standards Bureau will promptly assign an internal affairs investigator.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations that were conducted and completed by MCSO personnel during this 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.

All 74 administrative misconduct investigations that we reviewed for this reporting period complied with the requirements of this Paragraph.

With the approved revisions to the PSB and discipline policies, PSB is now 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. Only one such case was initiated during the last reporting period, and it was properly categorized and reported.

During this reporting period, MCSO completed eight service complaints. We found that all eight complaints were properly classified and handled as service complaints. Four involved complaints that were determined not to involve MCSO personnel. Four involved complaints that were related to MCSO policy and procedures. In all four of these cases, MCSO found that the actions of the deputies were consistent with the operational policies of MCSO and no deputy misconduct had occurred. We agree with these findings. This is a new process for PSB; and in two of the cases, we believe additional follow-up or documentation should have occurred prior to closing the complaint. We do not believe that, in either case, the additional follow-up would have changed the outcome or resulted in the complaint being reclassified to an administrative misconduct investigation. We will discuss the service complaint process and these two specific cases with PSB during our next site visit.

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 made, this decision must be documented. There were no internal complaints during this or the last reporting period where the PSB Commander determined that the internal complaint did not require an administration 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 January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph during this reporting period, we reviewed 74 completed administrative misconduct investigations conducted by MCSO personnel.

Of the total 74 administrative misconduct investigations conducted during this reporting period, 20 were investigated by Division or District personnel outside of PSB, and PSB investigated the remaining 54 cases. One case investigated by a supervisor assigned to a Division other than PSB contained allegations that were of a serious nature, and the case should have been investigated by PSB. We will discuss this case with PSB during our next site visit.

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 May 18, 2017.

Phase 2: Deferred

To determine Phase 2 compliance with this Paragraph, we reviewed a total of 93 misconduct investigations conducted by MCSO personnel and completed during this reporting period. Seventy-four were administrative investigations, five of which were CRM cases, and 19 involved alleged criminal misconduct. All criminal investigations were conducted by PSB personnel.

Of the 74 administrative misconduct cases we reviewed for compliance with this Paragraph, PSB investigators conducted 54 of the investigations. Twenty were investigated at the District or Division level. We noted that one case investigated by a Division other than PSB contained serious allegations and should have been investigated by PSB.

We indicated previously that supervisors in the Districts and Divisions outside of PSB did not yet meet the requirements of this Paragraph related to qualifications and training. The required investigation training module began during this reporting period.

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 May 18, 2017.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

In two different cases we reviewed for this reporting period, investigating supervisors outside of PSB discovered potential serious or criminal misconduct during their investigations, and the cases were properly transferred to PSB. Our Team also identified one complaint that alleged serious misconduct had occurred that was not forwarded to PSB for investigation. As noted in previous Paragraphs, we will discuss this case with PSB during our next site visit.

Paragraph 192. *The Professional Standards Bureau shall review, at least semi-annually, all investigations assigned outside the Bureau to determine, among the other matters set forth in ¶ 251 below, whether the investigation is properly categorized, whether the investigation is being properly conducted, and whether appropriate findings have been reached.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

MCSO has not yet published a semi-annual public report that meets the requirements of this Paragraph. The report, when published, should identify problematic trends or patterns, and ensure that the aggregate data is reported as required. PSB command personnel advised that investigations are being reviewed as they come into the bureau. We recommended that the completed daily reviews be tracked and captured on a monthly basis to facilitate the required documentation to support the semi-annual review of investigations and meet the requirements of this Paragraph. During this reporting period, MCSO provided copies of PSB daily reviews of 20 completed misconduct investigations that were assigned outside the bureau. The report review template used by PSB includes sections that address whether or not the investigation is properly categorized, whether the investigation is being 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 have been provided for each case reviewed.

See Paragraph 251 below, regarding the additional summary information, analysis, and aggregate data PSB is required to assess for the semi-annual public report.

Paragraph 193. *When a single act of alleged misconduct would constitute multiple separate policy violations, all applicable policy violations shall be charged, but the most serious policy violation shall be used for determining the category of the offense. Exoneration on the most serious offense does not preclude discipline as to less serious offenses stemming from the same misconduct.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. In all 26 cases with sustained allegations, the most serious policy violation was used to determine the category of the offense. In cases where multiple violations of policy occurred, this information was also listed on the preliminary discipline document. There were no cases where the exoneration of any offense precluded discipline for other 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: Not in compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

Compliance with Phase 2 of this Paragraph is determined by a review of completed misconduct investigations conducted by MCSO personnel, the review of attendance by internal investigators at required misconduct training, and the disciplinary backgrounds of internal investigators.

During the last reporting period, we reviewed a total of 95 administrative misconduct investigations and six criminal misconduct investigations. All but nine were both initiated and completed after July 20, 2016. We found that in 50 (50%) of the 101 cases we reviewed, the PSB Commander ensured there was full compliance with MCSO policy and all requirements of the Second Order.

During this reporting period, we reviewed 74 administrative misconduct investigations and 19 criminal misconduct investigations. All but three were both initiated and completed after July 20, 2016. Eighteen (95%) of the 19 criminal investigations, and 44 (59%) of the 74 administrative investigations were in compliance with MCSO policy and the requirements of the Second Order. Of the 93 total investigations reviewed, 67% were in compliance with MCSO policy and the requirements of the Second Order. This is an increase of 17% from the last reporting period.

We recognize there are many factors that impact the PSB Commander's ability to ensure compliance in all cases. The most significant factors we have consistently noted in our reviews include the necessary reliance on other members of PSB to conduct some case reviews and ensure proper documents are prepared and forwarded for review, deficiencies in investigations conducted outside of PSB that cannot be corrected after the fact, a lack of training for some who conduct internal investigations, and final findings and disciplinary decisions that are made by the Appointing Authority.

While there continue to be challenges to ensuring that completed internal investigations are reaching full compliance with both MCSO policy and the Order of the Court, PSB has continued to make efforts to improve compliance. Were it not for many of the corrective emails sent out by PSB to Districts and Divisions conducting cases, many cases that we ultimately found in compliance would not have been.

Beyond the technical and procedural compliance issues we found in our reviews, there are several areas where we continue to note deficiencies. These include: failure to locate and interview all potential witnesses or investigative leads; poorly conducted investigative interviews; lack of a thorough investigation; and findings that are not supported by the facts of the investigation.

A Monitoring Team member meets personally with the PSB Commander weekly to discuss Class Remedial Matters. We also use this opportunity to discuss other ongoing related concerns that affect compliance with the Second Order. The PSB Commander is attentive to our concerns, and she takes immediate action when we bring serious matters to her attention.

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 Court's Second Order. Since January 2017, Detention personnel assigned to PSB to oversee investigations have also attended these meetings. We have found them all to be attentive and responsive to our input during these meetings.

Since we have begun conducting these site visit meetings, the PSB Commander has taken a number of actions to address issues we have brought forward. Based on concerns regarding those cases investigated by Detention supervisors, the PSB Commander assigned a sworn lieutenant in the bureau to serve as a secondary reviewer of these cases, and provide additional training and oversight for those who conduct these investigations. To address some of the concerns with those cases conducted outside of PSB, the PSB Commander assigned PSB liaisons to every District; and in some cases, the liaisons provide oversight and assistance in the course of the investigations. There are also PSB personnel assigned to review District cases, provide feedback, and when necessary return the cases for additional investigation or analysis by the District personnel. The PSB Commander has also recognized that PSB does not have adequate staffing and has submitted requests for additional personnel.

During the last reporting period and again during this reporting period, we noted a decline in the number of cases that are being forwarded by MCSO for our review each month. We discussed this with the PSB Commander to determine what factors may be affecting this reduction in completed cases.

The PSB Commander informed our Team during the last reporting period that in 2013, PSB initiated 76 internal investigations. In 2014, PSB initiated 717 cases. PSB initiated a total of 986 cases in 2015, and 847 cases in 2016. For the first six months of 2017, PSB initiated 481 internal investigations.

During this reporting period, the PSB Commander informed us that as of the end of the first nine months of 2017, more than 800 internal investigations were initiated. There is little doubt that the year-end total for 2017 will exceed that of the 2016 total.

The Second Order, issued in July 2016, added numerous additional and important requirements for all internal investigations. These requirements ensure that MCSO conducts proper and thorough investigations. These requirements also result in investigative personnel appropriately spending more time on investigations, to ensure their overall quality and compliance with the Court's Order.

The PSB Commander continues to dedicate many of the bureau's existing resources to ensuring that District cases are properly investigated and receive a thorough review when they reach PSB. This has reduced the number of investigators available to conduct investigations assigned to PSB. At the end of this reporting period, PSB personnel reported that their investigators are averaging a caseload of between 15 and 23 cases. In 2016, this average was between eight and 12 cases per investigator.

The PSB Commander informed our Team during our April and July 2017 site visits that the assignment of additional sworn and Detention supervisors was necessary for PSB to handle the number of cases PSB investigates and reviews. The PSB Commander reaffirmed the necessity for additional staffing during our October 2017 site visit, and has submitted a July 2018 budget request for 12 additional staff. This budget request includes six sworn sergeants, two sworn lieutenants, and four Detention sergeants or lieutenants. We are concerned that while additional staff increases are pending, PSB will simply continue to fall further behind, especially with the noted increase in internal investigations. As we stated in our previous report, the assignment of additional personnel to PSB is not only necessary, it is critical, if MCSO is to reach compliance with all requirements of the Second Order.

While we are encouraged by the responsiveness of PSB and the overall improvement in the investigation of misconduct investigations, MCSO still falls short of overall compliance. The PSB Commander is held responsible for compliance with the requirements for the completion of internal investigations. Both the Commander and the staff assigned to PSB must have the cooperation and commitment of District and Division personnel and executive staff for MCSO to achieve compliance with this Paragraph.

Over our past several site visits, PSB staff have continued to sufficiently 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 outsourced investigations to another local law enforcement agency. PSB updated us on these investigations during our October 2017 site visit. Of the three cases outsourced to another law enforcement agency, one has been completed and closed, one has been completed but was appealed by the employee, and one was closed as the potential violations duplicated those already being investigated by the Independent Investigator.

MCSO finalized and published the revised internal investigation and discipline policies on May 18, 2017. The required training began 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. Two supervisors were determined to be ineligible to conduct internal investigations. Since January 2017, PSB personnel have reported on a monthly basis that they have not identified any additional MCSO members 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: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

In conjunction with this Paragraph, Paragraph 178 mandates that within three months of the finalization of policies consistent with Paragraph 165 of the Order, all PSB personnel will receive 40 hours of comprehensive training. Paragraph 178 requires training of all supervisors within three months of the finalization of policies. However, as documented in Paragraph 165, we and the Parties continue to review and revise several policies and manuals. Paragraph 178 requires sufficient trained personnel in PSB within six months of the entry of the Order (three months of the finalization of policies), which would have been January 20, 2017. During this reporting period, we and MCSO finalized the misconduct training curricula, to include scenario-based training modalities, testing, and incorporating feedback from the Parties. On September 12-13, 2017, MCSO provided Train-The-Trainer training to specifically selected instructors identified by PSB to deliver the 40 hours basic course of instruction. The first week of the required IA misconduct training commenced on September 18, 2017.

During our October 2017 site visit, we learned that, due to a reorganization of MCSO and promotions, PSB is presently understaffed by two sworn lieutenants' positions and six sworn sergeants' positions. The PSB Commander also indicated that PSB is understaffed by four sergeants/lieutenants on the Detention investigative side of the bureau. The PSB Commander previously explained that any additional staffing to PSB would be automatically logged into the IAPro database. In place of monthly document requests, we will continue to inquire about the adequacy of staffing during our site visits. Additionally, our future site visits will include review of PSB staff training files after the mandatory training is completed.

The Second Order requires that PSB have "sufficient trained personnel to fulfill the requirements of this Order." We have been deferring Phase 2 compliance with this and other Paragraphs pending the delivery of the misconduct investigations training. The training will be completed during the next reporting period, and our assessment of Phase 2 compliance will focus on whether PSB's staffing levels are sufficient to perform their required duties.

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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During our April 2017 site visit, the PSB Commander indicated that MCSO had not found any necessity to hire additional contract investigators beyond the one investigator that had been already hired. A member of PSB staff serves as MCSO's single point-of-contact to assist with liaising and scheduling for the contract investigator. The private investigator will advance the investigations to the level of recommending findings.

PSB outsourced three misconduct investigations to a separate regional law enforcement agency. During our October 2017 site visit, the PSB Commander explained that, of the three cases, one had been completed and closed, one had been completed and was being appealed by the employee, and one was closed as the Independent Investigator was investigating the alleged misconduct.

During this reporting period, PSB personnel advised that they have outsourced one additional case to the contract investigator, as allegations of misconduct were made against members of the administration.

During this reporting period, we reviewed 74 administrative misconduct investigations. None of these cases were completed by a separate law enforcement agency. None of the investigations being conducted by the contract investigator retained by MCSO have been completed and submitted for our review.

Paragraph 197. *The Professional Standards Bureau will be headed by a qualified Commander. The Commander of the Professional Standards Bureau will have ultimate authority within the MCSO for reaching the findings of investigations and preliminarily determining any discipline to be imposed. If the Sheriff declines to designate a qualified Commander of the Professional Standards Bureau, the Court will designate a qualified candidate, which may be a Civilian Director in lieu of a sworn officer.*

Phase 1: Not in compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

The PSB Commander continues to demonstrate the requisite qualifications and capabilities to fulfill the requirements of this Paragraph. The PSB Commander consistently demonstrates the ability to identify priorities, immediately address serious compliance issues, ensure that PSB resources are used appropriately, address ongoing compliance issues in those investigations conducted outside of PSB, and manage those investigations determined to be Class Remedial Matters. PSB has been reorganized to create specific assignments and provide additional oversight and review of internal investigations. We continue to note improvement in investigative processes and outcomes under the guidance of this Commander, and we are optimistic that additional improvement will occur. As previously noted, MCSO must support the PSB Commander with resources and executive leadership.

Paragraph 198. *To promote independence and the confidentiality of investigations, the Professional Standards Bureau shall be physically located in a facility that is separate from other MCSO facilities, such as a professional office building or commercial retail space. This facility shall be easily accessible to the public, present a non-intimidating atmosphere, and have sufficient space and personnel for receiving members of the public and for permitting them to file complaints.*

Phase 1: Not applicable

Phase 2: Deferred

MCSO has made a final decision to use the former East Court Building Library as an off-site PSB facility. PSB has designated a command officer who will serve as the project manager. During our October 2017 site visit, PSB advised us that the building asbestos abatement was completed and that parking issues still require resolution. The projected move-in date for PSB is now June 2018.

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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During our October 2017 site visit, the PSB Commander stated that there were two MCSO supervisors (neither of whom were command or executive personnel) who had been disqualified from conducting misconduct investigations. PSB staff are developing a formal review process to ensure that, at the time a minor misconduct case is referred to a District for investigation, the District Captain is notified of any supervisors under his/her command who are ineligible to conduct misconduct investigations. We have developed a standing monthly document request to ensure our future notification of MCSO employees prohibited from conducting misconduct investigations in compliance with this Paragraph.

Paragraph 200. *In each misconduct investigation, investigators shall:*

a. conduct investigations in a rigorous and impartial manner designed to determine the facts;

b. approach investigations without prejudging the facts and without permitting any preconceived impression of the principal or any witness to cloud the investigation;

c. identify, collect, and consider all relevant circumstantial, direct, and physical evidence, including any audio or video recordings;

d. make reasonable attempts to locate and interview all witnesses, including civilian witnesses;

e. make reasonable attempts to interview any civilian complainant in person;

f. audio and video record all interviews;

g. when conducting interviews, avoid asking leading questions and questions that may suggest justifications for the alleged misconduct;

h. make credibility determinations, as appropriate; and

i. attempt to resolve material inconsistencies between employee, complainant, and witness statements.

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations that were completed by MCSO personnel during this reporting period. All 74 administrative misconduct investigations we reviewed were completed after the issuance of the Second Order. PSB investigated 54 of these cases. District or Division supervisory personnel not assigned to PSB investigated the remaining 20 cases. Of the cases we reviewed, 55 involved external complaints and the remaining 19 were internally generated. All but three of the investigations reviewed were both initiated and completed after the issuance of the Second Order.

Paragraph 200.a. requires that misconduct investigations be conducted in a rigorous and impartial manner. During the last reporting period, we identified two investigations (2%) that did not comply with the requirements of this Subparagraph. During this reporting period, four investigations (5%) fell short of the requirements of this Subparagraph.

Paragraph 200.b. requires that investigations be approached without prejudging the facts or permitting preconceived impressions. During the last reporting period, one completed investigations (1%) did not comply with the requirements of this Subparagraph. During this reporting period, two of the investigations (3%) fell short of the requirements of this Subparagraph.

Paragraph 200.c. requires that investigators identify, collect, and consider all relevant evidence. During the last reporting period, one completed investigation (1%) was not in compliance with the requirements of this Subparagraph. During this reporting period, one investigation (1%) fell short of compliance with this Subparagraph.

Paragraph 200.d. requires that investigators make reasonable attempts to locate and interview all witnesses. During the last reporting period, five completed investigations (5%) were not in compliance with this Subparagraph. During this reporting period, four investigations (5%) 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, five completed investigations (5%) did not comply with the requirements of this Subparagraph. During this reporting period, three investigations (4%) fell short of compliance with this Subparagraph.

Paragraph 200.f. requires audio- and video-recording of all interviews. During the last reporting period, 22 completed investigations (24%) did not comply with the requirements of this Subparagraph. During this reporting period, there were nine investigations where interviews were not both audio- and video-recorded. In six of these cases, MCSO documented appropriate reasons the interviews were not video-recorded. There were three investigations (4%) that were not video-recorded when equipment was available to do so, and no explanation was provided.

Paragraph 200.g. requires that when conducting interviews, investigators avoid asking leading questions or questions that may suggest justification for the alleged misconduct. During the last reporting period, five completed investigations (5%) did not comply with the requirements of this Subparagraph. During this reporting period, three investigations (4%) fell short of compliance with this Subparagraph.

Paragraph 200.h. requires that proper credibility determinations be made. During the last reporting period, two completed investigations (2%) did not comply with the requirements of this Subparagraph. During this reporting period, two completed investigations (3%) 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 completed investigations (2%) did not comply with the requirements of this Subparagraph. During this reporting period, one investigation (1%) 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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations conducted by MCSO personnel that were completed during this reporting period.

In 74 of the completed administrative misconduct investigations we reviewed, 55 of the complainants were not MCSO employees. Twenty-two of the 74 investigations included interviews with witnesses or investigative leads who were not MCSO employees. We identified one investigation where we interpreted an automatic preference for an employee's statement over a non-employee's statement. This case involved a complaint of rudeness from a community member. The investigator appeared to have a preconceived idea of what the outcome of the investigation would be. There were numerous leading questions in the employee interviews, and the findings were unsupported by the investigation. We noted that these deficiencies in the investigation were identified at the District level, and the District Commander ensured that corrections were made. The District Commander properly changed the findings from exonerated to not sustained, and also took proper actions to address all of the deficiencies in this investigation with the investigator. 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. There were no instances where we identified that any witness, complainant, or deputy had a history of deception or untruthfulness in any legal proceeding, misconduct investigation, or other investigation.

Paragraph 202. *Internal affairs investigators will investigate any evidence of potential misconduct uncovered during the course of the investigation, regardless of whether the potential misconduct was part of the original allegation.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. In nine of these investigations, MCSO identified additional potential misconduct during the course of the investigations and properly added additional allegations. We did not identify any instances where additional potential misconduct that was not part of the original allegation was discovered but not investigated.

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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 74 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 May 18, 2017.

Phase 2: Not in compliance

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

During this reporting period, PSB conducted 54 of the 74 administrative misconduct investigations. Eight of the investigations not completed within the required 85-day time period did not have a request for, or an approval of, an extension. Three of these investigations were conducted by sworn supervisors, and five were conducted by Detention supervisors.

Districts or Divisions outside of PSB conducted 20 of the administrative misconduct investigations. Five of the 20 cases not completed within the required 60-day time period did not include a request for, or an approval of, an extension.

We continue to note during our reviews that in some cases where an extension was not requested, doing so would likely have been appropriate. During our site visit in October 2017, we again reminded PSB and District and Division command personnel of these timeline requirements, and encouraged them to ensure that their investigators request extensions when it is appropriate to do so. We have also reinforced these timeframe requirements during numerous District visits.

Paragraph 205. *The Professional Standards Bureau shall maintain a database to track all ongoing misconduct cases, and shall generate alerts to the responsible investigator and his or her Supervisor and the Commander of the Professional Standards Bureau when deadlines are not met.*

Phase 1: Not in compliance

- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- GH-5 (Early Identification System), most recently amended on March 24, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

We determine compliance with this Paragraph by assigning a Monitoring Team member to observe a real-time demonstration of the IAPro database. The IAPro technology serves as the centralized electronic numbering and tracking system for all allegations of misconduct, whether internally discovered or based on an external complaint. This database contains the capacity to manage and store information required for compliance with this Paragraph.

During our October 2017 site visit, we met with the PSB management analyst who assists the primary administrator (lieutenant) for the IAPro database system. The demonstration that was provided in October 2017 once again represented IAPro as a technology instrument that meets the compliance criteria of this Paragraph, to include logging of critical dates and times, alerts regarding timelines and deadlines, chronological misconduct investigation status, notifications, and dispositions. Regarding timelines, the PSB lieutenant has incorporated a practice whereby at the time a PSB investigation is initiated, the Chief Deputy and commander of the principal employee are notified of the commencement of the investigation and the associated case number. The case number then serves as the primary reference for additional information in EIPro, a software program used by supervisors and managers in MCSO. A monthly review is conducted to audit timelines associated with open investigations. Moreover, the tracking system provides estimates of key timelines for all investigators to ensure that they learn of previous and upcoming investigative milestones. The analyst also provided a demonstration of the Commander's Incident Management Dashboard for Blue Team in IAPro that generates alerts to the assigned investigator and the affected supervisor or commander when investigative deadlines are not met. We also note that the system is secure, but can be accessed remotely with the correct permissions. The PSB Commander noted that all PSB investigators have direct access to the IAPro system and each uses the system to manage their individual investigations and caseloads.

The civilian PSB management analyst's primary responsibility is the administration of the centralized tracking system. In addition, as a failsafe measure, all PSB and Division investigators can access the electronic Blue Team database – a system that integrates with IAPro – at any time to view the assignment and status of administrative investigations. In response to our previous concerns about ensuring system administration redundancy, PSB has trained two lieutenants to administer the system, in addition to the analyst.

Finally, we continue to receive monthly notifications from PSB regarding closed administrative investigations, and we evaluate 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 May 18, 2017.

Phase 2: In compliance

To determine Phase 2 compliance with this Paragraph, we reviewed 74 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 but one of the completed investigations 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 completed investigations 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 we reviewed complied with the requirements of this Subparagraph.

Paragraph 206.f. requires that investigative reports include a precise description of evidence that supports or detracts from credibility assessments. One of the 74 completed investigations did not comply with the requirements of this Subparagraph.

Paragraph 206.g. requires that when material inconsistencies must be resolved, a precise description of the evidence be included in the report. One of the 74 completed investigations did not comply with the requirements of this Subparagraph.

Paragraph 206.h. requires that assessment of the incident for policy, training, tactical, or equipment concerns be included in the investigative report, to include any recommendations. One of the 74 completed investigations did not comply with the requirements of this Subparagraph.

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. In the 74 investigations that we reviewed for this reporting period, we did not note any complaint where this Subparagraph was applicable.

Paragraph 206.j. requires that documentation of the initiation of the disciplinary process be included in the investigation. Compliance is achieved when the misconduct investigator completes the investigation with a finding of sustained, when applicable, and the PSB Commander subsequently approves the finding. This is considered the initiation of the disciplinary process. Twenty-six of the 74 misconduct investigations we reviewed had sustained findings against one or more MCSO employees. One of these sustained investigations did not comply with the requirements of this Subparagraph.

Paragraph 206.k. requires that any contacts and updates with the complainant be documented in the investigative report. One of the investigations that we reviewed for compliance with this Subparagraph did not comply 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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During this reporting period, we reviewed 74 administrative misconduct investigations. MCSO properly assessed and documented whether any of the requirements of this Paragraph were relevant in all but one of the completed cases. MCSO identified 12 cases where action related to this Paragraph was appropriate; and addressed the concerns identified with either memorandums of concern, requests for policy review, remedial training, or referral to another Division for review and potential action. We routinely follow up with PSB on the outcomes of the concerns identified and have found that appropriate actions are being taken. PSB is also developing a spreadsheet to more easily track the completion of required follow-up.

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 May 18, 2017.

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we review administrative misconduct investigations conducted by MCSO personnel and completed during this 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 did not concur with the findings in 10 (11%) of the 91 cases that were completed after the issuance of the Second Order. There were two additional cases where we concurred with the PSB Commander's findings, but disagreed with the final findings by the Appointing Authority.

During this reporting period, we did not concur with the findings by PSB in five (7%) of the 74 cases that were completed after the issuance of the Second Order. These five cases resulted in unfounded or exonerated findings without adequate investigation or justification to do so. There were no cases where the Appointing Authority changed the findings made by the PSB Commander. While MCSO still falls short of compliance, we noted a continuing improvement in compliance with the requirements of this Paragraph. As is our practice, we will discuss those cases where we disagree with the findings with PSB and the Appointing Authority 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 May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations not conducted by PSB personnel and completed during this reporting period. All 20 of the 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 the last reporting period, and found again during *this* reporting period, many of the District-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 District-level cases being forwarded through the chain of command for approval of the investigation and findings.

Paragraph 210. *For investigations carried out by the Professional Standards Bureau, the investigator shall forward the completed investigation report to the Commander.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 54 administrative misconduct investigations conducted by PSB investigative personnel and completed during this reporting period. All 54 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 May 18, 2017.

Phase 2: Not in compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

We previously noted that neither the PSB Commander or other District or Division Commanders appear to use any formal mechanism to ensure that the investigator's supervisor has taken appropriate action to address any instances of unsupported findings. This issue was included in the training curricula required under Paragraph 178.

During the last reporting period, we did not concur with the findings by the PSB Commander in 10 (11%) of the 91 investigations reviewed. We identified that of the 28 investigations conducted outside of PSB, 12 cases (43%) included some issues. In only one of the 12 cases were the concerns identified and addressed at the District level, prior to forwarding the case to PSB for review. In the cases investigated by PSB for the last reporting period, we had some concern with seven (11%) of the 61 investigations. Four of these investigations involved sworn personnel and three involved Detention personnel.

During this reporting period, we disagreed with the findings by the PSB Commander in five (7%) of the 74 administrative misconduct investigations we reviewed for compliance. Of the 20 investigations investigated outside of PSB, 13 (65%) had some concern. In two of the 13 cases, concerns were identified and addressed at the District level, prior to forwarding the cases to PSB for review. As has been the case in prior reporting periods, many of the District cases again required corrections – and in some cases, additional investigation – after review by PSB.

In those cases investigated by PSB for this reporting period, we had some concern with 14 (30%) of the 54 investigations. In several instances, the investigations did not provide adequate investigation or justification for the findings, or the reports did not contain the required documentation. There were numerous investigations where the complainant was not properly notified of the complaint tracking information. There were other investigations that were not completed within the required 60-day timeline and contained no request for, or approval of, an extension.

During our next site visit, we will discuss those cases of concern with both PSB and District and Division Command personnel.

Paragraph 212. *Where an internal affairs investigator conducts a deficient misconduct investigation, the investigator shall receive the appropriate corrective and/or disciplinary action. An internal affairs investigator's failure to improve the quality of his or her investigations after corrective and/or disciplinary action is taken shall be grounds for demotion and/or removal from a supervisory position or the Professional Standards Bureau.*

Phase 1: Not in compliance

- GB-2 (Command Responsibility), most recently amended on February 1, 2017.
- GC-4 (Employee Performance Appraisals), most recently amended on September 6, 2017.

Phase 2: Deferred

To assess Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

None of the investigations that we reviewed for this reporting period included any allegations that an internal affairs investigator had conducted a deficient misconduct investigation that was the basis for an internal investigation.

Unless a formal misconduct investigation is associated with MCSO policy and the requirements of the Second Order, our review of misconduct investigations does not disclose documentation about what corrective action may have occurred as a result of conducting a deficient investigation or a failure to improve. During our site visits in January and April 2017, we discussed with District Captains and the PSB Commander the necessity to document any corrective action that is taken as a result of an investigator failing to conduct a proper investigation. The PSB Commander assured us that, along with Paragraph 211, internal methods to ensure compliance with this Paragraph would be included in the training curricula developed in compliance with Paragraph 178. We initiated a monthly document request to ensure that MCSO notifies us of documentation related to this Paragraph for future reporting periods.

During this reporting period, none of the 74 administrative misconduct investigations we reviewed included any allegations related to the requirements of this Paragraph. MCSO also provided monthly documentation that there had not been any corrective or disciplinary action taken for the failure by a supervisor to conduct an adequate misconduct investigation. We will continue to defer our Phase 2 compliance assessment for this Paragraph until MCSO completes the 40-hour training for supervisory personnel on conducting internal investigations.

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 May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period. Of the 74 investigations, 54 were investigated by PSB personnel. Twenty 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.

All 20 District or Division level approved cases were forwarded to, and reviewed by, PSB as required. Thirteen (65%) of the 20 cases investigated at the District or Division level were returned by PSB personnel for additional investigation, corrections, proper documentation, or other changes.

PSB documented all of the cases returned to District investigators for additional investigation or corrections, and this information was included in the investigations.

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 May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Our analysis for this reporting period revealed that of the 20 investigations conducted outside of PSB, 13 investigations were returned by PSB to the original investigating supervisor for further investigation, analysis, or corrections. PSB did not assign or reassign any investigations to another supervisor during this reporting period.

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 May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 20 administrative misconduct investigations conducted by MCSO personnel outside of PSB and completed during this reporting period.

Nine of the 20 completed misconduct investigations conducted outside of PSB resulted in sustained findings. In seven of these cases, the reports included documentation that appropriate discipline or corrective action was taken. Two of these seven cases included training in addition to discipline for the involved employees. In the remaining two cases, both involving Posse members, the Posse members were no longer associated with MCSO at the time the sustained findings were determined.

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 May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we reviewed 74 administrative misconduct investigations conducted by MCSO personnel and completed during this reporting period.

Fifty-four of the completed investigations were conducted by PSB, and 17 of these resulted in a sustained finding against one or more MCSO employees.

In all 17 sustained investigations conducted by PSB, the PSB Commander ensured that appropriate discipline and/or corrective action was recommended. The preliminary determination of the range of discipline was also provided by the PSB Commander in all 17 cases. The PSB Commander cannot ensure that appropriate discipline or corrective action are the final *outcomes* of a Pre-Determination Hearing (PDH), as the Appointing Authority makes the final decisions for discipline on both minor misconduct cases and in serious misconduct cases that result in PDHs. The hearing officer has the authority to change the findings or reduce the discipline; and in one case during this reporting period, we disagreed with his decision to do so.

Of the 54 completed misconduct investigations conducted by PSB, three indicated policy-related, training, tactical, or equipment-related concerns. In two of the cases, there was a policy concern; and in the third, a training issue was identified. In all three cases, Memorandums of Concern were authored and forwarded to the appropriate Division for follow-up. We routinely follow up to ensure that those concerns identified have been, or are being, addressed. As noted in Paragraph 207, PSB is also developing a spreadsheet to more easily track the completion of required follow-up.

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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not applicable

Based on the requirements of the Second Order, District and Division Commanders will not impose discipline for minor misconduct. In all cases, the PSB Commander will determine the final findings for internal investigations and the presumptive range of discipline for those cases with sustained findings. The Appointing Authority will then make the final determination of discipline.

Paragraph 218. *The Professional Standards Bureau shall maintain all administrative investigation reports and files after they are completed for record-keeping in accordance with applicable law.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine compliance with this Paragraph, we observed that PSB maintains both hardcopy and electronic files intended to contain all documents required for compliance with this Paragraph.

Our Team has verified during our site visits that the administrative files and reports are being maintained by PSB as required. We have inspected the file room where hardcopies are stored, and conducted a random selection of case files to verify compliance. A Monitoring Team member also has access to IAPro and has verified that case files are maintained in an electronic format.

D. Discipline

Paragraph 219. *The Sheriff shall ensure that discipline for sustained allegations of misconduct comports with due process, and that discipline is consistently applied, fair, and based on the nature of the allegation, and that mitigating and aggravating factors are identified and consistently applied and documented regardless of the command level of the principal of the investigation.*

Paragraph 220. *To ensure consistency in the imposition of discipline, the Sheriff shall review the MCSO's current disciplinary matrices and, upon approval of the parties and the Monitor, will amend them as necessary to ensure that they:*

a. establish a presumptive range of discipline for each type of violation;

b. increase the presumptive discipline based on an employee's prior violations;

c. set out defined mitigating and aggravating factors;

d. prohibit consideration of the employee's race, gender, gender identity, sexual orientation, national origin, age, or ethnicity;

e. prohibit conflicts, nepotism, or bias of any kind in the administration of discipline;

f. prohibit consideration of the high (or low) profile nature of the incident, including media coverage or other public attention;

g. clearly define forms of discipline and define classes of discipline as used in policies and operations manuals;

h. provide that corrective action such as coaching or training is not considered to be discipline and should not be used as a substitute for discipline where the matrix calls for discipline;

i. provide that the MCSO will not take only non-disciplinary corrective action in cases in which the disciplinary matrices call for the imposition of discipline;

j. provide that the MCSO will consider whether non-disciplinary corrective action is also appropriate in a case where discipline has been imposed;

k. require that any departures from the discipline recommended under the disciplinary matrices be justified in writing and included in the employee's file; and

l. provide a disciplinary matrix for unclassified management level employees that is at least as demanding as the disciplinary matrix for management level employees.

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Deferred

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

During the last reporting period, 30 of the 91 administrative misconduct investigations resulted in sustained findings against one or more members of MCSO. In two of the cases, MCSO was unable to identify the employee involved and in four, the employee had left MCSO employment prior to discipline being imposed. In the remaining 24 cases, discipline ranged from coaching to dismissal.

During this reporting period, 26 of the 74 administrative misconduct investigations resulted in sustained findings against one or more members of MCSO. In three of the cases, the employees left MCSO employment prior to discipline being imposed. In the remaining 23 cases, discipline ranged from coaching to suspensions.

Paragraph 220.a. requires a presumptive range of discipline for each type of violation. In all of the sustained investigations we reviewed for this reporting period, the PSB Commander determined and documented the preliminary proposed discipline range.

Paragraph 220.b. requires that presumptive discipline be increased if an employee has prior violations. In nine of the sustained investigations we reviewed for this reporting period, the employee had prior sustained violations. In eight of these investigations, the PSB Commander considered and increased the presumptive discipline range based on these prior violations in accordance with the discipline policy in effect prior to May 18, 2017. In one case, the alleged misconduct and the sustained finding occurred after May 18, 2017; and are subject to the discipline policies that became effective on that date. The PSB Commander considered the discipline range consistent with these revised internal investigation and discipline policies. This is the first investigation our Team has reviewed that was both initiated and completed after May 18, 2017 and resulted in sustained findings.

Paragraph 220.c. requires that mitigating and aggravating factors be defined. Aggravating and mitigating factors are not specifically defined in the IA investigation or discipline policy in effect prior to May 18, 2017. Though the revised discipline policy, effective May 18, 2017, does define these factors, only one of the cases we reviewed for this reporting period was initiated and completed after the revised policies became effective. We note that aggravating or mitigating factors are not identified by the PSB Commander, but are identified and considered by the Appointing Authority when making the final disciplinary decisions. During this reporting period, the Appointing Authority provided documentation in support of all final decisions, but did not specifically identify mitigating or aggravating factors. We discussed this during our October 2017 site visit, and the Appointing Authority will include this delineation in future discipline documents.

Paragraph 220.d. prohibits the consideration of any prohibited biases when determining discipline. None of the sustained cases we reviewed for compliance during this reporting period that resulted in discipline included any indication that any biases were considered when determining discipline.

Paragraph 220.e. prohibits any conflicts, nepotism, or bias of any kind in the administration of discipline. None of the sustained cases we reviewed for compliance 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 for compliance during this reporting period showed any indication of consideration of the high- or low-profile nature of the incident when considering discipline.

Paragraph 220.g. requires that clearly defined forms of discipline and classes of discipline be defined. 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 for discipline.

Paragraph 220.i. requires that MCSO will not take only non-disciplinary action in cases where the Disciplinary Matrices call for the imposition of discipline. None of the sustained cases we reviewed during this reporting period resulted in MCSO taking non-disciplinary action when the Disciplinary 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. We reviewed 26 sustained investigations for this reporting period. Investigators identified four cases where non-disciplinary corrective action was appropriate. All four cases resulted in training for the involved employees, in addition to the discipline imposed.

Paragraph 220.k. requires that any departure from the discipline recommended under the Disciplinary Matrices be justified in writing and included in the employee's file.

During the last reporting period, we reviewed 30 investigations with sustained findings against one or more employees. Fourteen of these cases resulted in the recommendation for serious discipline against current employees. The Appointing Authority changed the findings or deviated from the presumptive discipline range in five of the 14 cases. We disagreed with these decisions in four of the cases.

During this reporting period, we reviewed 26 investigations with sustained findings against one or more employee. Eight of these cases resulted in the recommendation for serious discipline against current employees. In all eight cases, a PDH was conducted as required. The Appointing Authority did not change any of the findings made by the PSB Commander. The Appointing Authority deviated from the presumptive discipline range in two of the cases. We concur with the decision in one case based on the totality of circumstances and the written justification. In the second case, we disagree with the decision to deviate from the presumptive discipline range. We will discuss this case with MCSO personnel during our next site visit.

Paragraph 220.l. requires that a Disciplinary Matrix for unclassified management employees be at least as demanding as the Disciplinary Matrix for management-level employees. We reviewed the recently approved policies that affect discipline for unclassified management employees, and they comply with this requirement. During this reporting period, no administrative investigations involving unclassified management employees were completed and submitted.

Only one investigation reviewed during this reporting period was both initiated and completed after May 18, 2017. Compliance with this Paragraph will remain deferred until additional investigations conducted on or after May 18, 2017 are reviewed for compliance.

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 May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

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

During this reporting period, we reviewed 23 misconduct investigations with sustained allegations that resulted in 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 May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

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

During the last reporting period, we reviewed 24 sustained investigations that were completed after July 20, 2016 where discipline was assessed. In all but one of these cases, MCSO provided documentation verifying that the PSB Commander determined and documented in writing the presumptive range of discipline based on the Discipline Matrices in effect at the time. All of the documentation provided included the category, offense number, and employee's discipline history.

During this reporting period, there were 23 sustained investigations that were completed after July 20, 2016 where discipline was assessed. In 22 cases, the PSB Commander determined and documented in writing the presumptive range of discipline based on the policies and Discipline Matrices that were in effect prior to May 18, 2017. In one case, the investigation was both initiated and closed after May 18, 2017. The PSB Commander determined the presumptive discipline based on the policies and Discipline Matrices in effect after May 18, 2017. The documentation submitted for compliance with 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 May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: In compliance

To assess Phase 2 compliance with this Paragraph, we review completed misconduct investigations conducted by MCSO personnel where a Pre-Determination Hearing (PDH) occurs.

During the last reporting period, 30 investigations resulted in sustained findings against employees of MCSO. Twenty-four resulted in discipline for current MCSO employees. Fourteen of the cases resulted in the recommendation for serious discipline as defined in this Paragraph. All were scheduled for a Pre-Determination Hearing, and the hearing took place as required.

During this reporting period, 26 administrative misconduct investigations resulted in sustained findings against MCSO employees. Twenty-three resulted in discipline for current employees. Eight of the 23 cases resulted in the recommendation for serious discipline as defined in this Paragraph, and the Pre-Determination Hearing took place as required.

Paragraph 224. *Pre-determination hearings will be audio and video recorded in their entirety, and the recording shall be maintained with the administrative investigation file.*

Phase 1: In compliance

- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.

Phase 2: In compliance

To assess compliance with this Paragraph, we review completed misconduct investigations conducted by MCSO personnel.

During this reporting period, eight cases were referred for a PDH based on the serious nature of the sustained violations. In all cases, 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 May 18, 2017.
- Compliance Division Operations Manual, currently under revision.

Phase 2: In compliance

To assess compliance with this Paragraph, we review completed misconduct investigations conducted by MCSO personnel.

During the last reporting period, 14 investigations resulted in the recommendation for serious discipline. In all 14 cases, a PDH occurred as required. In one of these cases, the employee brought forth numerous concerns regarding the investigation and the conduct of other employees. A review of the PDH recording did not identify that any action was taken, or that the employee's concerns were documented or forwarded to PSB for review and potential action. We discussed this case with the Appointing Authority and the Compliance Division during our October 2017 site visit and reminded them to document the actions taken on any new or additional information that is provided during a PDH.

During this reporting period, eight investigations resulted in the recommendation for serious discipline. In all eight cases, a PDH occurred as required. A member of our Team reviewed the recordings from all eight hearings. There were no instances where an employee brought forward any new or additional information that necessitated additional investigation or follow-up.

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 May 18, 2017.
- Compliance Division Operations Manual, currently under revision.

Phase 2: Not in compliance

To assess compliance with this Paragraph, we review completed misconduct investigations conducted by MCSO personnel.

During the last four reporting periods, we reviewed a total of 39 cases that were completed after July 20, 2016 and resulted in Pre-Determination Hearings based on the serious sustained allegations. In all these cases, the Appointing Authority authored a written justification for his decisions, and this document was included in the investigation file. Despite the written justifications, we disagreed with the final decisions of either the findings or the discipline in 14 of the 39 total cases that resulted in a PDH. In others, we had questions or concerns with the documentation provided.

During our April and July 2017 site visits, we met with the Appointing Authority and the Compliance Division to discuss our concerns with final outcomes and decisions that fell outside of the standards established by MCSO. We emphasized the need to comply with agency policies when determining disciplinary outcomes, and encouraged the Appointing Authority to provide more detailed written justification in those cases where he determined that a sustained finding should be changed or discipline should be reduced.

During this reporting period, eight cases resulted in a PDH. The Appointing Authority did not change any of the findings that had been made by the PSB Commander. In two cases, he reduced the discipline from the presumptive discipline identified by the PSB Commander. In one of these cases, the documentation and justification provided supported the decision to reduce the discipline and we agree with the final discipline assessed. In the second case, we do not agree with the decision to reduce the discipline outside of the presumptive range, and do not believe adequate justification existed to do so.

During our October 2017 site visit, we discussed compliance with this Paragraph with the Appointing Authority and personnel from the Compliance Division. The Appointing Authority informed us during our site visit that he generally starts at the minimum when making a disciplinary decision. We reminded him that under the policies effective May 18, 2017, there is a presumptive discipline for each violation and this should be used as the standard. Only if there are aggravating or mitigating circumstances should there be a finding different than the presumptive discipline. We also discussed that though there are written justification documents for all decisions made, these documents often include only a list of factors considered. They have not specifically identified which factors were simply statements of facts, and which were being used to either mitigate or aggravate the final discipline decision. In some cases, we noted, as did the Plaintiffs, that factors identified in the documents as considerations should not have been used as part of any justification for the final decision. During our meeting, we provided specific input on those cases that we found to be problematic. These investigations were all completed prior to the finalization of the revised discipline policies that became effective on May 18, 2017.

As has been our experience during prior site visits, the Appointing Authority was attentive to our concerns and along with Compliance Division personnel, agreed to make changes in the justification documents to address the issues we brought forward. We noted in our reviews for this reporting period that there was only one instance where we found concerns with the decisions made by the Appointing Authority. We will discuss this case with MCSO during our next site visit. While MCSO is still not in compliance with the requirements of this Paragraph, we have observed significant improvement.

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 May 18, 2017.
- Compliance Division Operations Manual, currently under revision.

Phase 2: In compliance

To assess compliance with this Paragraph, we review completed misconduct investigations conducted by MCSO personnel.

During this reporting period, we reviewed 23 administrative misconduct investigations where discipline was imposed. The serious sustained allegations in eight of these investigations resulted in their referral for a Pre-Determination Hearing.

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 Disciplinary 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 May 18, 2017.
- Compliance Division Operations Manual, currently under revision.

Phase 2: In compliance

To assess compliance with this Paragraph, we review completed misconduct investigations conducted by MCSO personnel.

During this and the last four reporting periods, there have been 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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

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 19 internal criminal investigations. Nine were externally generated and 10 were internally generated. All were completed after July 20, 2016 and appropriately assigned to criminal investigators assigned to PSB. The potential misconduct was brought to the attention of the PSB Commander as required; and in all but one case, 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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

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 was not submitted and reviewed during the same reporting period as the criminal investigation, as administrative investigations are generally finalized after the completion of the criminal investigation. To ensure our ability to verify that MCSO meets compliance with this Paragraph on an ongoing basis, we discussed this issue with PSB during our January 2017 site visit. To resolve the issue, PSB agreed to provide us with a copy of any criminal investigation at the same time PSB submits the administrative misconduct investigation for our review, even if the criminal investigation has been previously submitted.

During the last reporting period, we reviewed one administrative misconduct investigation where there was a companion completed criminal investigation. MCSO initiated and completed the criminal investigation in 2015, yet there was insufficient documentation that the criminal investigation had been closed in 2015, significantly delaying the start of the administrative investigation. While we had concerns with the administrative investigation that was conducted, none of our concerns prevented MCSO from achieving compliance with this Paragraph.

During this reporting period, we reviewed two administrative misconduct investigations where there was a companion criminal investigation completed and previously reviewed. PSB ensured compliance with all requirements of this Paragraph.

Paragraph 231. *The Sheriff shall require the Professional Standards Bureau to ensure that investigators conducting a criminal investigation do not have access to any statements by the principal that were compelled pursuant to Garrity.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

PSB is separated into criminal and administrative sections. Criminal investigators and administrative investigators are housed on separate floors of the building. Criminal investigators 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 verified during our site visits that the required separation of criminal and administrative investigations and restricted access to IAPro is 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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

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 the last reporting period, we reviewed six criminal misconduct investigations conducted by MCSO personnel. All had a companion administrative misconduct investigation as required by this Paragraph and were completed after July 20, 2016. We found all of the criminal investigations to be properly completed. Two had criminal charges pending, two were turned down for prosecution by a prosecutorial agency, and two were unfounded.

During this reporting period, we reviewed 19 criminal misconduct investigations conducted by MCSO personnel. All but one have a companion administrative misconduct investigation as required by this Paragraph. These administrative investigations are still in progress. All 19 of the criminal misconduct investigations were completed after July 20, 2016. We found 18 of the criminal investigations 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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

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 the last reporting period, there were two criminal misconduct investigations closed as unfounded. These decisions were supported by the facts of the investigation, interviews, or other investigative follow-up. In both cases, the investigators documented their conclusions and decisions to close the case without submittal. The PSB Commander then approved these decisions in writing.

During this reporting period, there were 12 criminal misconduct investigations closed without submittal to a prosecuting agency. In all cases, these decisions were supported by the facts of the investigation, interviews, or other investigative follow-up. The investigators documented their conclusions and decisions to close the cases without submittal and the PSB Commander approved these decisions in writing.

Paragraph 234. *If the investigator conducting the criminal investigation decides to refer the matter to a prosecuting agency, the Professional Standards Bureau shall review the information provided to the prosecuting agency to ensure that it is of sufficient quality and completeness. The Commander of the Professional Standards Bureau shall direct that the investigator conduct additional investigation when it appears that there is additional relevant evidence that may improve the reliability or credibility of the investigation. Such directions shall be documented in writing and included in the investigatory file.*

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

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 the last reporting period, we reviewed six internal criminal investigations, all conducted by PSB personnel. Four of the cases were referred to an appropriate prosecutorial agency. None of the cases required the PSB Commander to direct any further investigation prior to the submittals. Two of the cases were turned down for prosecution, and two were pending criminal charges.

During this reporting period, we reviewed 19 criminal misconduct investigations, all conducted by PSB personnel. Seven of the cases were forwarded to an appropriate prosecutorial agency. None of the cases noted that the PSB Commander had directed any further investigation prior to the submittal. One of the cases did not contain documentation that the submittal to the prosecuting agency had been reviewed and approved by the PSB Commander. Six cases were turned down for prosecution, and one is pending criminal charges. During our next site visit, we will remind PSB that all appropriate approvals and documentation must be included in the files submitted for our review or we will withdraw Phase 2 compliance for this Paragraph.

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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

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 the last reporting period, we reviewed two criminal misconduct investigations that were submitted to a prosecuting agency, but turned down for prosecution. In both cases, the written decision to decline prosecution was included in the case file. The turndowns were not related to any failure on behalf of the investigator to conduct a thorough investigation.

During this reporting period, we reviewed seven criminal misconduct investigations that were submitted to a prosecuting agency, but turned down for prosecution. In six of these cases, the prosecutorial agency provided a reason for the turndown in writing. In one case, the prosecutor provided the turndown decision verbally, and though requested by PSB, did not provide a written document. None of the turndowns were related to any failure on behalf of investigators to conduct thorough investigations.

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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine compliance with this Paragraph, we observed that PSB maintains both hardcopy and electronic files that are intended to contain all of the documents required per his Paragraph.

During our site visits, we have inspected the file rooms where hardcopies of investigations are stored. Criminal and administrative investigation files are stored in separate rooms, and access to these rooms is restricted. Our random review of criminal investigation case files verified that PSB is maintaining files as required. A Monitoring Team member also has access to IAPro and has verified that case files are maintained in an electronic format.

G. Civilian Complaint Intake, Communication, and Tracking

Paragraph 237. *Within six months of the entry of this Order, the Monitor, in consultation with the Community Advisory Board, will develop and implement a program to promote awareness throughout the Maricopa County community about the process for filing complaints about the conduct of MCSO employees.*

Phase 1: Not applicable

Phase 2: Not applicable

The Monitoring Team 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 the Monitoring Team's 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 May 18, 2017.

Phase 2: In compliance

To assess compliance with this Paragraph, we review completed misconduct investigations conducted by MCSO personnel.

During the last reporting period, we reviewed 91 administrative misconduct investigations. Fifty-eight of these investigations were initiated based on a civilian complaint, including some in which the complaints were made by third parties (four instances) or were anonymous (two instances). None of the investigations we reviewed involved an allegation that any MCSO employee failed to accept a civilian complaint.

During this reporting period, we reviewed 74 administrative misconduct investigations. Fifty-five of these investigations were initiated based on a civilian complaint, including some in which the complaints were made by third parties (four instances) or were anonymous (three instances). None of the investigations we reviewed involved an allegation that any MCSO employee had failed to accept a civilian complaint. The reviews of body-worn camera video and supervisor notes conducted in compliance with other Paragraphs of the Orders did not reveal any incidents where MCSO had failed to accept a complaint. We also did not become aware through any other source that MCSO had failed to accept a civilian complaint.

Paragraph 239. *In locations clearly visible to members of the public at the reception desk at MCSO headquarters and at all District stations, the Sheriff and the MCSO will post and maintain permanent placards clearly and simply describing the civilian complaint process that is visible to the public at all hours. The placards shall include relevant contact information, including telephone numbers, email addresses, mailing addresses, and Internet sites. The placards shall be in both English and Spanish.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: 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 prominently 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

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

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 phones.

Paragraph 241. *The Sheriff will ensure that the Professional Standards Bureau facility is easily accessible to members of the public. There shall be a space available for receiving walk-in visitors and personnel who can assist the public with filing complaints and/or answer an individual's questions about the complaint investigation process.*

Phase 1: Not applicable

Phase 2: Not in compliance

MCSO Facility Management continues to work on its plans to establish the PSB off-site location at 100 West Jefferson Street, in downtown Phoenix. During our October 2017 site visit, PSB advised us that the building asbestos abatement was completed, and the projected move-in date for PSB is now June 2018.

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 future PSB reception area and offices. The future PSB area is accessible from First Avenue, a major thoroughfare; and there will be no required security screening of individuals entering the building through the First Avenue entrance.

Paragraph 242. *The Sheriff will also make complaint forms widely available at locations around the County including: the websites of MCSO and Maricopa County government; the lobby of MCSO's headquarters; each patrol District; and the Maricopa County government offices. The Sheriff will ask locations, such as public library branches and the offices and gathering places of community groups, to make these materials available.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: In compliance

MCSO has complaint forms available in English and Spanish on the MCSO and Maricopa County websites; and widely available at MCSO facilities, County offices, and public locations where community groups meet.

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 May 18, 2017.

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. Callers are advised that if the call is an emergency, they are to call 911. Callers are requested to provide their name, phone number, and a brief 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 phone number to call to speak to a supervisor. That number connects the callers to the MCSO switchboard operator, who will connect the caller to an appropriate supervisor. Callers are further advised of MCSO's operating hours if they wish to contact PSB directly.

The hotline is housed in PSB, and PSB personnel access any recorded messages at the beginning of each business day. During this reporting period, PSB personnel reported that they received one complaint on the hotline.

Paragraph 244. *The Sheriff shall ensure that the MCSO's complaint form does not contain any language that could reasonably be construed as discouraging the filing of a complaint, such as warnings about the potential criminal consequences for filing false complaints.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: In compliance

Our review of the English and Spanish complaint forms' content did not reveal any language that could reasonably be construed as discouraging the filing of a complaint.

Paragraph 245. *Within two months of the entry of this Order, complaint forms will be made available, at a minimum, in English and Spanish. The MCSO will make reasonable efforts to ensure that complainants who speak other languages (including sign language) and have limited English proficiency can file complaints in their preferred language. The fact that a complainant does not speak, read, or write in English, or is deaf or hard of hearing, will not be grounds to decline to accept or investigate a complaint.*

Phase 1: In compliance

- GJ-24 (Community Relations and Youth Programs), most recently amended on January 7, 2017.

Phase 2: In compliance

Complaint forms in English and Spanish are accessible on MCSO's website. The complaint form states that anyone who has a concern regarding the performance of any MCSO employee has the right to file a complaint – in English or Spanish or their preferred language, to include American Sign Language – in person at any District facility or at the Professional Standards Bureau, by mail, by telephone, by fax, or online. The forms provide street addresses, contact numbers, and website information.

Paragraph 246. *In the course of investigating a civilian complaint, the Professional Standards Bureau will send periodic written updates to the complainant including:*

a. *within seven days of receipt of a complaint, the Professional Standards Bureau will send non-anonymous complainants a written notice of receipt, including the tracking number assigned to the complaint and the name of the investigator assigned. The notice will inform the complainant how he or she may contact the Professional Standards Bureau to inquire about the status of a complaint;*

b. *when the Professional Standards Bureau concludes its investigation, the Bureau will notify the complainant that the investigation has been concluded and inform the complainant of the Bureau's findings as soon as is permitted by law; and*

c. in cases where discipline is imposed, the Professional Standards Bureau will notify the complainant of the discipline as soon as is permitted by law.

Phase 1: In compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.

Phase 2: Not in compliance

To assess compliance with this Paragraph, we review completed misconduct investigations conducted by MCSO personnel.

During the last reporting period, we reviewed 91 administrative misconduct investigations conducted by MCSO personnel. Fifty-eight of these complaints were generated externally. Nineteen of the cases (33%) did not meet all of the requirements of this Paragraph.

During this reporting period, we reviewed 74 administrative misconduct investigations conducted by MCSO personnel. Fifty-five of these complaints were generated externally. Eleven of the cases (20%) did not meet all the requirements of this Paragraph.

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 their complaint. In 10 of the 55 external complaints, while a complaint receipt was provided to the complainant, it was not provided within the required seven-day time period requirement, or was missing from the material provided to our Team for review. All of the letters that were 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 one of the 55 externally generated complaints, the complainant was not provided a notice of the outcome of the investigation even though MCSO had adequate contact information for the complainant. All the letters that were sent to complainants provided information that was consistent with the findings that were noted in the MCSO internal documents. This is a significant improvement from the 10 outcome letters sent during the last reporting period that did not provide findings consistent with MCSO's internal documents.

Paragraph 246.c. requires that PSB notify a civilian complainant of any discipline imposed as soon as permitted by law. In all (11) of the external complaints with sustained findings, the closure letter sent to the complainant included information concerning the discipline that had been imposed.

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 May 18, 2017.

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 74 administrative misconduct investigations conducted by MCSO. Fifty-five were externally generated complaints. 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 but one of the 55 externally generated complaints. MCSO also had contact with complainants during the course of the investigation in nine of the 55 externally generated complaints. This additional contact was appropriately documented in the case investigation files.

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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

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 this reporting period, PSB completed four investigations where potential bias was alleged that did not affect members of the Plaintiffs' class. These investigations were all 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 May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To determine Phase 2 compliance for this Paragraph, we review a monthly report from PSB that 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 this reporting period, there was one investigation completed that is subject to the requirements of this Paragraph. It was initiated and completed after July 20, 2016; investigated by PSB; 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: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

PSB had not completed a formal assessment as required by this Paragraph until the last month of this reporting period (September 2017). During our October 2017 site visit, PSB identified two jail divisions that received the most complaints during the specified month. Further analysis identified a pattern of Detention Officers failing to complete reports. Detention command personnel were notified to address the deficiencies. Additionally, PSB identified a pattern of sustained violations involving traffic collisions involving deputies driving under emergency conditions. PSB notified MCSO Patrol command personnel of these patterns for appropriate action. The September 2017 assessment of complaints received complies with the requirements of this Paragraph in scope and content, but MCSO has not yet met the "regular" standard. Additionally, during our October 2017 site visit PSB requested that these assessments be changed from monthly to quarterly to produce a larger pool of complaints to review for problematic patterns and trends. We approved this request. Once MCSO produces these assessments on a sustained basis, the agency will meet the requirements of this Paragraph.

H. Transparency Measures

Paragraph 251. *The Sheriff shall require the Professional Standards Bureau to produce a semi-annual public report on misconduct investigations, including, at a minimum, the following:*

a. summary information, which does not name the specific employees involved, about any sustained allegations that an employee violated conflict-of-interest rules in conducting or reviewing misconduct investigations;

b. aggregate data on complaints received from the public, broken down by district; rank of principal(s); nature of contact (traffic stop, pedestrian stop, call for service, etc.); nature of allegation (rudeness, bias-based policing, etc.); complainants' demographic information; complaints received from anonymous complainants or third parties; and principals' demographic information;

c. analysis of whether any increase or decrease in the number of civilian complaints received from reporting period to reporting period is attributable to issues in the complaint intake process or other factors;

d. aggregate data on internally-generated misconduct allegations, broken down by similar categories as those for civilian complaints;

e. aggregate data on the processing of misconduct cases, including the number of cases assigned to Supervisors outside of the Professional Standards Bureau versus investigators in the Professional Standards Bureau; the average and median time from the initiation of an investigation to its submission by the investigator to his or her chain of command; the average and median time from the submission of the investigation by the investigator to a final decision regarding discipline, or other final disposition if no discipline is imposed; the number of investigations returned to the original investigator due to conclusions not being supported by the evidence; and the number of investigations returned to the original investigator to conduct additional investigation;

f. aggregate data on the outcomes of misconduct investigations, including the number of sustained, not sustained, exonerated, and unfounded misconduct complaints; the number of misconduct allegations supported by the appropriate standard of proof; the number of sustained allegations resulting in a non-disciplinary outcome, coaching, written reprimand, suspension, demotion, and termination; the number of cases in which findings were changed after a pre-determination hearing, broken down by initial finding and final finding; the number of cases in which discipline was changed after a pre-determination hearing, broken down by initial discipline and final discipline; the number of cases in which findings were overruled, sustained, or changed by the Maricopa County Law Enforcement Merit System Council, broken down by the finding reached by the MCSO and the finding reached by the Council; and the number of cases in which discipline was altered by the Council, broken down by the discipline imposed by the MCSO and the disciplinary ruling of the Council; and similar information on appeals beyond the Council; and

g. aggregate data on employees with persistent or serious misconduct problems, including the number of employees who have been the subject of more than two misconduct investigations in the previous 12 months, broken down by serious and minor misconduct; the number of employees who have had more than one sustained allegation of minor misconduct in the previous 12 months, broken down by the number of sustained allegations; the number of employees who have had more than one sustained allegation of serious misconduct in the previous 12 months, broken down by the number of sustained allegations; and the number of criminal prosecutions of employees, broken down by criminal charge.

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

The proposed PSB Operations Manual reviewed by the Monitoring Team identifies the PSB Commander as responsible for preparing the Semi-Annual Public Report on misconduct investigations. The proposed manual also contains provisions for the production of summary information regarding sustained conflict of interest violations; an analysis of the complaint intake process; and aggregate data on complaints (internal and external), processing of misconduct cases, outcomes of misconduct cases, and employees with persistent misconduct problems.

PSB command personnel produced a Semi-Annual Public Report on misconduct investigations during the last reporting period, and placed it on the homepage of the MCSO website. The Monitoring Team reviewed the Semi-Annual Public Report for the period July 1-December 31, 2016, and provided feedback to PSB. We noted that the report does not capture all of the requirements of this Paragraph, including, but not limited to: sustained allegations that an employee violated conflict-of-interest rules; aggregate data on the nature of the contact; aggregate data on the complainant's demographic information; Maricopa County Law Enforcement Merit System Council findings/disposition broken down by discipline and Council ruling (overruled, sustained, or changed); and similar information concerning appeals beyond the Council.

During our October 2017 site visit, PSB command personnel indicated the bureau is currently working on completing the Semi-Annual Public Report for January 1-June 30, 2017.

Paragraph 252. *The Sheriff shall require the MCSO to make detailed summaries of completed internal affairs investigations readily available to the public to the full extent permitted under state law, in electronic form on a designated section of its website that is linked to directly from the MCSO's home page with prominent language that clearly indicates to the public that the link provides information about investigations of misconduct alleged against MCSO employees.*

Phase 1: Not in compliance

- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

PSB provided its template for the information that will be captured from completed misconduct investigations for posting as required on the MCSO website. The following data fields have been identified for public disclosure: IA Number; Date Opened; Incident Type; Original Complaint; Policy Violation(s) Alleged/Outcome; Discipline; Investigative Summary; and Date Completed. During our April 2017 site visit, we approved the PSB template containing detailed summaries of completed misconduct investigations for placement on the MCSO website.

During this reporting period, PSB made detailed summaries of completed internal investigations (July, August, and September 2017) readily available to the public in electronic form in a designated section on the homepage of the MCSO website.

Paragraph 253. *The MCSO Bureau of Internal Oversight shall produce a semi-annual public audit report regarding misconduct investigations. This report shall analyze a stratified random sample of misconduct investigations that were completed during the previous six months to identify any procedural irregularities, including any instances in which:*

a. complaint notification procedures were not followed;

b. a misconduct complaint was not assigned a unique identifier;

c. investigation assignment protocols were not followed, such as serious or criminal misconduct being investigated outside of the Professional Standards Bureau;

d. deadlines were not met;

e. an investigation was conducted by an employee who had not received required misconduct investigation training;

f. an investigation was conducted by an employee with a history of multiple sustained misconduct allegations, or one sustained allegation of a Category 6 or Category 7 offense from the MCSO's disciplinary matrices;

g. an investigation was conducted by an employee who was named as a principal or witness in any investigation of the underlying incident;

h. an investigation was conducted of a superior officer within the internal affairs investigator's chain of command;

i. any interviews were not recorded;

j. the investigation report was not reviewed by the appropriate personnel;

k. employees were promoted or received a salary increase while named as a principal in an ongoing misconduct investigation absent the required written justification;

l. a final finding was not reached on a misconduct allegation;

m. an employee's disciplinary history was not documented in a disciplinary recommendation; or

n. no written explanation was provided for the imposition of discipline inconsistent with the disciplinary matrix.

Phase 1: In compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.

Phase 2: Not in compliance

During our October 2017 site visit, the BIO Commander indicated that BIO has not produced a semi-annual public audit report regarding misconduct investigations. The BIO Commander acknowledged that the sample selection of completed misconduct investigations was received from the Monitoring Team during this reporting period. The BIO Commander related the inspection process will begin during the next reporting period and expects the initial audit to take two to three months to complete.

I. Testing Program for Civilian Complaint Intake

Paragraph 254. *The Sheriff shall initiate a testing program designed to assess civilian complaint intake. Specifically, the testing program shall assess whether employees are providing civilians appropriate and accurate information about the complaint process and whether employees are notifying the Professional Standards Bureau upon the receipt of a civilian complaint.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

During our October 2017 site visit, the BIO Commander indicated that the vendor responsible for auditing telephone, email, U.S. Mail, and website complaints completed eight tests of the 24 budgeted for the current year. The inspection of these eight tests is still in progress. BIO will meet again with the second vendor, who will conduct the required in-person testing; to discuss program expectations, methodology, and required documentation for review. This part of the Complaint Intake Testing (CIT) program is still under development.

Paragraph 255. *The testing program is not intended to assess investigations of civilian complaints, and the MCSO shall design the testing program in such a way that it does not waste resources investigating fictitious complaints made by testers.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

BIO is currently reviewing the eight tests completed for the current year involving telephone, email, U.S. Mail, and website complaints. The required in-person testing portion of the Complaint Intake Testing (CIT) program is still under development with the other contracted vendor.

Paragraph 256. *The testing program shall assess complaint intake for complaints made in person at MCSO facilities, complaints made telephonically, by mail, and complaints made electronically by email or through MCSO's website. Testers shall not interfere with deputies taking law enforcement action. Testers shall not attempt to assess complaint intake in the course of traffic stops or other law enforcement action being taken outside of MCSO facilities.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

BIO is currently reviewing the eight tests completed for the current year involving telephone, email, U.S. Mail, and website complaints. The required in-person testing portion of the Complaint Intake Testing (CIT) program is still under development with the other contracted vendor.

Paragraph 257. *The testing program shall include sufficient random and targeted testing to assess the complaint intake process, utilizing surreptitious video and/or audio recording, as permitted by state law, of testers' interactions with MCSO personnel to assess the appropriateness of responses and information provided.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

BIO is currently reviewing the eight tests completed for the current year involving telephone, email, U.S. Mail, and website complaints. The required in-person testing portion of the Complaint Intake Testing (CIT) program is still under development with the other contracted vendor.

Paragraph 258. *The testing program shall also assess whether employees promptly notify the Professional Standards Bureau of civilian complaints and provide accurate and complete information to the Bureau.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

BIO is currently reviewing the eight tests completed for the current year involving telephone, email, U.S. Mail, and website complaints. The required in-person testing portion of the Complaint Intake Testing (CIT) program is still under development with the other contracted vendor.

Paragraph 259. *MCSO shall not permit current or former employees to serve as testers.*

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

BIO is currently reviewing the eight tests completed for the current year involving telephone, email, U.S. Mail, and website complaints. The required in-person testing portion of the Complaint Intake Testing (CIT) program is still under development with the other contracted vendor.

Paragraph 260. *The MCSO shall produce an annual report on the testing program. This report shall include, at a minimum:*

a. a description of the testing program, including the testing methodology and the number of tests conducted broken down by type (i.e., in-person, telephonic, mail, and electronic);

b. the number and proportion of tests in which employees responded inappropriately to a tester;

c. the number and proportion of tests in which employees provided inaccurate information about the complaint process to a tester;

d. the number and proportion of tests in which employees failed to promptly notify the Professional Standards Bureau of the civilian complaint;

e. the number and proportion of tests in which employees failed to convey accurate information about the complaint to the Professional Standards Bureau;

f. an evaluation of the civilian complaint intake based upon the results of the testing program; and

g. a description of any steps to be taken to improve civilian complaint intake as a result of the testing program.

Phase 1: Not in compliance

- GH-4 (Bureau of Internal Oversight), most recently amended on December 14, 2016.
- Audits and Inspections Unit Operations Manual, currently under revision.

Phase 2: Not in compliance

BIO is currently reviewing the eight tests completed for the current year involving telephone, email, U.S. Mail, and website complaints. The required in-person testing portion of the Complaint Intake Testing (CIT) program is still under development with the other contracted vendor.

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, as noted above, the Amendments to the Supplemental Permanent Injunction/Judgment Order (Document 2100) issued on August 3, 2017 altered the composition of the Community Advisory Board (CAB) and CAB's responsibilities and relationship to MCSO. The CAB is now comprised of five members – two selected by the Plaintiffs, two selected by MCSO, and one jointly selected. Only one of the two members serving on the CAB before the August 3, 2017 Order continued serving in this capacity.

During this reporting period, the CAB did not explore the possibility of retaining a consultant to conduct a study to identify barriers to the filing of civilian complaints against MCSO personnel.

Paragraph 262. *In addition to the administrative support provided for in the Supplemental Permanent Injunction, (Doc. 670 ¶ 117), the Community Advisory Board shall be provided with annual funding to support its activities, including but not limited to funds for appropriate research, outreach advertising and website maintenance, stipends for intern support, professional interpretation and translation, and out-of-pocket costs of the Community Advisory Board members for transportation related to their official responsibilities. The Community Advisory Board shall submit a proposed annual budget to the Monitor, not to exceed $15,000, and upon approval of the annual budget, the County shall deposit that amount into an account established by the Community Advisory Board for that purpose. The Community Advisory Board shall be required to keep detailed records of expenditures which are subject to review.*

Phase 1: Not applicable

Phase 2: Not applicable

During this reporting period, as noted above, the Amendments to the Supplemental Permanent Injunction/Judgment Order (Document 2100) issued on August 3, 2017 altered the composition of the Community Advisory Board (CAB) and CAB's responsibilities and relationship to MCSO. The CAB is now comprised of five members – two selected by the Plaintiffs, two selected by MCSO, and one jointly selected. Only one of the two members serving on the CAB before the August 3, 2017 Order continued serving in this capacity.

As a result of these changes, during this reporting period, the Monitoring Team only briefly discussed with the CAB members how CAB could propose an annual budget. At the meeting of the newly reconstituted CAB on September 13, 2017, CAB members briefly discussed the budget with the MCSO representatives in attendance, who encouraged the CAB members to consult with MCSO as they developed a draft budget.

We look forward to continuing these discussions with the CAB during our upcoming site visit.

Section 14: Supervision and Staffing

COURT ORDER XVII. SUPERVISION AND STAFFING

Paragraph 263. *The following Section of this Order represents additions and amendments to Section X of the first Supplemental Permanent Injunction, Supervision and Evaluations of Officer Performance, and the provisions of this Section override any conflicting provisions in Section X of the first Supplemental Permanent Injunction.*

Paragraph 264. *The Sheriff shall ensure that all patrol deputies shall be assigned to a primary, clearly identified, first-line supervisor.*

Phase 1: In compliance

- GB-2 (Command Responsibility), most recently amended on February 1, 2017.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the third quarter of 2017. During this reporting period, consistent with our methodology, for July, we reviewed a sample of shift rosters from Districts 1 and 2; for August, we reviewed a sample of shift rosters from Districts 3 and 4; and for September, we reviewed a sample of shift rosters from Districts 6 and 7, and Lake Patrol. Monthly and daily rosters showed that deputies were assigned to one single consistent supervisor.

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 February 1, 2017.

Phase 2: Not in compliance

As Paragraph 265 is a general directive that covers many aspects of supervision, there are several requirements covered in other Paragraphs of this Order that directly impact this Paragraph; these requirements must be met before MCSO can establish compliance with Paragraph 265. We have determined that MCSO is in compliance with Paragraphs 83, 85, 89, 90, 93, and 94 as they relate to this Paragraph. We recognize that supervision has improved and that supervisors have been more attentive to their responsibilities in providing guidance to their subordinates. There are still some areas that need improvement – specifically, those that relate to the review of traffic stops and investigatory detentions. In addition to the previously referenced Paragraphs, MCSO must be in compliance with Paragraph 91 to achieve compliance with Paragraph 265.

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 February 1, 2017.

Phase 2: In compliance

To verify Phase 2 compliance with this Paragraph, we reviewed monthly rosters and shift rosters for the third quarter of 2017. During this reporting period, consistent with our methodology, for July, we reviewed a sample of shift rosters from Districts 1 and 2; for August, we reviewed a sample of shift rosters from Districts 3 and 4; and for September, we reviewed a sample of shift rosters from Districts 6 and 7, and Lake Patrol. Monthly and daily rosters showed that deputies were assigned to one single consistent supervisor and that supervisors were generally assigned no more than eight deputies.

District 1 had one day in July where a squad listed a ratio of 1:13. There was one day when one squad had a ratio of 1:10 and another day when a squad had a ratio of 1:9. District 3 listed four days in August where one squad had a ratio of 1:9. The seven instances noted in this quarter where squads exceeded the 1:8 supervisor-deputy ratio are concerning, as they place MCSO below the minimum acceptable compliance rating for the reporting period, and therefore out of compliance for the quarter. We will monitor the requirements of this Paragraph, and if we find that the span of control requirement is not met consistently, we will change our compliance rating.

During this reporting period, we did not receive any notification from MCSO with regard to any adjustments related to supervisor-to-deputy ratios in any unit, squad, or shift.

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 February 1, 2017.

Phase 2: Not in compliance

Close and effective supervision requires that supervisors consistently apply the concepts established in several Paragraphs of the First Order. There are requirements covered in other Paragraphs that directly impact Paragraph 267, and must therefore be in compliance for MCSO to establish compliance with this Paragraph. We have determined that MCSO is in compliance with Paragraphs 83, 85, 89, 90, 93, 94, and 96 as they relate to this Paragraph. While we recognize that supervisors have improved their performance with regard to the management of their subordinates, we continue to note deficiencies in documentation and policy violations that supervisors are failing to identify in traffic stops. In order for MCSO to achieve compliance with Paragraph 267, in addition to the Paragraphs previously referenced, MCSO must be in compliance with Paragraph 91.

Paragraph 268. *During the term that a Monitor oversees the Sheriff and the MCSO in this action, any transfer of sworn personnel or supervisors in or out of the Professional Standards Bureau, the Bureau of Internal Oversight, and the Court Implementation Division shall require advanced approval from the Monitor. Prior to any transfer into any of these components, the MCSO shall provide the Court, the Monitor, and the parties with advance notice of the transfer and shall produce copies of the individual's résumé and disciplinary history. The Court may order the removal of the heads of these components if doing so is, in the Court's view, necessary to achieve compliance in a timely manner.*

Phase 1: Deferred

- Court Implementation Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During this reporting period, MCSO submitted the resumes and disciplinary history of six incoming transfer requests to PSB, CID, and BIO for approval. In addition, five employees were transferred out of these units. We reviewed the documentation submitted for each transfer request to ensure that each employee transferred into these units met the requirements of Paragraph 268. We also reviewed each outgoing transfer to ensure that the transfers were based on MCSO needs, and were not punitive in nature. We approved all of the submitted transfers based on the information provided. During our October site visit, we audited the files of the employees transferred and verified the accuracy of the information submitted for each employee. In our inspection of personnel files, we noted no irregularities or deficiencies.

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), published on October 13, 2017.

Phase 2: Not in compliance

To verify MCSO's Phase 2 compliance with this Paragraph, we reviewed monthly submittals of document preservation notices to MCSO employees for the reporting period. We also reviewed a sample of cases during our October 2017 site visit to verify if a search for the documents identified in the Document Preservation Notice was performed and if responsive documents were appropriately identified and preserved.

Document preservation is set in motion when a party sends a litigation hold notice or written directive to MCSO requesting the preservation of relevant documents or records and electronically stored information (ESI), in anticipation of future litigation against the agency. MCSO's Legal Liaison Section (LLS) manages litigation holds. Upon the receipt of a litigation hold – which is usually sent by the Maricopa County Attorney's Office (MCAO) – the LLS conducts initial research to determine which agency divisions can properly address the hold, and then drafts a Document Preservation Notice which is sent out to the divisions within five business days.

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. In each case, the information contained in the third-party source document was correctly conveyed in the Document Preservation Notices drafted and distributed by the LLS. In addition, the LLS consistently distributed the Document Preservation Notices to MCSO divisions in a timely manner.

During this reporting period, MCSO began using the following GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices) Forms: Attachment A – Document Preservation Acknowledgment and Attachment B – Document Preservation Questionnaire. The LLS is sending both forms – along with the Document Preservation Notices – through electronic communications to those employees who may have responsive documents. In each case, the LLS sent the attachments in a timely manner. Our review of the forms returned to the LLS, suggested that the employees are not well aware of the deadlines for their return. Form A, the attestation, is due within five days of receipt. However, Form B – which requires more in-depth information such as steps taken to search documents, the outcome of the search, and the itemization of the documents identified as responsive – is due within 10 days of receipt. We found that Form A was submitted late 40% of the time, while Form B was submitted late 25% of the time.

During our October site visit, we reviewed completed copies of Form B and found that some employees had not properly completed them. We found the following deficiencies: some employees failed to complete the form and returned it blank; other employees completed the form with conflicting information such as stating that they did not have responsive documents and then providing an itemization of responsive documents. In addition, we found that some forms were not dated or signed. We found that in the Steps Taken to Search for Records, Documents, ESI, which contains examples of places to search, some employees limited their reporting to the examples provided, rather than to the searches actually performed. We found that one employee wrote on the form that he had created new physical files for the documents he located, when in fact the documents should be kept in the ordinary course of business. We discussed our observations with the LLS personnel since this was a new process for the agency. We recommended that the employees who experienced problems completing the forms receive a brief explanation or tutorial.

During our October site visit, we conducted our usual District visits and learned that MCSO personnel had many questions regarding GD-9, which had been published the week prior to our visit. One Commander stated that the language of GD-9 was "too legal," and that personnel were not sure what the procedure called for. He suggested that employees would benefit from further training on the policy, be it through visual aids or a checklist.

We visited 21 MCSO divisions to determine if documents were being properly preserved. On three occasions, personnel did not follow the proper procedures for preservation. However, we verified in our visits that the employees had multiple questions regarding the procedures set forth in GD-9, and some stated that the documents provided by the LLS did not provide enough guidance.

MCSO published GD-9 October 13, 2017; and we were informed that it went out through the E-Policy system, which requires acknowledgement on the part of the employee that s/he fully understands the policies and procedures therein established. Due to the legal nature of this policy, we concurred with the commander who provided feedback on the policy and recommended to the LLS that further instructions in the form or visual aids and/or training be provided to employees.

In the future, MCSO aims to perform the searches and preservations in a centralized process through Open Axes, a discovery software program. During our October site visit, MCSO demonstrated the Open Axes search tool. MCSO has already acquired the software, and is currently indexing the data in the hard drives shared by MCSO personnel to feed it into the system. The software will be operational on the shared drives, which will allow for faster queries. Still, employees will ultimately have to filter the data that the system identifies as responsive. Additionally, there are many components within the agency that use different data systems to obtain information on a daily basis. Open Axes will eventually require the integration of all data systems within the agency to allow for preservation of records in a centralized location.

Paragraph 270. *The Sheriff shall ensure that when the MCSO receives a request for documents in the course of litigation, it shall:*

a. promptly communicate the document request to all personnel who might possibly be in possession of responsive documents;

b. ensure that all existing electronic files, including email files and data stored on networked drives, are sequestered and preserved through a centralized process; and

c. ensure that a thorough and adequate search for documents is conducted, and that each employee who might possibly be in possession of responsive documents conducts a thorough and adequate search of all relevant physical and electronic files.

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation and Document Production Notices), published on October 13, 2017.
- Open Axes Operations Manual, not yet drafted.

Phase 2: Not in compliance

To verify MCSO's Phase 2 compliance with this Paragraph, we reviewed monthly submittals of requests for documents to MCSO employees for the reporting period and documents drafted by the Legal Liaison Section (LLS) in search of documents from other divisions of the agency. For this reporting period, we identified a sample of document requests and requested a copy of the responsive documents sequestered and/or produced.

Paragraph 270.a. requires prompt communication of document requests to all personnel who might possibly be in possession of responsive documents. GD-9 requires the LLS to enter the data into a tracking system within five days and to draft a Document Production Notice within five additional 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 division of MCSO for production.

We reviewed the document production for this Paragraph, and noted that LLS is using a document called Request for Production of Records in lieu of a Document Production Notice. We had approved Form C in July 2017, which refers to the Document Production Notice. We recommend that going forward, MCSO rename its internal forms to be consistent with both Form C and the policy.

During this reporting period, MCSO began using GD-9 Attachment C – Document Production Acknowledgement Questionnaire. Although we approved Form C for use during our July visit, we only saw it as part of the September production. In 70% of the cases, Form C was not completed by all the personnel who provided responsive documents. Additionally, the forms that were returned to the LLS were not properly completed. Form C requires an itemization of the documents that are being provided, which was completed only in limited cases.

At the close of this reporting period, in 46% of the instances, MCSO complied with the draft policy's new timeframes between the receipt of the request and the transmittal of the Request for Production of Records. We will follow up during our next site visit to learn the reasons for the delay in the remaining cases.

Paragraph 270.b. requires that all requested electronic files be stored, sequestered, and preserved by MCSO through a centralized process. During our October site visit, MCSO demonstrated the Open Axes search tool, which MCSO intends to use to implement the centralized document preservation process. The software has already been acquired by MCSO, and the agency is indexing the data in the hard drives shared by MCSO personnel to feed it into the system. The software will be operational on the shared drives, which will allow for faster queries within the systems. However, an employee will ultimately have to filter the data that the system identifies as responsive. There are many components within the agency that use different data systems. Open Axes will eventually require the integration of these data systems to allow for preservation of records in a centralized location. In addition, since all references to Open Axes in GD-9 were eliminated to facilitate the approval of the policy, MCSO will continue to not be in compliance with this Subparagraph until it creates an Open Axes Operations Manual with the protocols and procedures for the centralized process of document preservation, and makes any necessary amendments to GD-9 as a result of deploying the software.

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 through and adequate search of all relevant physical and electronic files. We reviewed a sample of responsive documents for this reporting period, and note that MCSO has identified responsive documents to the document production notices, in 88% of the cases.

Paragraph 271. *Within three months of the effective date of this Order, the Sheriff shall ensure that the MCSO Compliance Division promulgates detailed protocols for the preservation and production of documents requested in litigation. Such protocols shall be subject to the approval of the Monitor after a period of comment by the Parties.*

Phase 1: Not in compliance

- GD-9 (Litigation Initiation, Document Preservation, and Document Production Notices), published on October 13, 2017.
- Compliance Division Operations Manual, currently under revision.

Phase 2: Not in compliance

We and the Parties reviewed the Compliance Division Operations Manual, and we sent our combined comments to MCSO on November 12, 2016. We have not yet received the amended manual for additional review.

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), published on October 13, 2017.

Phase 2: In compliance

No internal investigations were completed against any MCSO employee during this reporting period for failure to preserve or produce documents.

Section 16: Additional Training

COURT ORDER XIX. ADDITIONAL TRAINING

Paragraph 273. *Within two months of the entry of this Order, the Sheriff shall ensure that all employees are briefed and presented with the terms of the Order, along with relevant background information about the Court's May 13, 2016 Findings of Fact, (Doc. 1677), upon which this Order is based.*

Phase 1: Not applicable

Phase 2: In compliance

MCSO delivered this training on the E-Policy platform. During the last reporting period, there remained a single individual requiring training. This individual received the training and subsequently retired. All individuals (100%) identified 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). PSB holds a weekly meeting to discuss existing and incoming complaints to determine which, if any, could be CRMs. During these meetings, PSB personnel also discuss cases pending a CRM decision, cases determined to be CRMs, and any cases where the decision may be made that the case would not be classified as a CRM. During these meetings, the PSB Commander determines the classification of the cases.

Since August 2016, PSB has held weekly meetings for this purpose. A Monitoring Team member attends the meetings to provide the oversight required by 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 that could make them CRMs. These cases were reviewed during the weekly CRM meetings. In addition, a member of our Team randomly selected an additional 52 cases from the remaining 400 pending cases and concurred with PSB's assessment that the cases did not meet the basic criteria that could make them 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. By the end of the reporting period, nine cases had been determined to be CRMs and one other was pending a CRM decision. The remaining cases had been determined not to be CRMs.

During the three previous reporting periods, an additional 72 cases were reviewed as possible CRMs. Fifteen were determined to be CRMs and processed as required by this and other Paragraphs related to CRMs. The remaining cases were either pending a CRM decision or determined not to be CRMs. A total of 134 cases had been reviewed as potential CRMs since July 20, 2016. Twenty-four were determined to be CRMs.

During this reporting period, an additional 16 cases were reviewed as potential CRM cases. Five were determined to be CRMs. As of the end of this reporting period, a total of 150 cases have been *reviewed* as potential CRMs since July 20, 2016. Twenty-nine have been determined to be CRMs, and 121 have been determined not to be CRMs.

A total of 24 CRM cases have been *closed* since July 20, 2016, including five during this reporting period. Four of these 24 cases had sustained findings on a deputy who is deceased or a deputy who has left MCSO employment. Six resulted in sustained findings against current MCSO deputies. Two of these sustained CRM cases resulted in the dismissal of the involved deputies for truthfulness issues that were discovered during the investigations. One case resulted in a sustained allegation that the employee had made an inappropriate comment (used profanity) during a contact with a community member. While this conduct was inappropriate and discipline resulted, the sustained allegation was not related to any bias. In two separate cases, deputies received discipline for failing to properly complete the report of an incident and a sergeant received discipline for signing off on the incomplete reports. One case resulted in a 40-hour suspension for an inappropriate and biased comment that was made by a Detention officer. The remaining CRM cases were closed with findings of exonerated, unfounded, or not sustained. Our Team has approved the investigation; findings; and where appropriate, the discipline in all these cases.

During the weekly 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.

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 member of our Team has attended every CRM meeting with PSB where these matters are discussed and personally reviewed a number of the cases that were pending on July 20, 2016; and our Team member reviews the new cases that are presented each week. There has been no need for 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 weekly CRM meetings attended by a member of our Team, PSB has consistently properly identified cases that could be, or are, CRMs. PSB personnel brief each case during the weekly meetings, and their briefings generally include 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 brought forward. 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 Party 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: Not in compliance

- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

To evaluate Phase 2 compliance with this Paragraph, a member of our Team has attended each weekly meeting conducted by PSB to discuss Class Remedial Matters. PSB has consistently provided thorough briefings, and the PSB Commander has made appropriate decisions regarding these matters.

MCSO attained compliance with the requirements of this Paragraph during the last reporting period.

During this reporting period, PSB completed and closed five CRM cases. Two of these cases had sustained findings. In one of the cases, a deputy was sustained for failing to properly complete his reports and his supervisor was sustained for signing off on the incomplete reports. The deputy received a written reprimand and the supervisor received a coaching session. In the second case, a Detention officer received a 40-hour suspension for making an inappropriate and biased comment to an inmate. The remaining three cases resulted in appropriate findings of not sustained, unfounded, or exonerated.

In our review of the five completed CRM cases during this reporting period, we found all were compliant with the requirements specific to the investigation of CRMs; and other requirements for administrative misconduct investigations. Each case report we reviewed was consistent with the briefings that had been provided during the weekly CRM meetings. The investigators continue to conduct appropriate follow-up on these cases, expend extensive efforts to locate and contact all involved parties and witnesses, and provide detailed information concerning the allegations and the justifications for findings in their investigative reports. In all sustained cases, MCSO arrived at a disciplinary decision as required.

In two of the CRM investigations we reviewed during the reporting period, investigators identified training or policy issues; and appropriately brought these issues to the attention of the appropriate Division in MCSO for review. At the time we receive closed IA cases, the recommended follow-up or policy review has generally not yet occurred. We routinely follow up with PSB to ensure that any concerns identified and forwarded to other Divisions are properly addressed. As noted in other Paragraphs in this report, PSB is developing a spreadsheet to provide better tracking of the completion of necessary follow-up or policy 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: Not in compliance

- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

There were no CRM cases completed during this, or 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

A total of 24 CRM cases have been closed since July 20, 2016. Four had sustained findings against a deputy who was either deceased or had left MCSO employment. Six have resulted in sustained findings against current deputies, including two that were closed this reporting period. In two of these six cases, a deputy was terminated as a result of conduct discovered by investigators during the investigation. In both of these cases, the conduct for which the employee was terminated involved a sustained truthfulness allegation. In one case, the sustained finding was for an inappropriate comment (profanity) made by the deputy during a contact with a community member. While this conduct was inappropriate and the allegation appropriately sustained, the comment was not biased in nature. In two sustained cases, the misconduct involved the failure of a deputy to properly complete a report and the failure of his supervisor to identify that the report was not properly completed. In the final sustained case, the misconduct involved a Detention officer who made an inappropriate and biased comment to an inmate. We reviewed and approved all of the disciplinary findings.

Paragraph 284. *The Sheriff and the MCSO shall expeditiously implement the Monitor's directions, investigations, hearings, and disciplinary decisions. The Sheriff and the MCSO shall also provide any necessary facilities or resources without cost to the Monitor to facilitate the Monitor's directions and/or investigations.*

Phase 1: Not in compliance

- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During this, and the previous reporting periods, a Monitoring Team member attended all weekly CRM meetings conducted in an appropriate location determined by MCSO. PSB also provided 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 brought forward.

Paragraph 285. *Should the Monitor decide to deviate from the Policies set forth in this Order or from the standard application of the disciplinary matrix, the Monitor shall justify the decision in writing and place the written explanation in the affected employee's (or employees') file(s).*

Phase 1: Not applicable

Phase 2: Not applicable

As of the end of this reporting period, there have been a total of 10 CRM cases with sustained findings. Four involved deputies who are either deceased or have left MCSO employment and thus no disciplinary findings were made. Two cases resulted in the termination of employees for sustained truthfulness allegations. The remaining four sustained cases resulted in appropriate sanctions based on MCSO policy and the Discipline Matrices in effect at the time the cases were completed. No action by us 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: Not in compliance

- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

During this reporting period, none of the CRM cases that we reviewed included both a criminal and an administrative investigation; nor did we find that these, or any other CRM case, should have included a criminal investigation. No action on our part relative to this Paragraph was 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 January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: In compliance

Of the 10 total sustained CRM cases since the issuance of the Second Order, four have resulted in minor discipline. We concurred with MCSO's decision in these cases. In one case that we reviewed during the last reporting period, an employee filed a grievance regarding the discipline he received. Due to an inadvertent administrative processing error, MCSO did not forward the grievance to our Team for adjudication as required. MCSO upheld the discipline, and we agreed with the decision to so. We discussed this issue with PSB and Compliance personnel, and they have added a flag to the CRM investigative documents that should prevent any future occurrence of this kind.

During this reporting period, there were no grievances or appeals filed on discipline received by employees on any sustained CRM case.

Paragraph 288. *The Monitor's authority over Class Remedial Matters will cease when both:*

a, The final decision of the Professional Standards Bureau, the Division, or the Sheriff, or his designee, on Class Remedial Matters has concurred with the Monitor's independent decision on the same record at least 95% of the time for a period of three years.

b. The Court determines that for a period of three continuous years the MCSO has complied with the complaint intake procedures set forth in this Order, conducted appropriate internal affairs procedures, and adequately investigated and adjudicated all matters that come to its attention that should be investigated no matter how ascertained, has done so consistently, and has fairly applied its disciplinary policies and matrices with respect to all MCSO employees regardless of command level.

Phase 1: Not applicable

Phase 2: In compliance

During this and prior reporting periods, we and PSB concurred on the investigative outcome of each CRM investigation completed. MCSO attained compliance with this Paragraph during the last reporting period.

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 brought forward; and they provide detailed information and updates in their weekly 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 in compliance

- CP-2 (Code of Conduct), most recently amended on January 6, 2017.
- CP-3 (Workplace Professionalism), most recently amended on December 15, 2016.
- CP-5 (Truthfulness), most recently amended on October 24, 2017.
- CP-11 (Anti-Retaliation), most recently amended on October 24, 2017.
- GC-16 (Employee Grievance Procedures), most recently amended on January 6, 2017.
- GC-17 (Employee Disciplinary Procedures), most recently amended on May 18, 2017.
- GH-2 (Internal Investigations), most recently amended on May 18, 2017.
- Compliance Division Operations Manual, currently under revision.
- Professional Standards Bureau Operations Manual, currently under revision.

Phase 2: Not in compliance

During the last reporting period, we reviewed a total of 101 internal investigations. All but nine of the total administrative investigations were both initiated and completed after the issuance of the Second Order. Six of these were criminal investigations, and 95 were administrative investigations. All six criminal investigations were in compliance with the Second Order. Of the 95 administrative investigations we reviewed, four were CRMs. All four of the CRM investigations were compliant with the Second Order. We found MCSO in compliance with all requirements of the Second Order in 40 (42%) of the 95 administrative conduct investigations we reviewed.

During this reporting period, we reviewed a total of 93 internal investigations. All but three were both initiated and completed after the issuance of the Second Order. Seventy-four were administrative misconduct investigations, five of which were CRMs. We reviewed an additional 19 criminal misconduct investigations. All but one of the criminal investigations were in compliance with the Second Order, and all five CRM investigations were in compliance. We found MCSO in compliance with all requirements of the Second Order in 44 (59%) of the total 74 administrative conduct investigations reviewed. This is a 17% increase in overall compliance from the last reporting period.

In 30 (41%) of the cases that were not in full compliance, we noted continuing concerns, including: failure to complete timely and thorough investigations; failure to interview all potential witnesses or investigative leads; unsupported findings; and failure to provide all required documentation. Of the investigations found to be not in full compliance for this reporting period, 13 (43%) were investigated by Districts or Divisions other than PSB. In the 17 PSB cases found not in full compliance, five (29%) were investigated by sworn personnel assigned to PSB and 12 (71%) were investigated by Detention personnel assigned to PSB

While MCSO still falls short with all compliance requirements for the completion of internal investigations, as noted above, PSB's overall compliance increased by 17% for this reporting period. We continue to note PSB's efforts to address concerns we have raised, and the efforts that PSB personnel continue to make to assist District personnel in the completion of investigations.

We will discuss overall compliance and the concerns we identified with PSB and District and Division personnel during our next site visit and provide them with specific case examples.

Effective with the revisions to IA 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 will be reviewed for compliance under this Paragraph.

PSB investigated and reported eight service complaints during this reporting period. Research conducted by PSB determined that in four cases, the complaints involved law enforcement personnel other than MCSO. In the four remaining cases, MCSO determined that the complaints did not involve misconduct of MCSO employees, but were related to MCSO policies and procedures. We agree that all eight cases were properly determined to be service complaints. In two of the complaints, we believe that although it would not have affected the classification of the complaints, additional follow-up or documentation should have occurred. This is a new process for PSB, and we will discuss the handling of service complaints with PSB personnel during our next site visit.

Also, effective with the revisions to the IA and discipline policies, the PSB Commander is 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 will also be reported in this Paragraph. No such incidents occurred during this or the last reporting period.

Paragraph 290. *This requirement is necessitated by the Court's Findings of Fact that show that the MCSO manipulates internal affairs investigations other than those that have a direct relation to the Plaintiff class. The Court will not return the final authority to the Sheriff to investigate matters pertaining to members of the Plaintiff class until it has assurance that the MCSO uniformly investigates misconduct and applies appropriate, uniform, and fair discipline at all levels of command, whether or not the alleged misconduct directly relates to members of the Plaintiff Class.*

Paragraph 291. *The Monitor shall report to the Court, on a quarterly basis, whether the MCSO has fairly, adequately, thoroughly, and expeditiously assessed, investigated, disciplined, and made grievance decisions in a manner consistent with this Order during that quarter. This report is to cover all internal affairs matters within the MCSO whether or not the matters are Class Remedial Matters. The report shall also apprise the Court whether the MCSO has yet appropriately investigated and acted upon the misconduct identified in the Court's Findings of Fact, whether or not such matters constitute Class Remedial Matters.*

Phase 1: Not applicable

Phase 2: Not applicable

This report, including all commentary regarding MCSO's compliance with investigative and disciplinary requirements, serves as our report to the Court on these matters. An overall summary of our compliance observations and findings is provided here.

During the last reporting period, we reviewed a total of 95 administrative misconduct investigations, including four that were classified as CRMs, and an additional six criminal misconduct investigations. All were completed after the issuance of the Second Order. We found all six criminal investigations in compliance with the Second Order. Of the 95 administrative misconduct investigations, 40 (42%), including all four CRM cases, were in full compliance with the Second Order, as were the six criminal investigations conducted.

During this reporting period, we reviewed a total of 74 administrative misconduct investigations, including five that were CRMs, and an additional 19 criminal misconduct investigations. All were completed after the issuance of the Second Order. We found all but one of the 19 criminal investigations in compliance with the Second Order. Of the 74 administrative misconduct investigations reviewed, 44 (59%), including the five CRMs, were in compliance with the Second Order.

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 include the investigations identified in Paragraph 300. MCSO processed a Request for Proposal and retained an outside investigator who meets the requirements of Paragraphs 167.iii. and 196 to conduct the investigations it has 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 appears to exist.

PSB has 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 within the discretion of the Independent Investigator. He further clarified that his investigations would include the initial misconduct alleged, as well as any misconduct that might have occurred during the process of review or issuance of discipline by MCSO personnel.

In October 2017, we requested that PSB provide us with an updated list that included the status of all cases that had been outsourced to any contract vendor, other law enforcement agency, or other person or entity, so that we could continue to monitor these investigations and ensure that the cases identified in the Findings of Fact are properly and thoroughly investigated. PSB has since provided this list.

Of the three cases that were outsourced to another law enforcement agency, one has been completed and reviewed by our Team. An additional case has been completed but was under appeal during this reporting period. The third case outsourced to another law enforcement agency was determined to be a duplicate of one being conducted by the Independent Investigator, and the investigation by the outside agency was discontinued.

There have been no cases completed and submitted for our review that have been investigated by the contract investigator. The Independent Investigator is continuing investigations identified by the Court and we are notified of the status of these cases on a regular basis.

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 Monitoring Team member attends each weekly CRM meeting, reviews the lists of new internal investigations, and has access to the PSB IAPro database. The only cases for which any oversight occurs during the investigative process are those that are determined to be CRMs. 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 three years ago, we have reviewed hundreds of investigations into alleged misconduct by MCSO personnel. As noted in our previous reports and elsewhere in this report, we continue to note numerous concerns with internal investigations, but have also noted many improvements. We reviewed 74 administrative misconduct investigations for this reporting period. MCSO's overall compliance was 59%, an increase of 17% from the last reporting period. The highest compliance (69%) was in those cases completed by sworn and Detention investigators assigned to PSB. Compliance in those cases investigated by Districts or Divisions outside of PSB was 35%, an increase of 6% from the last reporting period.

Investigations completed by sworn personnel assigned to PSB were compliant in 76% of the cases we reviewed for this reporting period, an increase of 26% from the last reporting period. Investigations completed by Detention personnel were compliant with the requirements of the Order in 64% of the investigations, an increase of 31% from the last reporting period. Some of the concerns from the last reporting period, including timely completion of investigations, failure to thoroughly conduct investigations, failure to employ appropriate investigative techniques, and a lack of required documentation remain, but the overall investigative quality of investigations by personnel assigned to PSB demonstrates significant improvement.

Of the cases investigated outside of PSB, 35% were compliant with all requirements of the Order, an increase of 6% from the last reporting period. These cases continue to be the greatest concern, due to limited improvement and the continuing low overall rate of compliance. Most of these cases were investigated at the District level. In many of the cases, noncompliance is still a result of procedural errors, or failure to meet established timelines, but we also continue to observe ongoing issues with the quality of the investigations. While we acknowledge that the investigative training has not yet occurred, we have met with District command personnel during the last five site visits to share our concerns with the investigations conducted by their personnel, and reviewed and approved by them. We have specifically addressed areas where continuous compliance issues have existed. Were it not for the corrections and additional investigation directed by PSB when they review these investigations, even fewer of these cases would be in compliance. In only two cases during this reporting period did a District Commander identify and address deficiencies in an investigation prior to the case being submitted to PSB for review.

We have provided MCSO personnel who conduct internal investigations with extensive feedback regarding our concerns and recommendations for improvement, including numerous specific case examples during the last four reporting periods. We have also acknowledged those investigations that have been properly – and in some cases, exceptionally well – investigated and reported.

PSB personnel continue to be receptive to our input, and we have had many productive meetings and discussions regarding the investigations being conducted. We continue to note that PSB addresses issues we bring forward during our site visit meetings. Overall compliance improved significantly during this reporting period in those investigations conducted by PSB personnel, and we continue to believe that PSB is making sincere efforts to comply with the Orders of the Court.

The 40-hour internal investigation training is in progress; and while we remain hopeful that this training will address many of the noncompliance areas we have noted in the completion of internal investigations – particularly in those investigations conducted at the District level – we must once again note that training alone will not serve as the panacea that will address all of the problems we have observed in these investigations. 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.

It is critical that the executive leadership of MCSO not only understand the challenges faced by PSB personnel and others charged with the responsibility to conduct internal investigations, but that they also provide appropriate oversight, necessary resources, and support for their personnel. They must also begin to hold those who conduct and review internal investigations accountable for the quality of these investigations, if they are going to achieve compliance with the requirements set forth by the Court.

B. Investigations to be Conducted by the Independent Investigator and the Independent Disciplinary Authority

Paragraph 294. *In its Findings of Fact, (Doc. 1677), the Court identified both: (1) internal affairs investigations already completed by the MCSO that were inadequate or insufficient; (see, e.g., Doc. 1677 at ¶ 903), and (2) misconduct or alleged misconduct that had never been investigated by MCSO that should be or should have been investigated. (Id. at ¶ 904.)*

Paragraph 295. *In light of MCSO's failure to appropriately investigate these matters, the Court appoints an Independent Investigator and an Independent Disciplinary Authority from the candidates set forth by the parties, and vests them with the authority to investigate and decide discipline in these matters.*

1. The Independent Investigator

Paragraph 298. *In assessing the existence of previously uncharged acts of misconduct that may be revealed by the Findings of Fact, the Independent Investigator does not have authority to investigate acts of misconduct that are not sufficiently related to the rights of the members of the Plaintiff class. While the Independent Investigator should identify such acts of misconduct and report those acts to the Commander of the Professional Standards Bureau, and to the Monitor for purposes of making the Monitor's assessment identified in ¶¶ 291–93 above, the Independent Investigator may not independently investigate those matters absent the authorization and the request of the Sheriff.*

Paragraph 300. *The following potential misconduct is not sufficiently related to the rights of the members of the Plaintiff class to justify any independent investigation:*

a. Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the Montgomery investigation. (Doc. 1677 at ¶ 385).

b. Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the existence of the McKessy investigation. (Id. at ¶ 816).

c. Chief Deputy Sheridan's untruthful statements to Lieutenant Seagraves made during the course of an internal investigation of Detective Mackiewicz to the effect that an investigation into the overtime allegations against Detective Mackiewicz had already been completed. (Id. at ¶ 823).

d. Other uninvestigated acts of misconduct of Chief Deputy Sheridan, Captain Bailey, Sergeant Tennyson, Detective Zebro, Detective Mackiewicz, or others that occurred during the McKessy investigation. (Id. at ¶¶ 766–825).

Phase 1: Not applicable

Phase 2: Deferred

During our January 2017 site visit, the PSB Commander assured us that all acts of misconduct that we identified and discussed during our October 2016 site visit would be provided to a contracted independent investigator for investigative purposes.

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 MCAO to verify that all of the acts of misconduct that were identified in the Findings of Fact (FOF) are being investigated, either by the Court-appointed Independent Investigator or the private licensed contract investigator. Previous to this meeting, PSB command had 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 explained that many of the acts of potential misconduct identified in the FOF were identified by the Court in Paragraph 301 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.

During our July and October 2017 site visits, we discussed the status of investigations being conducted in compliance with this Paragraph requirement. We have also reviewed the status reports regarding those cases being investigated by the Independent Investigator.

During this reporting period, there were no internal investigations closed by the contract investigator retained by MCSO. PSB outsourced one additional investigation to the contract investigator, as it involves allegations of misconduct by members of the administration. PSB personnel completed one investigation involving allegations relevant to this Paragraph. Our Team reviewed this investigation, and found it in compliance with the requirements for investigating allegations of misconduct.

The ability for us to verify that all potential misconduct outlined in the FOF has been investigated by PSB, the PSB contract investigator, or the Independent Investigator remains pending until all the investigations are identified and 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. They have explained that this is because 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 January 6, 2017.

Phase 2: In compliance

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

Section 18: Concluding Remarks

We assess compliance with 99 Paragraphs of the First Order, and 114 Paragraphs of the Second Order, for a total of 213 Paragraphs. MCSO is in Phase 1 compliance with 73 of the First Order Paragraphs, or 85%; and 78 of the Second Order Paragraphs, or 75%. MCSO is in Phase 2, or operational compliance, with 61 of the First Order Paragraphs, or 62%; and 75 of the Second Order Paragraphs, or 66%. Combining the requirements of both Orders, MCSO is in Phase 1 compliance with 151 Paragraphs, or 79%; and in Phase 2 compliance with 136 Paragraphs, or 64%.

We note that these numbers reflect the impact of the change in community engagement responsibilities for MCSO. As previously stated, we commend the Sheriff's Office for its successful efforts to reacquire this role, but it does result in additional Paragraphs which are subject to monitoring and, where applicable, determination of Phase 1 and Phase 2 compliance. MCSO will have to develop appropriate written procedures that capture their new responsibilities, subject to the review process outlined in Section IV of the First Order.

Just prior to the close of the last reporting period, MCSO completed operationalization of the required elements of the Early Identification System (EIS) as required by Paragraph 75, meeting the target date stipulated to by the Parties and subsequently ordered by the Court. The last remaining piece in the EIS implementation plan involved training the users in the functionality of the system, and more importantly, the Office's expectations for proper use of the system. We, MCSO, and the Parties have worked diligently on the lesson plans and related materials, and a Train-the-Trainer session was held just prior to the close of the quarter. We expect that the training, once delivered, will have an impact on the consistency and quality of the work product associated with the EIS.

Similarly, the materials associated with the 40 hours of comprehensive training on conducting employee misconduct investigations, required by the Second Order, were finalized during this reporting period. Toward the end of the reporting period, we provided technical assistance with Train-the-Trainer sessions; and MCSO began delivering the training to its supervisors. We have been critical of the overall quality of administrative investigations of alleged misconduct, particularly those conducted by District personnel. Field supervisors have advised us during site visit meetings and District visits that they have been waiting for the training, and have routinely cited the lack of training as a reason for the poor quality of investigations. Indeed, the feedback we have received from those who received the training has been overwhelmingly positive. However, we remain concerned with the failure to address the issues regarding quality up to this point, particularly since the requirements of the Second Order have been well publicized in the organization; and we have been providing detailed feedback on these investigations during every site visit for at least one year. If the quality does not show significant improvement following the delivery of this training, we expect the administration to employ alternative corrective measures to bring these cases into compliance, including invoking the disciplinary process where it is warranted.

As noted in other areas of this report, MCSO completed the reanalysis of the second Traffic Stop Annual Report (TSAR). Like the first iteration, the rerun of the annual traffic stop analysis also identified individual deputy outliers who demonstrated a statistically significant disparity by race in various aspects of their traffic enforcement activities. In August, we and the Parties met with MCSO and its contractor via technical assistance; and collectively, we identified from the outliers those deputies who we believe warranted further intervention. We also finished the drafting of the documents to be used in the supervisory discussion process, as well as the content of the orientation sessions for the involved supervisors. MCSO subsequently conducted two rounds of supervisory discussions, both considered pilot programs, with the understanding that the conduct and the results of the discussions would be reviewed by the technical assistance group and modified as necessary. Each met with limited success, ultimately resulting in comprehensive modifications to the process. These will be discussed in detail in our next report, as they occurred in the succeeding reporting period.

MCSO has confidence in its contractor's analytical abilities, as do we. Every version of the TSARs has identified what appear to be indicia of individual and organizational bias as it relates to traffic enforcement. While getting the process correct is critical, and this has been the focus of our collective efforts for well over a year, even a perfect process will not yield the desired results if those administering it – the first-line supervisors and their chains of command – remain doubtful about the conclusions of the analysis and reluctant to honestly confront their subordinates. We expect MCSO's administration to positively reinforce those supervisors who take their responsibilities in this area seriously, but also to strongly hold to account those who do not.

Appendix: Acronyms

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

ACLU	American Civil Liberties Union
ASU	Arizona State University
ATU	Anti-Trafficking Unit
BIO	Bureau of Internal Oversight
CAB	Community Advisory Board
CAD	Computer Aided Dispatch
CID	Court Implementation Division
CEU	Criminal Employment Unit
CRM	Class Remedial Matter
DOJ	Department of Justice
EIS	Early Identification System
EIU	Early Intervention Unit
EPA	Employee Performance Appraisal
FTO	Field Training Officer
IIU	Internal Investigations Unit
IR	Incident Report
LOS	Length of stop
LLS	Legal Liaison Section
MCAO	Maricopa County Attorney's Office
MCSO	Maricopa County Sheriff's Office
NOI	Notice of Investigation
PAL	Patrol Activity Log
PDH	Pre-Determination Hearing
PPMU	Posse Personnel Management Unit
PSB	Professional Standards Bureau
SID	Special Investigations Division
SMS	Skills Manager System

SPSS	Statistical Package for the Social Science
SRT	Special Response Team
TraCS	Traffic Stop Data Collection System
VSCF	Vehicle Stop Contact Form