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**Exempt from Fees
(Gov. Code, § 6103(a))**

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF KERN

**THE PEOPLE OF THE STATE OF
CALIFORNIA, EX REL. XAVIER
BECERRA, ATTORNEY GENERAL OF
THE STATE OF CALIFORNIA,**

Plaintiff,

v.

**COUNTY OF KERN and
THE KERN COUNTY SHERIFF'S
OFFICE,**

Defendants.

Case No. BCV-20-102971

STIPULATED JUDGMENT

1 **I. INTRODUCTION**

2 The People of the State of California, ex rel. Xavier Becerra, Attorney General of the State
3 of California (Attorney General), filed a complaint in the Superior Court of Kern County against
4 the County of Kern (“County”), and the Kern County Sheriff’s Office (KCSO), pursuant to the
5 authority granted to the State of California under California Civil Code section 52.3, to seek
6 declaratory and equitable relief to address alleged incidents of conduct by law enforcement
7 officers that deprive individuals of rights, privileges, or immunities secured by the state or federal
8 Constitution or state or federal law.

9 Pursuant to Code of Civil Procedure section 431.30, defendant County of Kern, and its
10 integral agency the Kern County Sheriff’s Office, have generally and specifically denied each and
11 every allegation contained in the complaint. The Attorney General, the County, and KCSO
12 (collectively, “Parties”) are committed to effective constitutional law enforcement, and enter into
13 this stipulation for the common good of the people of Kern County.

14 The Parties herein agree to the entry of judgment without the taking of proof, trial, or the
15 adjudication of any fact or law, without this stipulated judgment constituting evidence of liability
16 of the County or KCSO, or admission by the County or KCSO of any issue of fact or law alleged
17 in the People’s complaint, without the County or KCSO admitting any liability, and with all
18 parties waiving their right to appeal. This stipulated judgment is an agreed upon means of
19 resolving this matter with no findings of fact or liability as to any issue by any court, judge or
20 jury.

21 The purpose of this stipulated judgment (“Judgment” or “Agreement”) is to ensure that the
22 County and KCSO protect individuals’ statutory and constitutional rights, treat individuals with
23 dignity and respect, and promote public safety in a manner that is fiscally responsible and
24 responsive to community priorities. The Parties recognize that these outcomes require
25 partnership between KCSO and the community it serves, one in which KCSO is transparent about
26 its processes and provides community members with a voice in its functions. This Agreement is
27 designed to enhance KCSO’s relationship with its community through increased transparency and
28

1 public input, improved oversight and accountability systems, and enhanced support for deputies
2 through law enforcement policies, training, and supervision.

3 The County and KCSO acknowledge that continuing to improve KCSO's policies, training,
4 and supervision is imperative to maintaining relationships with the community it serves, and the
5 Attorney General acknowledges that KCSO has begun to reform policies and training; supplied
6 deputies with new equipment, including body-worn cameras; and invested in additional
7 technology and infrastructure. While the County and KCSO acknowledge that continued reform
8 is necessary, the Parties recognize that work remains to be done and in a manner that is
9 sustainable over time.

10 The court, have considered the matter, and good cause appearing,

11 **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

12 This court has jurisdiction over the allegations and subject matter of the People's complaint
13 filed in this action, and the Parties to this action; venue is proper in this county; and the court has
14 jurisdiction to enter this judgment as stipulated here as follows:

15 **II. USE OF FORCE**

- 16 1. KCSO agrees to continue revising its use of force policies and practices to reflect its
17 commitment to upholding the rights secured or protected by the Constitution of the State of
18 California and the United States Constitution, and federal and state laws, protecting human life
19 and the dignity of every individual, and maintaining public safety. As specified below, KCSO
20 agrees to continue updating use of force policies that include the concepts of sanctity of life,
21 necessity, proportionality, and de-escalation; require deputies to intervene; and define an
22 imminent threat justifying lethal force. KCSO's use of force policies, and other related
23 policies, must remain consistent with Penal Code section 835a and Government Code section
24 7286, which (1) limit California's authorization of the use of lethal force to situations where
25 the officer reasonably believes, based on the totality of the circumstances, it is necessary to
26 defend against an imminent threat of death or serious bodily injury (Pen. Code, § 835a); and
27 (2) direct law enforcement agencies to maintain a use of force policy that requires the use of
28 de-escalation techniques, crisis intervention tactics, and other alternatives to force when

feasible. To that end, KCSO's use of force policies, including force on inmates where applicable, will incorporate these concepts and requirements in the following ways:

A. Use of Force Policies and Principles

2. KCSO will continue to review and revise its policies and associated training materials to ensure compliance with the requirements of this Agreement and enacted California law, including Penal Code section 835a and Government Code section 7286.

3. KCSO agrees to maintain, and where necessary review and revise, its use of force policies as follows to:

- a. more clearly define and describe when force is and is not authorized;
- b. clearly define and describe the purpose of authorized and prohibited force options as well as define and describe the tools and techniques permitted and prohibited for all force options;
- c. better describe the applicable legal standard of objective reasonableness for use of non-deadly force;
- d. connect the sanctity of human life with the use of force;
- e. limit the use of deadly force to situations where the officer reasonably believes, based on the totality of the circumstances, it is necessary to defend against an imminent threat of death or serious bodily injury (Pen. Code, § 835a) "deadly force" means any use of force that creates a substantial risk of causing death or serious bodily injury; deadly force includes, but is not limited to, the discharge of a firearm);
- f. require that deputies, whenever feasible, undertake efforts to utilize de-escalation tactics or employ less-lethal options before using deadly force ("feasible" means reasonably capable of being done or carried out under the circumstances to successfully achieve the arrest or lawful objective without increasing risk to the deputy or another person);
- g. require that deputies use force only to effect a lawful arrest, detention, or search, to overcome resistance or to prevent escape, to prevent the commission of a public offense, in defense of others or in self-defense, to gain compliance with a lawful order;

- h. affirm the importance of proportionality;
- i. prohibit chokeholds, carotid restraints, and other maneuvers that are designed to, or may foreseeably result in, cutting off blood or oxygen to a subject's head or create a substantial risk of positional asphyxia;
- j. require, where feasible, that suspects who must be transported in a recumbent position be transported by rescue ambulance personnel and accompanied by a deputy, and once a suspect has been restrained, they should be moved into a recovery position as soon as possible;
- k. prohibit discharging a firearm at moving vehicles, unless the operator or occupant of a moving vehicle poses an imminent threat of death or serious bodily injury to the public or a deputy;
- l. prohibit discharging a firearm from a moving vehicle, except as required to end an imminent threat to human life;
- m. prohibit force against subjects who only verbally confront deputies and are not involved in criminal conduct, unless that confrontation poses a direct and immediate threat to the safety of the deputy;
- n. prohibit force against subjects who are handcuffed or otherwise restrained, unless the subject is actively resisting and poses a direct threat to deputies and/or themselves;
- o. limit use of electronic control weapons (ECW) to three, standard, five-second cycles, with individual cycles separately justified in the use of force reporting, however, use of an ECW exceeding three cycles may be appropriate under the limited circumstances where the deputy stops to reassess the situation and the only reasonable alternative would be the use of the ECW rather than a use force that could cause great bodily injury or death.
- p. prohibit the use of ECW's in "drive stun" mode, unless necessary to avoid the use of deadly force or other force that could increase injury to the suspect, with those instances justified in the use of force reporting;

- q. prohibit the use of ECW's on handcuffed individuals and children who appear to be under the age of 14;
- r. prohibit the use of ECW's on the following individuals, unless deputies can provide justification of articulable facts necessitating the use of the ECW on any of the following: (a) pregnant females; (b) elderly persons; (c) individuals who have been recently sprayed with alcohol-based pepper spray or who are otherwise in close proximity to combustible materials; (d) individuals whose position or activity may result in collateral injury (e.g., falls from height, operating motor vehicles, possibility of drowning in water, etc.); (e) a youth who appears to be between the age of 14 and 17; and (f) an individual who the deputy has reason to believe may have a developmental disability such as autism;
- s. require that any employee who observes another employee use force that exceeds the degree of force permitted by law and/or policy shall promptly report these observations to a supervisor;
- t. where feasible, ensure its deputies are continuing to effectively employ cover, distance, and time tactics to minimize the need for deadly force;
- u. provide that the conduct of both the deputy and the subject leading up to the use of deadly force must be included in the evaluation of the decision to use force (Pen. Code, § 835a, subds. (a)(2) and (e)(3));
- v. will continue to prohibit the use of deadly force against a person who is only a danger to him or herself and does not pose an immediate threat to deputies or civilians. (Pen. Code, § 835a, subd. (c)(2));
- w. require deputies to use de-escalation techniques, crisis intervention tactics, and other alternatives to force when feasible (Gov. Code, § 7285, subd. (b)(1));
- x. Sanctity of Human Life - stress the sanctity of life throughout the policy;
- y. Necessity
 - i. Define when force is necessary and require that deputies use force only when reasonable and necessary to achieve a lawful objective;

- ii. Emphasize that the use of force is not a routine part of policing;
- iii. Require that deputies use force in an unbiased manner, consistent with the anti-bias based policing policy of KCSO;
- iv. Expressly require that deputies use lethal force as a last resort and, before using such force, require, when feasible, exhaustion of all other means reasonably available under the circumstances, including de-escalation techniques and strategies, such as tactical repositioning;

z. Proportionality

- i. Explicitly require deputies only to use a type of force that is proportionate to the threat and not excessive in light of the lawful objectives involved;
- ii. Provide specific guidance on what type of force is appropriate for the level of threat presented by the individual, and require deputies to only use the amount of force necessary to effectuate arrest or achieve a lawful objective;
- iii. Provide express guidance on proportionality to ensure deputies understand the relationship that should exist between the force they use, and the threat presented in a particular situation; the guidance may include adopting a spectrum, chart, or matrix, that can take the form of a graphical representation;
- iv. Prohibit specific types of force that are inconsistent with the concepts of proportionality and necessity, such as retaliatory force;
- v. Require training to specifically address proportionality considerations for juveniles and in the school context, such as not using force in an effort to effectuate detention and apprehension, or overcoming resistance of students who are fleeing relating to truancy or other low-level disciplinary conduct;

aa. De-escalation

- i. Make it an affirmative duty to de-escalate, when possible, before using force, requiring that deputies must or shall use, rather than are expected to use, de-escalation techniques and strategies;

- 1 ii. Provide clear guidelines for the use of de-escalation techniques and strategies,
2 such as using tactical repositioning and strategic communication skills,
3 switching staff, modulating the tone employed, taking cover, or calling upon
4 other resources, such as crisis intervention-trained deputies, non-law
5 enforcement agencies, or assistance from family members or friends, when and
6 where appropriate;
- 7 iii. Require deputies to provide, when feasible, verbal warnings to individuals
8 before using force—whether lethal or non-lethal, and require deputies to (1)
9 document, in any incident or use of force report, whether the individual had an
10 opportunity to comply after the warning was issued and before a deputy used
11 force, and, (2) if no verbal warning was given, why one was not feasible;
- 12 iv. Require deputies, when feasible, to employ cover, concealment, distance, and
13 time tactics to minimize the need for lethal force;

14 bb. Duty to Intervene

- 15 i. Make it an affirmative duty for deputies/employees to intervene, when in a
16 position to do so, if they know or have reason to know, that another
17 deputy/employee is about to use, or is using, unnecessary or excessive force or
18 is otherwise violating KCSO's use of force policy;
- 19 ii. Require deputies, following an incident involving the use of unnecessary or
20 excessive force, to promptly report to a supervisor the use of force and the
21 efforts made to intervene;
- 22 iii. Provide for possible discipline of any deputy who so fails to intervene, and
23 prohibit retaliation against any deputy who so intervenes;

24 cc. Imminent Threat

- 25 i. Provide clear guidelines on what conditions may constitute an imminent threat
26 justifying lethal force, consistent with California's deadly force standard
27 expressed in Penal Code section 835a and Government Code section 7286.

- 1 4. KCSO shall have policies and corresponding training governing each type of force instrument
2 that it authorizes deputies to carry.
- 3 5. KCSO agrees to clarify that its deputies may not use force against individuals who may be
4 exhibiting resistive behavior, but who are under control and do not pose a threat to public
5 safety, themselves, or to other deputies. KCSO agrees to continue to require that Kern County
6 deputies assess the threat of an individual prior to using force, and emphasize that a use of
7 force must be proportional to the threat or resistance of the subject. If a threat or resistance no
8 longer exists, deputies cannot justify the use of force against a subject.
- 9 6. KCSO agrees to incorporate into policy its already existing prohibition on interfering,
10 threatening, intimidating, blocking or otherwise discouraging a member of the public, who is
11 not violating any other law, from taking photographs or recording video (including
12 photographs or video of police activities) in any place the member of the public is lawfully
13 present. Such prohibited interference includes:
- 14 a. Ordering a person to cease taking photographs or recording video;
 - 15 b. Demanding that person's identification absent a lawful purpose;
 - 16 c. Demanding that the person state a reason why he or she is taking photographs or
17 recording video;
 - 18 d. Detaining that person absent a lawful purpose;
 - 19 e. Intentionally blocking or obstructing cameras or recording devices (not including
20 physical barricades or screens used as part of a tactical operation or crime scene);
 - 21 f. Seizing and/or searching a camera or recording device without a warrant or consent of
22 the subject possessing the device;
 - 23 g. Using force upon that person absent a lawful purpose; or
 - 24 h. Detaining or arresting an individual for violating any other law where the purpose of
25 the detention or arrest is to prevent or retaliate for recording police activity.
- 26 7. KCSO will require in policy, and continue to emphasize in its training, that a strike to the head
27 with any impact weapon, including a baton, is prohibited unless deadly force is justified.
28

Unintentional or mistaken blows to these areas must be reported to ensure that all reasonable care was taken to avoid them.

8. KCSO will have a specific policy requiring that (a) the subject of a use of force receive a post-use of force medical evaluation, and (b) a deputy photograph the existence or absence of injury following a use of force, both of which are already required by KCSO, but not yet adopted in policy.

9. KCSO, with regard to baton deployment, will provide in a policy guidance on the appropriate times to use that type of force relative to other less-lethal options, which KCSO already provides in training.

10. KCSO will agree to develop a strategic plan to meaningfully engage with community stakeholders and work with its newly formed and existing Community Advisory Panel in developing the revised policies described above.

B. Use of Canines

11. KCSO shall have a policy that provides for a canine sergeant, who is adequately trained and qualified to act as such, to provide for supervision and oversight of canine handlers. The supervisor will oversee the canine operations, ensure training requirements are met, confirm policy guidelines are understood and complied with by all agency personnel, compile monthly summaries and analyses of incidents, and provide data and information that ensure command staff are kept informed of incidents and issues of concern, including any notable trends and patterns. KCSO shall ensure there is a management position (lieutenant or higher) responsible for evaluating and assessing the performance of the canine unit, and ensuring timely follow-up on matters relating to potential or actual violations of KCSO canine policy. Should KCSO increase the number of canine units above the currently-assigned five (5) canine units, KCSO will consult with the Monitor to determine whether additional supervision is necessary.

12. KCSO is in the process of modifying its canine-related policies and training so that its canines are deployed in a manner consistent with “find and bark” rather than “find and bite” approaches. KCSO’s policy of training and deploying canines shall continue to be based on searching and locating subjects to be apprehended rather than immediately resorting to

1 employing force, except when exigent circumstances or an immediate threat is evident. KCSO
2 will continue to ensure its canine policies and related training are consistent with
3 contemporary police best practices, including a process for conducting and promoting
4 ongoing feedback to promote continuous improvements in policies, training, and practices in
5 the field.

6 13. Canine handlers shall limit off-leash canine deployments, searches, and other instances where
7 there is an increased risk of a canine bite to a suspect to instances in which the suspect is
8 wanted for a serious felony or is reasonably suspected to be armed based upon individualized
9 information specific to the subject.

10 14. A canine handler shall keep his or her canine within visual and auditory range during
11 deployments at all times, except when a canine clears a threshold (e.g., rounding a corner,
12 entering a room, ascending/descending a stairwell, or entering a confined space, such as a
13 crawl-space), or when canine deployment beyond the handler's visual and auditory range is
14 necessary to ensure the immediate safety of others.

15 15. All field supervisors and watch commanders shall continue to be familiar with KCSO's
16 canine policy and use of force reporting requirements. A canine handler shall have approval
17 from a canine supervisor, field supervisor, or watch commander (sergeant or higher) prior to
18 deployment, unless the canine handler must react immediately in the apprehension of an
19 escaping felon or when protecting themselves or others from assault. If the handler is unable
20 to contact a canine-unit supervisor, the handler shall seek approval from the watch
21 commander before the canine can be deployed. The approving supervisor shall not serve as a
22 canine handler in the deployment.

23 16. Prior to canine deployment, canine handlers shall issue three, loud and clear warnings that a
24 canine will be deployed and advise the suspect to surrender, unless such warnings impose an
25 imminent threat of danger to other deputies on scene, the canine handler, or a member of the
26 public. The canine handler shall ensure the warnings are capable of being heard throughout
27 the area of the deployment and will allow a sufficient period of time between each warning to
28 provide a suspect an opportunity to surrender. These warnings shall be given in Spanish and

English if the suspect is reasonably believed to be a Spanish-speaking Limited English Proficient (LEP) individual.

17. If a canine bites any individual, the handler or an on-scene deputy shall immediately contact a KCSO dispatcher to request Emergency Medical Services response. If additional medical attention is required for a suspect who has been bitten, the individual shall be transported to a County approved medical facility for treatment.

18. For each canine apprehension, the involved handler, as well as all other deputies who used or observed force, should complete a use of force report before the end of shift. In addition to the information that must be included in all use of force reports, a canine handler's use of force report documenting a canine apprehension shall include the following: (1) whether there was contact between the canine and the subject, including contact with the subject's clothing; (2) documentation of the duration of the canine's contact with a subject; and (3) the approximate distance of the canine from the handler at time of apprehension. In addition, in all apprehensions where there is canine contact, visible injury to a suspect, or a complaint of injury, an uninvolved supervisor shall be summoned to the scene if feasible for the purpose of completing a Use of Force Report consistent with investigative requirements established under the Agreement.

19. Unless personally involved in the incident, the canine supervisor shall evaluate each canine deployment for compliance with KCSO policy, this Agreement, and state and federal law, and provide written documentation of this evaluation. If the canine supervisor is unavailable or was directly involved in the incident, this evaluation will be completed by a staff member of higher rank.

20. KCSO agrees to maintain and enhance its canine certification program to ensure that: (1) canines and their handlers demonstrate control and proficiency in specific, widely accepted obedience and criminal apprehension exercises; (2) canines and their handlers receive a minimum of 16 hours of training every four weeks; (3) the trainer keeps detailed records of whether each canine team has met specific control criteria for each control exercise, and what remedial training was given if a canine team was deficient in any area; and (4) the trainer

reports all deficiencies to the unit supervisor. The program shall ensure that canines are certified annually by a nationally recognized trainer or organization, and that a canine is not deployed unless its certification is current. KCSO agrees to ensure that the certifying agency's standards are consistent with KCSO policy and standards.

21. KCSO agrees to continue to employ the services of a qualified trainer who is capable of providing certified canine training, and who delivers such training and maintains training records in accordance with KCSO policy and the Agreement.

22. KCSO agrees to continue to centrally record and track each canine team's training records, certification records, and health records, regardless of whether individual handlers also maintain records.

23. KCSO agrees to continue to track canine deployments and canine apprehensions on a monthly basis to assess its canine unit and individual canine teams.

24. KCSO agrees to continue to include canine deployments as an element of the Early Warning System, and to provide for the review, pursuant to the protocol for that system, of the performance of any handler whose canine has bitten a suspect during the reporting period. Canine data and analysis shall be included in KCSO's Use of Force Annual Report.

25. KCSO agrees to continue not to use the services of any of its canines without first ensuring that the canine is controllable and otherwise able to meet the standards required by KCSO policy.

26. KCSO will continue to ensure no handler or canine will be deployed unless the handler and canine are current on all training requirements and the canine is fully controllable during exercises.

27. KCSO shall continue to collect and maintain all records on canine training, deployment, apprehension, and bites, and analyze canine-related data to develop, consistent with best practices, training and operational recommendations for individual dogs, handlers, and the unit as a whole.

28. KCSO shall establish procedures for auditing canine training, deployment, and administrative documentation, to be performed by the Professional Standards Unit.

C. Use of Force Reporting Policy

29. KCSO agrees to continue to require deputies, including detentions deputies, to report all uses of force greater than an authorized control hold as follows: A reportable use of force is any use of force which is required to overcome subject resistance to gain compliance, that results in death, injury, complaint of injury in the presence of a deputy, or complaint of pain that persists beyond the use of an authorized control hold. A reportable use of force also includes any use of force involving the use of personal body weapons, chemical agents, impact weapons, extended range impact weapons, vehicle interventions, firearms, and any intentional pointing of a firearm at a subject.
30. KCSO shall continue to require Kern County deputies to completely and accurately describe the force used or observed, including describing in detail the actions of the suspect necessitating the use of force and the specific force used in response to the suspect's actions, any injuries or complaint of injuries, and any medical treatment or refusal of medical treatment of the suspect. This reporting requirement also relates to any use of force incidents that occur when employees are off-duty but engaged in exercising police powers.
31. KCSO will categorize reportable uses of force into levels (i.e., Level 1, 2, and 3) based on seriousness and specify associated roles and responsibilities of involved deputies, supervisors, and investigative personnel at each level regarding reporting and review. Level 1 shall be the category of force at the lowest levels with Level 3 being the highest level of force. The specific levels of force and the types of force that constitute those categories will be defined by the monitor in consultation with the California Department of Justice (DOJ).
32. All levels of force, including non-reportable levels of force should be clearly identified and described in the use of force policy.
33. The use of force reporting policy shall explicitly prohibit the use of conclusory statements without supporting detail, including "boilerplate" language in all statements and reports documenting use of force. Deputies shall be held accountable for material omissions or inaccuracies in their use of force statements, which may include being subject to disciplinary action.

1 34. KCSO agrees to continue to require deputies who use or observe force to notify their
2 supervisors immediately following any reportable use of force incident or upon receipt of an
3 allegation of unreasonable or unreported use of force by any deputy. Deputies who use or
4 observe force and fail to report it shall be subject to disciplinary action, up to and including
5 termination.

6 35. KCSO shall specify the reporting, investigation, and review requirements for each level of
7 force, including reporting requirements for the involved and witness deputies, the
8 responsibilities of the investigating supervisor, criminal and administrative investigator
9 responsibilities, and review requirements.

10 36. Deputies who use reportable force should be required to complete a use force statement, as
11 shall deputies who witness a Level 2 or Level 3 use of force. The name and rank of each and
12 every deputy on scene shall be included in the use of force report, even if that deputy did not
13 witness the Level 2 or Level 3 use of force.

14 37. The Incident Review Board (IRB) shall review all Level 3 reportable uses of force and any
15 other matters referred to them by Internal Affairs, the Sheriff, Undersheriff, or person
16 designated for such purpose.

17 38. KCSO shall identify in the use of force policy the nature and extent of the use of force
18 information it will release to the public.

19 39. KCSO will develop a policy and process to inform the public about all officer involved
20 shootings, deaths in custody, or other significant matters as deemed by KCSO that will
21 include an outreach and community forum component.

22 **D. Use of Force Supervisory Investigations**

23 40. For all reportable uses of force, including force in jails, the investigating supervisor shall
24 conduct a thorough investigation. This investigation will require supervisors to:

- 25 a. respond to the scene, if reasonably feasible, examine the subject of the force for injury,
26 interview the subject for complaints of pain, and ensure that any injured subject
27 receives medical attention from an appropriate medical provider;
- 28 b. ensure identification and collection of all relevant evidence;

- c. direct the canvassing for, and interview of, civilian witnesses;
 - d. collect statements from witness deputies; and review all deputy use of force statements for adequacy, accuracy, and completeness.
 - e. if it is not reasonably feasible for a supervisor to respond to the scene, then the supervisor shall direct the investigation remotely.
41. Following the investigation, each supervisor shall complete a supervisory investigation documented in a "Supervisor's Report on Use of Force." This Report shall include:
- a. the supervisor's narrative description of the incident, including a complete and comprehensive description of the evidence that either justifies or fails to justify the deputy's conduct based on the supervisor's independent review of the facts and circumstances of the incident;
 - b. documentation of all evidence; and
 - c. identities of all deputies witnessing the force.
42. An employee at the rank of lieutenant or higher shall:
- a. review the investigating supervisor's evaluation of force, make a recommendation as to whether the deputy's actions appear to be within KCSO policy and consistent with state and federal law, and assess the incident for tactical and training implications; and
 - b. document any training or tactical concerns, and/or corrective action taken or recommended.
43. Upon completion of the Supervisor's Report on Use of Force, the investigating supervisor shall forward the report through their chain of command, which will review the report to ensure that it is thorough and complete, and that the analysis and subsequent findings are supported by a preponderance of the evidence and documented. A final determination of whether the use of force is within policy must be made by a supervisor at the rank of Commander or higher.
44. KCSO will continue to hold deputies accountable for uses of force that violate policy or law, and continue to require station commanders to refer uses of force that may violate law or the

Department's use of force policy, to the Internal Affairs Bureau for further investigation or review.

45. KCSO will continue to hold supervisors accountable for not detecting, adequately investigating, or responding to force that is unreasonable or otherwise contrary to KCSO policy.

46. KCSO unit commanders will continue to be responsible for identifying and reporting force trends and for taking preventive steps to curb problematic trends, including issuing or revising policies, directives, training bulletins, or providing additional mentoring and supervision to individual deputies.

47. KCSO unit commanders will regularly review and track "training and tactical review" related findings, recommendations, and comments to ensure that informal supervisory feedback does not replace the need for formal discipline.

48. With regard to deputy-involved shootings (DIS or OIS), the IRB reports will provide a detailed rationale for their findings and examine not just the deadly force that was used, but the entirety of the deputy-involved shooting incident, including tactics used or not used leading up to the use of force. KCSO will develop a process for review, feedback, and ongoing assessments to support continuous improvements based on observations and recommendations identified in IRB reports. The Professional Standards Unit lieutenant will attend all IRB's to document any and all identified observations made by the Board, and all recommendations for improvements in training (both for the individual deputies involved and for the entire agency), policies, procedures, tactics, equipment, technology, organization, or any other issues that could contribute to improving future individual or organizational performance. The Professional Standards Unit lieutenant will ensure all identified issues are addressed and documented in a formal report that clearly states the findings, and how any identified issues were addressed. The Professional Standards Unit will be required to reevaluate the corrections at defined time frames to ensure the desired outcome is achieved. The Professional Standards Unit reports directly to the Undersheriff.

1 49. KCSO will work with the monitor to include as part of its commendation policy an award or
2 commendation that recognizes employees who demonstrate exceptional skill in employing de-
3 escalation in the field.

4 **E. Use of Force Training**

5 50. KCSO will work with the Monitor to determine the use of force training to be provided to all
6 Kern County deputies, including detentions deputies. The topics will include the following:

- 7 a. proper use of force decision making, including when force may be unnecessary in
8 response to minor resistance (biennial);
- 9 b. role-playing scenarios and interactive exercises that illustrate proper use of force
10 decision making, including training deputies on the importance and impact of ethical
11 decision making and peer intervention (annual);
- 12 c. principles of procedural justice, and avoiding the use of force in response to minor
13 resistance (biennial);
- 14 d. de-escalation techniques that encourage deputies to make arrests without using force
15 (annual);
- 16 e. threat assessment, including how race and/or bias can impact deputies' threat
17 assessments (biennial); and
- 18 f. for supervisors, initial and annual refresher training on conducting use of force
19 investigations, how to effectively direct deputies to minimize uses of force and to
20 intervene effectively to prevent or stop unreasonable force, using KCSO's
21 accountability and disciplinary systems after encountering a potentially unreasonable
22 use of force, and supporting deputies who report unreasonable or unreported force or
23 who are retaliated against for using only reasonable force or attempting to prevent
24 unreasonable force (annual).

25 51. KCSO shall establish a training committee made up of but not limited to Training Section
26 personnel, Internal Affairs personnel, Professional Standards personnel, and use of force
27 experts responsible for assessing the effectiveness of the curricula against current policies and
28 the integration of use of force scenario-based training and adult learning theory.

1 52. KCSO shall have clear guidelines for selecting training instructors, with prior performance
2 history being a significant factor in the selection criteria.

3 53. KCSO shall regularly convene its FTO's and its force-related training instructors, to ensure
4 consistency and high-quality training.

5 54. KCSO use of force training that is particularly relevant to organizational roles and
6 responsibilities shall also be provided to supervisors, managers, and command staff.

7 **F. Use of Force Analysis**

8 55. Within one year of the Effective Date of this Agreement and at least annually thereafter,
9 KCSO will analyze the KCSO use of force data, including data on force used in jails and the
10 force-related outcome data, to identify significant trends, and identify and correct deficiencies
11 revealed by this analysis. The Effective Date of this Agreement is the date the Judgment is
12 entered by the court.

13 56. KCSO's force analysis will include assessment of the frequency and nature of uses of force
14 that are referred to IAB for investigation; the subject of misconduct complaints; the subject of
15 civil lawsuits; related to criminal obstruction- or resisting-arrest-type charges that are
16 dismissed or declined by the prosecutor; or that involve repeat-deputies or units.

17 57. KCSO will determine whether policy or training curricula changes must be made as a result of
18 its analysis of use of force incidents.

19 58. KCSO will document the results of the use of force analysis in a public report. KCSO will
20 agree to a specifically delineated framework to meaningfully engage with community
21 stakeholders in developing the revised policies described above.

22 59. KCSO will continue to work with its Community Advisory Panel (CAP or Panel). The Panel
23 should continue to engage in a good faith effort to have representatives from various, diverse
24 stakeholder groups, including, but not limited to, the Kern County Public Defender's Office,
25 California Rural Legal Assistance (CRLA), the American Civil Liberties Union (ACLU),
26 United Farm Workers (UFW), the Dolores Huerta Foundation (DHF), the NAACP, Greater
27 Bakersfield Legal Assistance (GBLA), PICO Bakersfield, as well as members of Sikh and
28 LGBTQ+ community groups. During the first year of the Panel's existence, it will meet at

1 least bimonthly. The Panel will thereafter meet with Sheriff's Office staff at least quarterly to
2 provide input into policy and procedure, provide insight into the community's concerns, and
3 educate the community about their Sheriff's Office.

4 **III. STOPS, SEIZURES, AND SEARCHES**

5 60. KCSO will reiterate, train, and emphasize that all investigatory stops, seizures, and searches
6 are conducted in accordance with the rights, privileges, and immunities secured or protected
7 by the Constitution or laws of the State of California and the United States. KCSO will
8 reiterate, train, emphasize and continue to ensure that investigatory stops and searches are part
9 of an effective overall crime prevention strategy, do not contribute to counter-productive
10 divisiveness or tension between KCSO and the community, and are adequately documented
11 for tracking and supervision purposes. To achieve these outcomes, KCSO shall implement the
12 requirements below.

13 61. KCSO will implement policies to be developed in consultation with the Monitor, to ensure
14 that deputies document, and KCSO supervisors review and evaluate: (1) investigatory stops
15 and pat-down searches, to determine whether they are supported by reasonable suspicion; (2)
16 whether arrests are supported by probable cause and KCSO policy; and (3) whether
17 investigatory stops, searches, and arrests, even if comporting with law and policy, indicate a
18 need for corrective action or review of agency policy, strategy, tactics, or training.

19 62. KCSO deputies should be required to identify themselves by name and rank at the beginning
20 of encounters with individuals unless doing so is not safe.

21 **A. Investigatory Stops and Detentions**

22 63. KCSO will reiterate, train, and emphasize that deputies will only conduct investigatory stops
23 or detentions where the deputy has reasonable suspicion that a person is in the process of
24 committing a crime, or has committed a crime.

25 64. KCSO will enhance its current training with respect to investigatory stops by emphasizing the
26 following elements: (1) introducing themselves at the initiation of contact with a civilian
27 when reasonable and practical; (2) stating the reason for an investigatory stop or detention as
28 soon as practicable; (3) ensuring that an investigatory stop or detention is no longer than

necessary to take appropriate action; and (4) acting with professionalism and courtesy throughout the interaction.

65. KCSO will reiterate, train and emphasize to deputies that race, color, ethnicity, national origin, religion, gender, gender identity, disability, or sexual orientation is not to be used as a factor, to any extent or degree, in establishing reasonable suspicion or probable cause, except as part of actual and credible description(s) of a specific suspect or suspects in any criminal investigation.

66. KCSO deputies shall document all stop data required by Racial and Identity Profiling Act of 2015 (AB 953) and the statute's implementing regulations.

67. KCSO will reiterate, train, and emphasize that deputies should use accurate and specific descriptive language and not rely solely on "boilerplate" or form language in any reports describing factual circumstances of investigatory stops, detentions, and searches.

68. KCSO shall collect and analyze data related to searches based on probation or parole status. KCSO shall assess the efficacy of this tactic and its impact on the community and make policy changes accordingly.

B. Searches

69. KCSO will reiterate, train, and emphasize to deputies that race, color, ethnicity, national origin, religion, gender, gender identity, disability, or sexual orientation is not to be used in exercising discretion to conduct a search, except as part of an actual and credible description of a specific suspect or suspects in any criminal investigation.

70. KCSO deputies will continue to not conduct arbitrary searches. The request to conduct a consensual search will be reasonable and a deputy must be able to articulate a valid reason under law and KCSO policy for initially having stopped the individual. This section excludes searches conducted in a custodial setting to ensure the safety and security of the facilities; however, all searches in the jail will be conducted in accord with state and federal law.

71. All KCSO deputies equipped with body worn audio or video recorders will continue to record all requests for consent to search and the individual's response. Where a subject is LEP, the

deputy shall affirmatively inform the subject in the appropriate non-English language, or arrange for the subject to be so informed in the subject's speaking language.

72. If feasible, a KCSO deputy shall immediately notify a supervisor when considering a home search based on consent, and the supervisor shall approve the search before it is conducted.

73. KCSO will make clear that it is the law and KCSO policy, that absent probable cause to search, deputies will only conduct searches of individuals on probation or parole when knowledge of a probation or parole search condition has been established prior to the search.

74. KCSO shall continue to ensure that all employees, including non-sworn personnel, have completed the training required by Penal Code section 13519.4, subd. (f) and the required refresher courses as provided for in Penal Code section 13519.4, subd. (i).

C. Stop, Search, and Seizure Policies and Training

75. KCSO shall implement a policy for bias-free policing and a policy on bias by proxy, and provide all patrol deputies with initial training and periodic roll call training at least quarterly, and dispatch personnel initial training on bias-free policing, and on stops, searches, and seizures, including the requirements of this Agreement, to ensure sworn personnel are capable of conducting these activities in a manner that is consistent with the provisions and expectations of this section and the Agreement. Such policies will be informed and adopt applicable recommendations made by the State of California Racial and Identity Profiling Advisory Board reports, and other recognized police best practices resources. In addition, KCSO will develop a training based upon these policies that shall be taught by a qualified instructor with expertise in bias-free policing, constitutional criminal procedure and Fourth and Fourteenth Amendment issues. The training shall:

- a. ensure deputies understand the Fourth and Fourteenth Amendment and related legal restrictions on searches and seizures, including consent searches, probation and parole searches, bias-free policing by patrol and detentions deputies, bias by proxy for all deputies and dispatch personnel as well as additional limitations under KCSO policy;
- b. address the differences between various police contacts by:
 - i. the scope and level of police intrusion;

- ii. differences between probable cause, reasonable suspicion, and mere speculation; and
- iii. true voluntary consent;
- c. provide guidance on the facts and circumstances, in addition to legal and policy limitations, that should be considered in initiating, conducting, terminating, and expanding a stop or search, including consent searches and probation and parole searches;
- d. incorporate role playing scenarios and other adult-learning mechanisms to facilitate deputy ability to exercise good judgment about whether and how to stop and search individuals;
- e. provide guidance on consensual encounters, stopping and/or searching individuals for discretionary and non-violent offenses, including providing guidance about procedural justice, alternatives to conducting investigatory stops and searches, and the impact on civilians of conducting apparently arbitrary stops and searches.

D. Supervisory Review

- 76. KCSO agrees to implement additional accountability and supervision practices outlined below, and ensure that existing policies are followed, to ensure that unlawful stops, searches, and seizures are detected and effectively addressed.
- 77. Sergeants shall continue to regularly audit their assigned deputies' stop, search, and seizure documentation, in addition to arrest reports and citations, for completeness, accuracy, and legal sufficiency. Sergeants shall audit at least one CAD log for each deputy under their supervision each week. Sergeants shall conduct further review as indicated by weekly audits and other indicia, document their findings and submit that documentation for review and approval to their manager.
- 78. If a deputy's stop, search, or seizure documentation does not provide sufficient detail or articulate sufficient legal and policy justification for the action, the supervisor shall review the action with the deputy to determine whether there was sufficient legal and KCSO policy justification.

1 79. KCSO supervisors and commanders shall evaluate and enhance its processes and procedures
2 to address all violations or deficiencies in stops, searches, and seizures, including non-
3 disciplinary corrective action for the involved deputy, and/or referring the incident for
4 disciplinary action when other corrective measures have been ineffective or ignored.

5 80. The KCSO Compliance Coordinator shall track repeated violations of the provisions of this
6 Agreement or deficiencies and the corrective action taken, if any.

7 81. KCSO agrees to continue to hold accountable supervisors and commanders for appropriately
8 and thoroughly reviewing reports and documentation related to stops, searches, and seizures,
9 and requiring deputies to articulate sufficient rationale under law and KCSO policy.

10 82. KCSO will analyze the stop data it collects under the Racial and Identity Profiling Act of
11 2015 (RIPA), and consult with the Monitor of the Agreement on a semiannual basis to obtain
12 supplemental recommendations from the Monitor for revisions to its policies and training,
13 based upon that analysis.

14 **IV. RESPONDING TO AND INTERACTING WITH PEOPLE WITH BEHAVIORAL**
15 **HEALTH DISABILITIES OR IN CRISIS**

16 83. KCSO will revise its policies to establish a preference, when responding to calls involving a
17 person in mental health crisis or suffering from a mental health disability, that deputies be
18 dispatched who are specifically trained in dealing with these subjects and in the application of
19 de-escalation techniques for handling such crises. Dispatch protocols will continue to
20 emphasize preference for relying upon the Kern County Mobile Evaluation Team (MET) for
21 handling such incidents. When MET resources are unavailable and no immediate threat of
22 harm to others is evident, other trained personnel will be utilized if feasible, and de-escalation
23 tactics will be given highest preference in an effort to resolve these incidents without resorting
24 to the use of force.

25 84. KCSO and the County shall provide sufficient resources to staff the MET at a level that is
26 reasonably calculated to make MET services available as often as is feasible. KCSO shall
27 assign and deploy CIT-trained deputies across all shifts and days of the week. KCSO will
28 continue to use virtual MET when it is not feasible to provide in-person services.

1 85. Sworn staff, call takers, and dispatch personnel will continue to receive training that
2 emphasizes a person may be suspected of having a behavioral health disability or being in
3 crisis from a number of factors, including self-reporting, information provided by witnesses or
4 informants, KCSO's previous knowledge of the individual, or a deputy's direct observation.

5 86. Deputies will continue to be trained to not make assumptions regarding the dangerousness of
6 an individual based on that individual's disability.

7 87. KCSO will continue to use a Crisis Intervention Team Training (CIT) first-responder model
8 of police-based crisis intervention with community, health care, and advocacy partnerships to
9 assist individuals with behavioral health disabilities and individuals who are in crisis.

10 88. The goals of the CIT program will continue to be to equip deputies with methods to properly
11 interact with persons with behavioral health disabilities or in crisis safely; de-escalate crises
12 and reduce the unnecessary use of force against individuals with behavioral health disabilities
13 or in crisis; minimize arrests; improve the safety of patrol deputies, individuals with
14 behavioral health disabilities or in crisis and their families, and others within the community;
15 refer individuals to the County's behavioral health crisis system; and reduce the inappropriate
16 involvement of individuals with behavioral health disabilities with the criminal justice system.

17 89. KCSO will continue to work toward ensuring all patrol deputies receive a 40-hour Crisis
18 Intervention Team (CIT) training and ensuring corrections deputies continue to receive a
19 modified CIT training that is specific to correctional settings. KCSO will continue to provide
20 all cadets in its academies and all lateral transfers to KCSO CIT training consistent with
21 deputy and detentions deputy classifications. In addition, sworn personnel who are newly
22 promoted to a supervisory position shall receive a refresher CIT training as part of their
23 leadership training.

24 90. KCSO will continue to provide CIT training on responding to individuals in crisis to all of its
25 recruits and will continue working toward training all deputies. KCSO will work with the
26 Monitor to determine the necessary amount of in-service training. The annual training will be
27 adequate for deputies to demonstrate competence in the subject matter and will include
28 specified topics.

- 1 91. All KCSO dispatchers and their supervisors will receive CIT training that is adequate to
2 enable them to identify, dispatch, and appropriately respond to calls for service that involve
3 individuals in crisis.
- 4 92. Within 180 days of the effective date of the Agreement, KCSO will designate a sworn
5 employee at the rank of sergeant or above to act as a Crisis Intervention Coordinator
6 (“Coordinator”) to better facilitate communication between KCSO and members of the
7 behavioral health provider community and to increase the effectiveness of KCSO’s crisis
8 intervention program. KCSO will ensure that the Coordinator is empowered to fulfill all
9 duties of the Coordinator required by the Agreement.
- 10 93. KCSO will develop a protocol to evaluate the effectiveness of its policies for responding to
11 calls for service involving a person in crisis or with a mental health disability, and responding
12 to inmates in crisis, who are suicidal, or who have a mental health disability. The protocol
13 will include audits and improvement loops to be developed by the Monitor in consultation
14 with the DOJ.
- 15 94. KCSO will work with the monitor to include as part of its commendation policy an award or
16 commendation that recognizes employees who demonstrate exceptional skill in employing
17 their CIT training in the field.

18 **V. MANAGEMENT AND SUPERVISORY OVERSIGHT**

- 19 95. KCSO will, in consultation with the Monitor and with the approval by the DOJ, continue to
20 develop and implement policies, guidelines, and training to ensure all supervisors and
21 managers, including those in the Detentions Bureau, (a) exercise appropriate supervisory
22 oversight of use of force incidents and PREA incidents, (b) conduct objective and impartial
23 investigations of those matters, (c) are held accountable for meeting agency standards and
24 expectations, (d) engage with and listen to community feedback, (e) incorporate community
25 feedback when able and appropriate, and (f) develop and evaluate policing strategies and
26 tactics reflective of contemporary best police practices.
- 27 96. KCSO will, in consultation with the Monitor and approval by DOJ, also develop and
28 implement mandatory supervisory training in accord with contemporary police practices that

will include techniques for effectively guiding and directing the actions of their subordinate personnel, promoting effective and constitutional police practices, and stressing the importance of de-escalating conflict situations whenever possible.

97. KCSO will, in consultation with the Monitor and approval by DOJ, develop specific metrics and guidelines for evaluating the effectiveness of the supervision of its deputies, and perform evaluations based on these metrics and guidelines on an annual basis. Based on its review of this practice, the Monitor and/or DOJ will make supplemental recommendations as to revisions to the metrics and guidelines to continue to improve the effectiveness of the supervision of KCSO's deputies.

98. All policies, metrics and guidelines will incorporate processes for internal or external reviews, audits, and/or continuous improvement loops in order to ensure the reforms are effective and sustainable.

VI. LANGUAGE ACCESS

99. KCSO agrees to effectively communicate with and provide timely and meaningful access to police services to all members of the Kern County community, regardless of their limited ability to speak, read, write, or understand English. To achieve this outcome, KCSO agrees to:

- a. work and meaningfully engage with its CAP and community stakeholders to develop and implement a language access policy that is consistent with Title VI, to provide meaningful access to KCSO programs and services for individuals, including jail inmates, who have a limited ability to speak, read, write, or understand English;
- b. jointly designate, with the County of Kern, a language access coordinator who will coordinate with KCSO and review KCSO's language access policy for compliance with applicable federal and California law;
- c. provide training on its language access plan for all deputies, communication supervisors, call-takers, and dispatchers that addresses procedures consistent with KCSO policy for responding to calls requiring language access services.

100. KCSO will consult with the Monitor, DOJ and the language access coordinator to develop an audit protocol and will annually audit its plan, and report to the public, on its website, the

1 results of the audit. The audit will determine how KCSO manages language access services,
2 whether the services align with community needs, and how these services compare with
3 similar entities. KCSO shall annually report to the public, on its website, the results of the
4 audit.

5 **VII. RECRUITMENT, HIRING, AND PROMOTIONS**

6 **A. Recruitment of Sworn Personnel**

7 101. To maintain high-level, quality service, ensure deputy safety and accountability, and
8 promote constitutional, effective policing, KCSO and the Kern County Human Resources
9 Division will review and revise as necessary its recruitment and hiring program to ensure
10 that KCSO continues to successfully attract and hire a diverse group of qualified individuals,
11 for both patrol and detentions.

12 102. According to the timeline specified in the Monitoring Plan, discussed in detail below, KCSO
13 and the Kern County Human Resources Division will develop a written Recruitment Plan
14 that includes clear goals, objectives, and action steps for attracting and retaining a quality
15 work force that reflects the diversity of the Kern County community.

16 103. The Recruitment Plan will, at a minimum, require the following:

- 17 a. Broad distribution of recruitment information, including information regarding career
18 opportunities, compensation, the testing and hiring process, and applicable deadlines
19 and requirements. Such information will, at a minimum, be readily accessible on the
20 KCSO and Kern County Human Resources Division websites and available upon
21 request to KCSO or Kern officials;
- 22 b. That candidates continue to be allowed to submit initial applications online to the Kern
23 County Human Resources Division;
- 24 c. Opportunities for deputies, civilians, and members of County government to continue
25 to assist KCSO's efforts to attract a broad spectrum of qualified applicants;
- 26 d. Maintain the current minimum standards for recruits and lateral hires;
- 27 e. Recruitment outreach to a broad spectrum of community stakeholders, aimed at
28 increasing the diversity of its ranks, including race and gender, and applicants who are

community policing and problem-solving oriented. KCSO and the County will continue to explore opportunities for youth in the County's high schools to gain exposure to policing through internship or other programs, and create ways to support interested youth in fulfilling the requirements to join KCSO.

104. The Recruitment Plan will be submitted for the Monitor and DOJ's approval. KCSO, the Kern County Human Resources Division, and the Monitor will meet and confer to resolve any objections the Monitor notes. KCSO and the Kern County Human Resources Division will implement the Recruitment Plan upon approval and as required by the Monitoring Plan.

B. Hiring

105. KCSO and the Kern County Human Resources Division with the aid of the Monitor will conduct an in-depth review of KCSO's current hiring processes for deputies, and county hiring criteria, to assess whether any process, criterion, or requirement has a disparate impact based on a demographic category. If KCSO and the Kern County Human Resources Division or the Monitor determines that any step in the hiring process may result in a disparate impact based on demographic category, KCSO, the Kern County Human Resources Division, and the Monitor will determine whether there are reasonable alternative selection procedures available that would comply with county requirements and serve the County's needs while having less of a disparate impact, and if there are will implement those alternative selection procedures.

106. The County and KCSO's recruitment, hiring, and promotions policies and practices will continue to show a commitment to attracting, hiring, and promoting qualified candidates at all ranks that reflect a broad cross section of the Kern County community the department serves.

107. The County and KCSO will continue to ensure that its recruitment, hiring, and promotion policies and practices are lawful, fair, and consistent with best practices, anti-discrimination laws, and the terms of the Agreement.

108. The decision to suspend or not select a candidate based upon their background will rest at the Commander level or higher and the reason(s) shall be documented.

C. Promotions

109. Within 6 months of the Effective Date, KCSO and the Kern County Human Resources Division shall develop and implement a promotion policy that is adequate to satisfy the requirements of this section.

110. As part of the promotion policy, KCSO will continue to consider and expand upon the following factors:

- a. Effective use of community and problem-oriented policing strategies;
- b. The number and circumstances of uses of force;
- c. A deputy's service as an FTO or Field Training Sergeant;
- d. Disciplinary record;
- e. Problem-solving skills;
- f. Interpersonal skills;
- g. Supervisory skills sufficient to ensure compliance with KCSO policy and the requirements of the Agreement; and
- h. Support for departmental integrity measures.

111. The promotion policy shall be designed to continue to ensure promotional decisions are made without favoritism or unlawful discrimination; increase transparency and deputy awareness about the promotions process and promotions decisions, including, but not limited to, identifying criteria for promotions; and incorporate enhanced strategies for promoting qualified applicants who reflect a broad cross section of the Kern County community.

112. The Kern County Human Resources Division and KCSO will report annually to the Board of Supervisors, and to the public, on their websites, KCSO's promotional activities and outcomes, including the number of applicants, interviewees, and selectees, broken down by gender, race, ethnicity, and national origin.

113. The Kern County Human Resources Division KCSO shall evaluate the promotion plan every two years, to assess KCSO's promotions processes for the ranks of senior deputy, sergeant, lieutenant, and commander, to ensure that its policies and practices comply with

1 the law, are transparent, and are consistent with the Agreement. The assessment will include
2 the senior deputy, sergeant, lieutenant, and commander promotions processes. The senior
3 deputy, sergeant, lieutenant, and commander promotions assessment, at a minimum, will
4 identify:

- 5 a. The processes by which KCSO selects candidates for promotion to senior deputy,
6 sergeant, lieutenant, and commander who possess a core set of competencies,
7 characteristics, and capabilities and, when applicable, who are effective supervisors in
8 compliance with KCSO policy and the Agreement;
- 9 b. Methods for consideration of each candidate's work history, including disciplinary
10 actions taken and commendations received, in the selection process;
- 11 c. Department strategies for promoting qualified applicants who reflect a broad cross-
12 section of the Kern County community;
- 13 d. The frequency with which KCSO and the Kern County Human Resources Division
14 should hold promotional exams;
- 15 e. Opportunities to increase transparency and deputy awareness about the promotions
16 process and promotions decisions, including, but not limited to, identifying criteria for
17 promotions; and
- 18 f. Recommendations for any modifications to the current promotions processes that
19 would enable KCSO and the Kern County Human Resources Division to address the
20 requirements of this section.

21 114. Within 60 days of the completion of the promotions assessment, KCSO and the County will
22 develop an implementation plan to respond to any recommendations identified in the
23 assessment, including any recommended modifications to the promotions processes and a
24 timeline for implementation. Upon completion, the results of the assessment and its
25 implementation plan will be provided to the Monitor for review and approval. Within 120
26 days of receiving the Monitor's approval, KCSO and the Kern County Human Resources
27 Division will begin to implement the plan.

115. Within one year of the Effective Date, KCSO and the Kern County Human Resources Division will identify and publish, both internally and externally, for the ranks of senior deputy, sergeant, lieutenant, and commander, the duties, eligibility criteria, knowledge, skills, and abilities considered to select qualified candidates who are effective supervisors in compliance with County policy and this Agreement.

116. Within one year of the effective date, KCSO and the Kern County Human Resources Division will develop strategies to increase transparency and awareness about the promotions process for the ranks of senior deputy, sergeant, lieutenant, and commander, including, but not limited to, criteria for promotions and promotion decisions.

VIII. COMMUNITY POLICING

117. KCSO agrees to enhance, promote, and strengthen partnerships within the community, to engage constructively with the community to ensure collaborative problem-solving and bias-free policing, and to increase transparency and community confidence in KCSO. To achieve this outcome, KCSO agrees to implement the requirements set forth below. As noted above, KCSO also agrees to form and maintain a CAP, and to develop its use of force policies, community policing strategy and policies, bias-free policing policies, and civilian complaint policies with input from the CAP and other stakeholders within the community.

A. Community and Problem-Oriented Policing

118. KCSO agrees to broaden its efforts to actively participate in community engagement efforts, including participating in local community meetings, making itself available for community feedback, and working with the community on the development of diversion programs. KCSO agrees to enhance its engagement with all members of the community, including its critics. KCSO agrees to create additional easy points of access for community feedback and input, such as providing “community feedback” or “talk to your commander” links on its website and social media pages.

119. A variety of sworn personnel shall continue to actively attend community meetings and events. KCSO agrees to develop a plan for such attendance. The plan shall indicate the number and types of events to be attended on a regular basis and take into account the need

to enhance relationships with particular groups within the community, including, but not limited to, youth, LEP individuals, and communities of color.

120. KCSO agrees to provide structured annual in-service training on community policing and problem-oriented policing methods and skills for all deputies, including station supervisors and unit commanders. This training shall include:

- a. methods and strategies to improve public safety and crime prevention through community engagement;
- b. scenario-based training, including roll call training, that promotes the development of new partnerships between KCSO and community targeting problem solving and prevention;
- c. leadership, ethics, and interpersonal skills;
- d. community engagement techniques, including how to establish formal partnerships and actively engage community organizations, including youth, immigrant, and LGBTQ+ communities;
- e. problem-oriented policing tactics for both employees and community members;
- f. conflict resolution and verbal de-escalation of conflict; and
- g. cultural awareness and sensitivity training.

121. KCSO will incorporate into its organizational strategies and policing philosophy the Final Report of The President's Task Force on 21st Century Policing and its concepts.

122. To continually improve police-community partnerships, KCSO will assess and report on the impact of community engagement initiatives. KCSO will issue annual public reports, and post them on its website, on its community engagement efforts, identifying successes, obstacles, and recommendations for future improvement.

123. KCSO agrees to seek the assistance of its CAP and community advocates in widely disseminating to the public, in English and Spanish, and as set forth in other requirements of this Agreement.

B. Community Survey

- 1 124. KCSO agrees to assist the Monitor in conducting a reliable, comprehensive, and
2 representative biennial survey of members of the Kern County community regarding their
3 experiences with and perceptions of KCSO and of public safety.
- 4 125. To conduct the biennial community survey, the County shall provide funding for the
5 Monitor, as part of the County's annual budget set forth below to select and retain an
6 individual or entity that shall:
- 7 a. develop a baseline of measures on public satisfaction with policing, attitudes among
8 police personnel, and the quality of police-citizen encounters;
 - 9 b. design, conduct, and analyze baseline and subsequent annual surveys of a
10 representative sample of Kern County residents, law enforcement personnel, and
11 detained arrestees;
 - 12 c. review and consider prior law enforcement surveys in Kern County and other counties
13 and cities, in designing the survey;
 - 14 d. engage in formal and informal conversation with Kern County residents, KCSO
15 deputies and command staff, and DOJ representatives, and observe community
16 meetings;
 - 17 e. ensure that the resident and arrestee surveys are designed to capture a representative
18 sample of Kern County residents including members of each demographic category;
19 conduct the survey in English, Spanish, and other languages as necessary to ensure
20 representation of the entire Kern County community; and
 - 21 f. formally discuss the survey methodology with KCSO supervisors and DOJ and
22 consider these opinions in the development of the initial survey and improvements to
23 subsequent surveys.
- 24 126. KCSO agrees to cooperate with the design and conduct of the survey by, for example,
25 helping to organize focus groups of deputies and obtaining and providing previous survey
26 instruments and data.
- 27 127. The report of the baseline survey and subsequent annual surveys shall be publicly distributed
28 and posted on the KCSO website.

IX. **PERSONNEL COMPLAINT REVIEW**

128. KCSO will continue to ensure that all allegations of personnel misconduct are received and documented, are fully and impartially investigated, and that all personnel who commit misconduct are held accountable pursuant to a disciplinary system that is fair and consistent. To achieve these outcomes, KCSO and the County agree to implement the requirements below.

A. Complaint Intake

129. KCSO shall continue to make personnel complaint forms and informational materials, including brochures and posters, available at appropriate County or municipal properties in Kern County, including, at a minimum, KCSO stations, courts, county libraries, and the KCSO website and social media sites, and shall make a concerted effort to provide them to community groups, churches, and other non-governmental stakeholders.

130. KCSO will continue to accept all personnel complaints, including anonymous and third-party complaints, for review and investigation. Complaints may be made in writing or verbally, in person or by mail, telephone (or TDD), facsimile, or electronic mail, as well as in the field. Any LEP individual who wishes to file a complaint about a KCSO deputy or employee shall be provided with a complaint form and informational materials in the appropriate non-English language and/or be provided appropriate translation services in order to file a complaint.

131. The refusal to accept a personnel complaint, discouraging the filing of a complaint, or providing false or misleading information about filing a complaint, shall continue to be grounds for discipline, up to and including termination.

132. KCSO's citizen complaint policies and procedures will be amended to incorporate, at minimum, the best practices contained in the California Racial & Identity Profiling Advisory Board's 2019 Annual Report, at pages 41-44.

133. KCSO will make its complaint brochure that explains the complaint procedures available in Spanish or any other language that the County must provide to voters during an election.

KCSO will also make all of its complaint forms available on its website and in a fillable format that can be submitted electronically.

134. KCSO will amend its complaint form to collect the information delineated in the California Racial & Identity Profiling Advisory Board's 2020 Annual Report, at pages 82-84.

B. Complaint Classification

135. KCSO will enhance its complaint investigation related policies, to ensure that they are complete, clear and consistent. KCSO will implement mechanisms to ensure that all personnel allegations are accurately classified at all investigative stages, from intake through adjudication, so that each allegation receives the appropriate level of review required under policy.

136. KCSO will continue to ensure that personnel complaints are not misclassified as inquiries, adverse comments, or inmate grievances. Toward this end KCSO, as approved by the Monitor and DOJ, will establish a clear definition to identify what conduct constitutes a civilian complaint. The definition of a civilian complaint should include the Internet posting of a video by a community member, depicting apparent deputy misconduct towards a community member and other non-traditional sources of complaints.

137. In consultation with the Monitor and subject to DOJ approval, KCSO will revise policies to clarify and strengthen requirements related to:

- a. which allegations of inappropriate behavior by KCSO personnel, if true, would require imposition of discipline, as opposed to non-disciplinary action, to address the misconduct;
- b. what types of personnel complaints must be investigated as administrative investigations rather than handled as an incident not requiring disciplinary action;
- c. what types of administrative investigations must be handled by Internal Affairs rather than at the unit level.

138. KCSO shall continue to investigate every allegation of misconduct that arises during an investigation, even if an allegation is not specifically articulated as such by the complainant and will work with the monitor to enhance this process.

139. In order to ensure that all personnel complaint investigations are thorough, fair, and resolved timely, KCSO will continue to designate its internal affairs division to serve as central coordinator and quality control hub for all personnel complaint intake, investigation and review processes, even for those cases not requiring a full administrative investigation.

KCSO will work with the monitor to enhance this process

C. Investigations

140. All investigations of KCSO personnel complaints, including reviews, shall continue to be as thorough as necessary to reach reliable and complete findings. In each investigation, KCSO shall continue to consider all relevant evidence, including circumstantial, direct, and physical evidence, as appropriate, and make credibility determinations based upon that evidence. There will continue to be no automatic preference for a deputy's statement over a non-deputy's statement, nor will KCSO disregard a witness' statement merely because the witness has some connection to the complainant or because of any criminal history. KCSO shall continue to make efforts to resolve material inconsistencies between witness statements. KCSO will work with the monitor to enhance this process

141. KCSO will continue to not permit any involved supervisor, any supervisor who authorized the conduct that led to the complaint, or any supervisor who has a conflict with the KCSO personnel involved to conduct that complaint investigation.

142. The misconduct investigator shall continue to seek to identify all persons at the scene giving rise to a misconduct allegation, including all KCSO deputies. The investigator shall note in the investigative report the identities of all deputies and other witnesses who were on the scene but assert they did not witness and were not involved in the incident. The investigator shall conduct further investigation of any such assertions that appear unsupported by the evidence.

143. All witnesses, including if authorized by the Public Safety Officers Procedural Bill of Rights Act (POBR) deputies witnessing or involved in an incident that becomes the subject of a personnel complaint, shall provide a written statement regarding their involvement in and/or observations of the incident, or be interviewed as described below.

1 144. Consistent with current policy, interviews shall continue to be recorded and conducted
2 separately. An interpreter not involved in the underlying complaint will be used when
3 taking statements or conducting interviews of any LEP complainant or witness.

4 145. Every KCSO misconduct investigation should include a comprehensive investigative
5 summary to ensure that the evidentiary bases for the investigation's findings are clearly
6 supported and accessible to command staff who make disciplinary recommendations.

7 **D. Management Review and Adjudication of Complaints**

8 146. All personnel investigations shall continue to be reviewed and approved by the accused
9 employee's commanding officer. The reviewing commanding officer shall continue to
10 ensure that all substantive allegations were identified and investigated, even if the allegation
11 was not specifically articulated by the complainant. KCSO will work with the monitor to
12 enhance this process.

13 147. The reviewing commanding officers will continue to adjudicate each substantive allegation
14 using the preponderance of evidence standard and classify each allegation using the Penal
15 Code standards of Sustained, Not Sustained, Exonerated, or Unfounded (Pen. Code, §§
16 832.5, 13012).

17 148. When an allegation is sustained the reviewing commanding officers will continue to
18 recommend the appropriate corrective action or penalty, taking into consideration the
19 seriousness of the offense and the employee's work history. KCSO will work with the
20 Monitor to enhance this process.

21 149. To ensure fairness, transparency, and predictability, KCSO will codify its disciplinary
22 recommendation process to ensure that discipline is uniformly applied and takes into
23 account the 1) seriousness of the offense; 2) impact or potential impact on the Department
24 and its members; 3) employee's work history and acceptance of responsibility; 4)
25 employee's prior disciplinary history; and 5) impact on public trust.

26 150. The reviewing commanding officers will continue to ensure that the disposition of each
27 complaint and allegation(s) therein are recorded accurately in the Department's database
28 used to track such employee actions.

1 **E. Complaint Review and Investigation Training**

2 151. KCSO agrees to provide updated and revised training to Kern County deputies and
3 supervisors about proper complaint intake, classification, and investigation techniques.
4 KCSO will provide training about how to record complaints from individuals who may not
5 be proficient in English, and the consequences for failing to properly take and objectively
6 investigate complaints from the public.

7 152. All personnel involved in conducting personnel complaint investigations at KCSO shall
8 receive initial training on conducting these misconduct investigations and shall receive
9 refresher training each year. This training shall include instruction in:

- 10 a. investigative skills, including proper interrogation and interview techniques, gathering
11 and objectively analyzing evidence, and data and case management;
- 12 b. the particular challenges of personnel complaint reviews/investigations, including
13 identifying alleged misconduct that is not clearly stated in the complaint or that
14 becomes apparent during the investigation, properly weighing credibility of both
15 civilian witnesses and deputies, using objective evidence to resolve inconsistent
16 statements, and the proper application of the preponderance of the evidence standard;
- 17 c. relevant state, local, and federal law, including state employment law related to
18 deputies and the rights of public employees, as well as criminal discovery rules such
19 as those set out in *Garrity v. New Jersey* (1967) 385 U.S. 493, *Lybarger v. City of Los*
20 *Angeles* (1985) 40 Cal.3d 822, and *Brady v. Maryland* (1963) 373 U. S. 83; and
- 21 d. KCSO rules and policies, including the requirements of this Agreement, and protocols
22 related to criminal and administrative investigations of alleged deputy misconduct.

23 153. All personnel responsible for the review of personnel complaint investigations at KCSO
24 shall receive initial training on reviewing personnel complaint investigations and shall
25 receive refresher training annually thereafter. The training shall include instruction in:

- 26 a. Ensuring that all witnesses and accused deputies are accounted for in the investigation
27 and that they are asked about allegations they may have witnessed or in which they
28 were allegedly involved;

- b. Ensuring that summarized statements accurately reflect the recorded interviews;
- c. Ensuring that evidence is identified, analyzed, and interpreted in the investigation;
- d. Identifying any risk-management issues are identified and addressed, such as inadequate policies, insufficient training, inadequate or inoperable safety equipment, and ineffective field supervision;
- e. Determining the appropriate corrective action and/or penalty, when appropriate;
- f. Relevant state and local laws dealing with conducting personnel investigations and disciplinary actions.

F. Personnel Complaint Audits

154. KCSO shall conduct an annual, randomized audit of KCSO's complaint intake, classification, investigations, and the adjudication of those matters. This audit will assess whether complaints are accepted and classified consistent with policy, investigations are complete, and complaint dispositions are consistent with a preponderance of the evidence. Audits will be submitted through the chain of command to the Sheriff for a determination regarding recommendations made and further action required.

155. KCSO will, on a quarterly basis, submit a report to the Monitor identifying all cases in which employees were found to have committed misconduct, and detailing the steps taken to hold them accountable for their conduct. The Monitor will then submit a report to KCSO and to DOJ providing its expert opinion as to whether the cases identified and the steps taken have been sufficient or insufficient, and provide recommendations as to improvements, if any, that should be made to the process for holding such personnel accountable.

156. KCSO's Professional Standards Unit will regularly assess the effectiveness of the complaint process; analyze the complaints to determine if there is a need for a re-evaluation of existing policies, procedures, or trainings; conduct regular audits of complaint investigations to ensure the quality of those investigation, summarized statements accurately reflect recorded interviews, and standards are being met; and make reports of complaint statistics available to the public on a regular basis. KCSO will also utilize its Professional Standards Unit to

1 assess the effectiveness of its complaint process, and the process for determining which
2 complaints are investigated by Internal Affairs.

3 157. KCSO will publish an annual report of personnel complaint data that reflects the categories
4 of complaints received and the final disposition of those complaint investigations that have
5 been completed as well as the status of any complaint investigations still pending. The report
6 will be made available to the public, once approved by the Sheriff and the Monitor. This
7 report will reflect data for the preceding calendar year and will be released by April 1 of
8 each year.

9 **X. MONITORING**

10 158. The Judgment shall be overseen by a qualified third-party Monitor, who shall be provided
11 complete access to KCSO's and the County's information and documents to ensure
12 compliance and whose reasonable costs and expenses shall be paid for by the County. The
13 County is committed to allocating all costs necessary to comply with the terms of the
14 Agreement, and if the County believes that any Monitoring costs are not reasonable, the
15 County shall meet and confer with DOJ within 15 days of the receipt of each invoice. The
16 Monitor shall provide the DOJ and the County with monthly invoices detailing each expense
17 along with any documentation necessary to justify each expense.

18 **A. Selection of Monitor**

19 159. Within 15 days of the entry of judgment, the Parties shall meet and confer to select a team as
20 Monitor to oversee the terms of this Agreement. As described in greater detail below, the
21 Monitor will assess the County's progress in implementing, and achieving compliance with,
22 the Agreement; report on the status of implementation to the Parties and the Court; work
23 with the Parties to address any barriers to compliance; and assist the Parties to informally
24 resolve disputes or differences should they emerge.

25 160. The Monitor shall be subject the supervision of DOJ, consistent with this Agreement and the
26 Monitoring Plan. The Monitor shall have the duties, responsibilities, and authority
27 necessary to carry out the terms of the agreement. The Monitor shall not, and is not intended
28 to, replace or assume the role and duties of the Sheriff or of the DOJ.

1 161. In order to assess and report on KCSO's implementation of this Agreement and whether
2 implementation is resulting in constitutional policing, the Monitor shall conduct compliance
3 reviews, audits, and outcome assessments as specified below, and such additional audits,
4 reviews, and assessments that the Monitor or Parties deem appropriate.

5 **B. Compliance Reviews and Audits**

6 162. The Monitor shall conduct compliance reviews or audits as necessary to determine whether
7 KCSO has implemented and continues to comply with the Material Requirements of this
8 Agreement. A "Material Requirement" in this Agreement is a requirement of the
9 Agreement that has a significant relationship to achieving the purposes of this Agreement.

10 163. To achieve "Full and Effective Compliance" under this Agreement, the County and KCSO
11 must demonstrate that they have (a) incorporated all Material Requirements of this
12 Agreement into policy, (b) trained relevant personnel as necessary to fulfill their
13 responsibilities pursuant to the Material Requirements, and (c) ensured that each Material
14 Requirement is being carried out in practice. No specific numerical test shall be required to
15 demonstrate Full and Effective Compliance, so long as KCSO is demonstrating substantial
16 compliance and adherence with the Material Requirements, continual improvement, and the
17 overall purpose of the Material Requirements has been met. Non-compliance with mere
18 technicalities, or temporary or isolated failure to comply during a period of otherwise
19 sustained compliance, will not constitute failure to achieve or maintain Full and Effective
20 Compliance. At the same time, temporary compliance during a period of otherwise sustained
21 noncompliance will not constitute compliance with this Agreement.

22 164. Compliance reviews and audits will contain both qualitative and quantitative elements as
23 necessary for reliability and comprehensiveness. Where appropriate, the Monitor will make
24 use of audits conducted by KCSO's Professional Standards Unit, taking into account the
25 importance of internal auditing capacity and independent assessment of this agreement.

26 165. Where the Monitor recommends and the Parties agree, the Monitor may refrain from
27 conducting a compliance audit or review of a requirement previously and consistently found
28 to be in compliance by the Monitor pursuant to audit or review. Thereafter, KCSO and/or

the County will be deemed to have achieved compliance with those requirements for purposes of this Agreement, absent evidence to the contrary.

166. The Monitor, in conjunction with KCSO, will conduct an ongoing audit of incidents where deputies draw or point their firearms. The audit will include a review of all civilian complaints and an appropriate sample of police reports related to any use or display of a firearm.

C. Outcome Assessments

167. In addition to compliance reviews and audits, the Monitor shall conduct qualitative and quantitative outcome assessments to measure whether KCSO's implementation of this Agreement has eliminated practices that resulted in DOJ's filing of the complaint. These outcome assessments shall include collection and analysis, both quantitative and qualitative, of the following outcome data:

a. Use of Force Measurements, including:

- i. the rate of force used by KCSO per arrest, reporting district (i.e. street address, neighborhood, or reporting district), type of arrest, and demographic category;
- ii. the number and rate of uses of force resulting in training or tactical reviews, with formal discipline and/or with informal corrective action; and
- iii. the number and rate of use of external force complaints that result in formal administrative investigations/reviews, and in which each finding is supported by a preponderance of the evidence.

b. Stop and Search Measurements, including:

- i. the number and rate of stops and searches for which there is sufficient documented reasonable suspicion, overall and broken down by geographic area, type of arrest, and demographic category;
- ii. the number and rate of searches that result in a finding of contraband, overall and broken down by authority to conduct search, reporting district, type of arrest, and demographic category;

1 iii. the number and rate of arrests, overall and broken down by type of arrest and
2 demographic category;

3 iv. the number of consensual searches conducted overall and broken down by
4 reporting area, type of arrest and demographic category;

5 c. Supervision Measurements, including initial identification of deputy violations and
6 performance problems by supervisors (including sergeants, lieutenants, and
7 commanders), and effectiveness of supervisory response.

8 d. Complaints made by the public, the various categories of those complaints, and the
9 findings made.

10 168. In conducting audits, reviews, and outcome assessments, the Monitor may use any relevant
11 data collected and maintained by KCSO that the Monitor and DOJ deem reliable and
12 sufficiently complete, provided that the Monitor has determined, and the Parties agree, that
13 this data is reasonably reliable and complete.

14 **D. Monitoring Plan and Review Methodology**

15 **Monitoring Plan**

16 169. Within 90 days of the Monitor's appointment, the Monitor will develop and complete a
17 Monitoring plan, including proposed deadlines for implementation for conducting the
18 compliance reviews and audits ("Monitoring Plan"). This Monitoring Plan will include
19 specific deadlines and timelines for the first year of implementation of the Agreement,
20 including: (1) deadlines for the development of policies and training materials, and (2)
21 schedules for conducting compliance reviews and outcome assessments. The Monitoring
22 Plan will be subject to DOJ approval.

23 170. Upon its completion, the Monitor will submit the Monitoring Plan to KCSO for review and
24 approval. KCSO will have 30 days to either approve or propose changes to the Monitoring
25 Plan. If KCSO proposes changes, the Monitor and DOJ will have 15 days to accept or
26 object to those changes. If the Monitor and DOJ object to any of the proposed changes, the
27 Monitor will provide the rationale for the objection, in writing, and the Parties will attempt
28 to confer to resolve the disagreement.

1 171. If after good faith attempts, disagreement regarding the Monitoring Plan remains unresolved
2 between the Parties and/or Monitor so that the Monitoring Plan is not approved by the
3 Parties, and the disagreement remains unresolved, the Monitor will make the final
4 determination.

5 172. For each subsequent year, the Monitor will develop a detailed Monitoring Plan for
6 implementation of the Agreement.

7 173. At least 30 days prior to the initiation of any outcome measure assessment or compliance
8 review, the Monitor shall submit a proposed methodology for the assessment or review to
9 the Parties. The Parties shall submit any comments or concerns they have regarding the
10 proposed methodology to the Monitor within 15 days of receipt of the Monitor's
11 notification. The Monitor shall modify the methodology as necessary to address any
12 concerns, or shall inform the Parties in writing of the reasons they are not modifying the
13 methodology as proposed.

14 **Development of Policies, Procedures, and Training**

15 174. KCSO will submit policies, training curricula, and lesson plans required to be written,
16 revised, or maintained by the Agreement to the Monitor and DOJ prior to publication and
17 implementation. The Parties will share draft policies and meet as needed to reach agreement
18 on whether revised policies and training materials are in compliance with the requirements
19 of the Agreement, the Constitution, federal and statutory law, best practices, and current
20 professional standards.

21 175. Forty-five days before a compliance deadline, as set out in the Monitoring Plan, the Parties
22 will submit the policy, training curriculum or lesson plan to the Monitor for review. The
23 Monitor will provide written comments to DOJ and KCSO, which the DOJ shall consider in
24 determining whether to approve the policy, training curriculum, and lesson plan.

25 176. If KCSO, DOJ, and the Monitor do not all agree that the policy, training curriculum or
26 lesson plan is consistent with this Agreement, legal requirements, and best practices, either
27 Party or the Monitor will provide the rationale for its objection in writing and the Parties and
28

1 Monitor will attempt to confer to resolve the Agreement. If the disagreement remains
2 unresolved, DOJ will make the final determination.

3 177. KCSO will begin implementation of policies and procedures within 30 days of DOJ
4 approval or the Court's decision if a dispute arises, unless otherwise specified or agreed to
5 by the Parties in the Monitoring Plan.

6 178. Within 30 days after issuing a policy or procedure pursuant to this Agreement, KCSO shall
7 ensure that all relevant KCSO personnel have received, read, and understand their
8 responsibilities pursuant to the policy or procedure, including the requirement that each
9 deputy or employee report violations of policy; that supervisors of all ranks shall be held
10 accountable for identifying and responding to policy or procedure violations by personnel
11 under their command; and that personnel will be held accountable for policy and procedure
12 violations. KCSO shall document that each relevant KCSO deputy or other employee has
13 received, read, and sufficiently understands policy. Training beyond roll-call or similar
14 training will be necessary for many new policies to ensure deputies understand and can
15 perform their duties pursuant to the policy.

16 179. Within 180 days from the effective date of the agreement, KCSO shall ensure that each
17 KCSO sworn personnel member and custody assistant attends a training briefing on the
18 content of this Agreement and the responsibilities of each deputy and employee pursuant to
19 it. KCSO shall begin providing this training briefing within 45 days of the effective date of
20 the agreement.

21 180. All training will include periodic testing to ensure that employees are appropriately
22 comprehending, retaining, and applying the knowledge and skills conveyed during the
23 training required by the Agreement. Based on results of testing, KCSO will provide
24 additional periodic training as needed to deputies, supervisors, and commanders that is
25 sufficient in duration and scope to ensure that all deputies can consistently and effectively
26 carry out KCSO's policies.

27 181. KCSO shall completely and accurately record information regarding KCSO deputies'
28 training attendance.

1 **E. Monitor Recommendations and Assessments**

2 182. The Monitor may also make recommendations to the Parties regarding measures necessary
3 to ensure timely, Full and Effective Compliance with the Agreement and its underlying
4 objectives. Such recommendations may include a recommendation to change, modify, or
5 amend a provision of the Agreement, a recommendation for additional training related to the
6 Agreement, or a recommendation to seek technical assistance.

7 183. The Monitor may also, at the request of either Party, provide technical assistance consistent
8 with the Agreement.

9 184. The Monitor shall conduct a comprehensive assessment one year after the Effective Date to
10 determine whether and to what extent: (1) the outcomes intended by the Agreement have
11 been achieved, and (2) any modifications to the Agreement are necessary for continued
12 achievement in light of changed circumstances or unanticipated impact (or lack of impact)
13 of a requirement. Based upon this comprehensive assessment, the Monitor shall recommend
14 what modifications to the Agreement, if any, are necessary to achieve and sustain intended
15 outcomes. Where the Parties agree with the Monitor's recommendations, the Parties shall
16 work to adopt mutually acceptable modifications of the Agreement. KCSO will have the
17 option to delay this comprehensive assessment for one additional year if they deem this to be
18 the appropriate time period for the comprehensive assessment. If KCSO decides to seek this
19 delay of the comprehensive assessment, they will advise the Monitor and DOJ within six
20 months of the effective date of this Agreement.

21 **F. Monitor Reports**

22 185. The Monitor will issue to DOJ and KCSO a report every year that details the Parties'
23 progress in implementing the Agreement and achieving compliance with the Agreement.

24 The reports will include:

- 25 a. a description of the work conducted by the Monitor during the reporting period;
26 b. a listing of each Agreement requirement indicating which requirements have been: (1)
27 incorporated into policy; (2) the subject of sufficient training for all relevant KCSO
28 deputies and employees; (3) reviewed or audited by the Monitor to determine whether

- 1 they have been fully implemented in actual practice, including the date of the review
2 or audit; and (4) found by the Monitor to have been fully implemented in practice;
- 3 c. the methodology and specific findings for each audit or review conducted, redacted as
4 necessary for privacy concerns. The underlying data for each audit or review will not
5 be publicly available but will be retained by the Monitor and provided to either or both
6 Parties upon request;
- 7 d. for any requirements that were reviewed or audited and found not to have been fully
8 implemented in practice, the Monitor's recommendations regarding necessary steps to
9 achieve compliance;
- 10 e. the methodology and specific findings for each outcome assessment conducted;
- 11 f. a qualitative assessment of KCSO's progress in achieving the desired outcomes for
12 each area covered by the Agreement, noting issues of concern or particular
13 achievement; and a projection of the work to be completed during the upcoming
14 reporting period and any anticipated challenges or concerns related to implementation
15 of, and achieving compliance with, the Agreement.

16 186. The Monitor shall provide a copy of the reports to the Parties in draft form at least 10
17 business days prior to its due date. The Parties may provide comment on the reports, and the
18 Monitor shall consider the Parties' comments and make appropriate changes before issuing
19 the report.

20 187. The reports shall be public with the exception of material covered by applicable privacy or
21 confidentiality laws. Any parts of the reports that identify specific deputies or supervisors
22 will not be made public. To facilitate public access to the reports, KCSO shall post the
23 reports to its public website.

24 188. Except as required or authorized by the terms of this Agreement or the Parties acting
25 together, the Monitor, including, for the purposes of this paragraph, any agent, employee, or
26 independent contractor thereof, shall not make any public statements or issue findings with
27 regard to any act or omission of KCSO, or their agents, representatives, or employees; or
28 disclose non-public information provided to the Monitor pursuant to this Agreement. Prior

1 to making any press statement regarding their employment or monitoring activities under
2 this Agreement, the Monitor shall first provide notice to both the DOJ and KCSO and obtain
3 prior authorization from DOJ.

4 **G. Public Statements, Testimony, and Conflicts of Interest**

5 189. The Monitor may testify as to their observations, findings, and recommendations before the
6 Court with jurisdiction over this matter; however, no Monitor shall testify in any other
7 litigation or proceeding with regard to any act or omission of KCSO or any of its agents,
8 representatives, or employees related to this Agreement or regarding any matter or subject
9 that the Monitor may have received knowledge of as a result of his or her performance under
10 this Agreement. This paragraph does not apply to any proceeding before a court related to
11 performance of contracts or subcontracts for Monitoring this Agreement.

12 190. Unless such conflict is waived by the Parties, the Monitor shall not accept employment or
13 provide consulting services that would present a conflict of interest with the Monitor's
14 responsibilities under this Agreement, including being retained (on a paid or unpaid basis)
15 by any current or future litigant or claimant, or such litigant's or claimant's attorney, in
16 connection with a claim or suit against KCSO, the County, or its departments, deputies,
17 agents, or employees. This provision does not preclude the Monitor from being retained by
18 DOJ on other matters unrelated to KCSO.

19 191. The Monitor is not a state or local agency, or an agent thereof, and accordingly the records
20 maintained by the Monitor shall not be deemed public records subject to public inspection.

21 192. The Monitor shall not be liable for any claim, lawsuit, or demand arising out of the
22 Monitor's performance pursuant to this Agreement.

23 **H. Communication Between Monitor and Parties**

24 193. The Monitor will maintain regular contact with the Parties in order to ensure effective and
25 timely communication regarding the status of the KCSO's implementation of, and
26 compliance with, the Agreement. To facilitate this communication, the Monitor will
27 conduct meetings every two months, or as needed, which will include participation by
28 KCSO, representatives of the County Counsel's office, and DOJ.

I. Access and Confidentiality

194. To facilitate its work, the Monitor may conduct on-site visits and assessments without prior notice to the County or KCSO. The Monitor shall have access to all necessary individuals, facilities, and documents, which shall include access to Agreement-related trainings, meetings, and reviews such as critical incident reviews, executive force review committee meetings, and disciplinary hearings.

195. The County or KCSO shall provide the Monitor with office space and reasonable office support, such as office furniture, secure internet access, telephone, secure document storage, and photocopying, faxing, and scanning equipment, that the Monitor may require while in Kern County.

196. KCSO shall ensure that the Monitor shall have full and direct access to all County and KCSO staff, employees, and facilities that the Monitor reasonably deems necessary to carry out the duties assigned to the Monitor by this Agreement. The Monitor shall cooperate with the County and KCSO to access people and facilities in a reasonable manner that, consistent with the Monitor's responsibilities, minimizes interference with daily operations.

197. KCSO shall ensure that the Monitor shall have full and direct access to all KCSO documents and data that the Monitor reasonably deems necessary to carry out the duties assigned to the Monitor by this Agreement, except any documents or data protected by the attorney-client privilege. The attorney-client privilege may not be used to prevent the Monitor from observing reviews, meetings, and trainings such as use of force review boards; disciplinary hearings; or discussions of misconduct complaint investigations. Should KCSO decline to provide the Monitor access to documents or data based on attorney-client privilege, KCSO shall inform the Monitor and DOJ that it is withholding documents or data on this basis and shall provide the Monitor and DOJ with a log describing the documents or data.

198. For the purpose of implementing this Agreement, DOJ and its consultative experts and agents shall have full and direct access to all KCSO staff, employees, facilities, and documents and data who have pertinent information about KCSO. DOJ and its consultative experts and agents shall cooperate with KCSO to access involved personnel, facilities, and

documents in a reasonable manner that, consistent with DOJ's responsibilities to enforce this Agreement, minimizes interference with daily operations.

199. The Monitor or DOJ shall provide the County with reasonable notice of a request for copies of documents or data. Upon such request, the County and/or KCSO shall provide in a timely manner copies (electronic, where readily available) of the requested documents to the Monitor and DOJ.

200. The Monitor shall have access to all records and information relating to criminal investigations of KCSO deputies as permissible by law. The Monitor shall have access to all documents in criminal investigation files that have been closed by KCSO. The Monitor shall also have reasonable access to all arrest reports, warrants, and warrant applications whether or not contained in open criminal investigation files. Where practicable, arrest reports, warrants, and warrant applications shall be obtained from sources other than open criminal investigation files.

201. The Monitor and DOJ shall maintain all non-public information provided by KCSO and the County in a confidential manner. Other than as expressly provided in this Agreement, this Agreement shall not be deemed a waiver of any privilege or right the KCSO or County may assert, including those recognized at common law or created by statute, rule or regulation, against any other person or entity with respect to the disclosure of any document.

J. KCSO Compliance Coordinator

202. The Parties agree that KCSO will hire and retain or assign a current KCSO employee for the duration of the Agreement, to serve as a Compliance Coordinator. The Compliance Coordinator will serve as a liaison between KCSO, the Kern County stations, the Monitor, and DOJ, and will assist with KCSO's compliance with the Agreement. At a minimum, the Compliance Coordinator will:

- a. coordinate compliance and implementation activities;
- b. facilitate the provision of data, documents, and other access to KCSO employees, and material to the Monitor and DOJ, as needed;

- 1 c. ensure that all documents and records are maintained as provided in the Agreement;
2 and
3 d. assist in assigning compliance tasks to KCSO personnel, as directed by the Sheriff or
4 his designee. The Compliance Coordinator will take primary responsibility for
5 collecting the information the Monitor requires to carry out the terms of the
6 Agreement.

7 **K. Monitor Budget and Payment**

8 203. The County shall bear all fees and costs of the Monitor. In approving budgets, the Parties
9 recognize the importance of ensuring that all fees and costs borne by the County are
10 reasonable. The Parties shall work with the Monitor to reach mutually agreed upon
11 reasonable limits on the Monitor's fees and costs. Within 10 days of entry of judgment,
12 Kern County shall deposit with the California Department of Justice the sum of \$250,000,
13 which shall be held in an interest-bearing account. The Department of Justice shall pay the
14 Monitor from this account. The Attorney General shall notify County any time the balance
15 in said account reaches less than \$50,000, and County shall, within 10 days of receiving
16 such notice, deliver to the California Department of Justice sufficient funds to return the
17 account's balance to \$250,000. When the Agreement has been terminated, all funds
18 remaining in the account shall be returned to County.

19 204. Within 30 days of appointment, the Monitor shall submit to the Parties for approval a
20 proposed budget for the first year of implementation of the Agreement. The proposed
21 budget will describe the qualifications of all the persons or entities to be hired or employed
22 by the Monitor as well as the Monitoring tasks that they will perform. The Monitor, at any
23 time after their appointment, may request to be allowed to hire, employ, or contact such
24 additional persons or entities as are reasonably necessary to perform the tasks assigned to
25 the Monitor by the Agreement provided that those expenditures fall within the approved
26 budget. The Monitor will notify the County and DOJ in writing if the Monitor wishes to
27 select such additional persons or entities. The notice will identify and describe the
28 qualifications of the person or entity to be hired or employed and the Monitoring task to be

1 performed. The County and DOJ must both approve of the person or entity before they may
2 be hired or employed, although substantial deference will be afforded to the Monitor's
3 choice. Any person or entity hired or otherwise retained by the Monitor will be subject to the
4 provisions of the Agreement.

5 205. Thereafter, the Monitor shall submit annually a proposed budget for the Parties' approval in
6 accordance with the process set forth above. Notwithstanding any other provision of this
7 Judgment, the County shall not be responsible for any costs of the Monitor or related
8 activities that exceed the approved budget.

9 206. At any time, the Monitor may submit to the Parties for approval proposed revisions to the
10 approved budget, along with any explanation of the reason for the proposed revision. Such
11 proposed changes may only be made upon written agreement by the Parties. In the event
12 that a dispute arises regarding the reasonableness or payment of the Monitor's fees and
13 costs, the Parties and the Monitor shall attempt to resolve such dispute cooperatively prior to
14 seeking the assistance of the Court to resolve the dispute.

15 207. In the event that the Monitor is no longer able to perform their functions, within 60 days
16 thereof, the County and DOJ will together select and advise the Court of the selection of a
17 replacement Monitor, acceptable to both. The Parties' selection of the Monitor will be made
18 pursuant to a method jointly established by DOJ and the County. If the Parties are unable to
19 agree on a Monitor or an alternative method of selection within 60 days of the Monitor's
20 incapacitation, each Party will submit the names of three candidates, or three groups of
21 candidates, along with resumes and cost proposals, to the Court, and the Court will select
22 and appoint the Monitor from among the qualified candidates/candidate groups.

23 208. Should either of the Parties to the Agreement determine that the Monitor or any member of
24 the Monitor's consulting teams, their agents, employees, or independent contractors have
25 exceeded their authority or failed to satisfactorily perform the duties required by the
26 Agreement, the Party may petition the Court for such relief as the Court deems appropriate,
27 including replacement of the Monitor, and/or any individual members, agents, employees, or
28 independent contractors. Any Party bringing such a petition is required to meet and confer

1 with the other Party at least 21 days prior to such a petition in a good faith attempt to resolve
2 the concern.

3 **XI. COURT JURISDICTION, MODIFICATION OF THE AGREEMENT,**
4 **AND ENFORCEMENT**

5 209. The Parties agree jointly to file this Agreement with the Superior Court of the State of
6 California, County of Kern, in the matter to be captioned *People of the State of California,*
7 *ex re. Xavier Becerra, Attorney General of the State of California v. Kern County and Kern*
8 *County Sheriff's Office*, Kern County Superior Court Case No. _____, and
9 stipulate to entry of judgment on this Agreement. The stipulation shall request that the
10 Court enter the Agreement, and conditionally dismiss the complaint in this action without
11 prejudice, while retaining jurisdiction to enforce the Agreement. The stipulation shall
12 further request that this action be removed from the Court's active caseload until further
13 application by the Parties or order of the Court. The Parties will request that the Court retain
14 jurisdiction over this action and that the Court's conditional dismissal will not prejudice any
15 party to the action.

16 210. This Agreement resolves all of the State of California's claims under the state and federal
17 constitutions and Civil Code section 52.3 against KCSO and the County. No prior drafts or
18 prior contemporaneous communications, oral or written, will be relevant or admissible for
19 the purposes of determining the meaning of any provisions herein in any litigation or other
20 proceeding.

21 211. The Agreement is binding upon all Parties hereto, by and through their officials, agents,
22 employees, and successors. If the County establishes or reorganizes a government agency or
23 entity whose function includes overseeing, regulating, accrediting, investigating, or
24 otherwise reviewing the operations of KCSO or any aspect thereof, the County agrees to
25 ensure these functions and entities are consistent with the terms of the Agreement and will
26 incorporate the terms of the Agreement into the oversight, regulatory, accreditation
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1 investigation, or review functions of the government agency or entity as necessary to ensure
2 consistency.

3 212. The Agreement is enforceable only by the Parties. No person or entity is intended to be a
4 third-party beneficiary of the provisions of the Agreement for purposes of any civil,
5 criminal, or administrative action, and accordingly, no person or entity may assert any claim
6 or right as a beneficiary or protected class under the Agreement. The County and KCSO
7 deny the allegations in the Complaint. Nothing in this Agreement is intended to be used by
8 third parties to create liability by or against the County or KCSO or any of their officials,
9 officers, agents or employees under any federal, state, or municipal law, including 42 United
10 States Code section 1983.

11 213. Unless stated otherwise in the Agreement, if either party disagrees with any aspect of the
12 implementation of the Agreement, that party will engage in good faith informal consultation
13 with the other party and the Monitor to attempt to resolve the disagreement. If the
14 disagreement persists, that party will, within 10 days of the apparent impasse, inform the
15 other Parties and the Monitor in writing of the fact of the disagreement. Within 21 days
16 thereafter, the Parties will meet and confer on the disagreement at a mutually agreeable time.
17 If necessary, any party may petition the Court thereafter to resolve the dispute pursuant to
18 the provisions below.

19 214. To ensure that the requirements of the Agreement are properly and timely implemented, the
20 Court will retain jurisdiction of this action for all purposes, including but not limited to any
21 disputed changes to policies, procedures, training, and practices, until such time as the
22 County has achieved Full and Effective Compliance with the Material Requirements of the
23 Agreement, and maintained such compliance for no less than one year.

24 215. The State of California acknowledges the good faith of the County and KCSO in trying to
25 address the measures that will ensure constitutional policing in Kern County. The State of
26 California, however, reserves its right to seek enforcement of the provisions of the
27 Agreement if it determines that the County and/or KCSO have failed to fully comply with
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1 any provision of this Agreement. The State of California agrees to consult with officials
2 from the County and KCSO before commencing enforcement proceedings.

3 216. The Monitor, County, and DOJ may jointly stipulate to make changes, modifications, and
4 amendments to the Agreement. Such changes, modifications, and amendments to the
5 Agreement will be encouraged when the Parties agree, or where the reviews, assessments,
6 and/or audits of the Monitor demonstrate, that an Agreement provision as drafted is not
7 furthering the purpose of the Agreement or that there is a preferable alternative that will
8 achieve the same purpose. The Parties may jointly move for approval of any proposed
9 changes, modifications, and/or amendments, which will become effective upon approval by
10 the Court. No change, modification, or amendment to the Agreement will have any force or
11 effect if not set forth in writing, signed by all the Parties to the Agreement, and approved by
12 the Court.

13 217. The Parties agree to defend the provisions of this Agreement. The Parties shall notify each
14 other of any court or administrative challenge to this Agreement.

15 218. Nothing in this Agreement is intended to: (a) alter the existing collective bargaining
16 agreements; or (b) impair the collective bargaining rights of employees under State and local
17 law. Nothing in this Agreement is intended to amend or supersede any provision of State or
18 local law.

19 219. All Parties agree that, as of the Effective Date of this Agreement, litigation is not
20 “reasonably foreseeable” concerning the matters described in this Agreement. To the extent
21 that either Party previously implemented a litigation hold to preserve documents,
22 electronically stored information, or things related to the matters described in this
23 Agreement, the Party is no longer required to maintain such a litigation hold.

24 220. The Attorney General’s Office may make reasonable requests to KCSO for additional
25 information demonstrating its compliance with any provision(s) of this Judgment. KCSO
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1 shall furnish such information within 30 days after the request is made, unless another date
2 is agreed upon in writing.

3 221. Jurisdiction is retained by the Court to enforce the Judgment for a period of five years,
4 unless that time is extended pursuant to paragraph 223 below, or reduced pursuant to
5 paragraph 229 below, for the purpose of enabling any party to the Judgment to apply to the
6 Court at any time for such further orders and directions as may be necessary or appropriate
7 for the construction or the carrying out of this Judgment, for the modification of any of the
8 injunctive provisions hereof, for enforcement of compliance herewith, and for the
9 punishment of violations hereof, if any.

10 222. This Judgment shall take effect immediately upon entry thereof and service by mail of
11 “Notice of Entry of Judgment” upon all parties, through their counsel of record.

12 223. Any time limits for performance imposed by the Judgment may be extended by the mutual
13 agreement, in writing, of DOJ, KCSO, and the County, and/or by order of the Court for good
14 cause shown by any Party.

15 224. Nothing in this Judgment alters the requirements of federal or state law to the extent these
16 laws may currently, or upon future amendment will, offer greater protection.

17 225. Nothing in this Judgment limits the powers vested in the Attorney General by the California
18 Constitution and state statutory law, including Government Code section 11180 et seq., to
19 oversee or enforce any California laws or regulations, whether addressed in this Judgment or
20 not. The Attorney General may utilize these powers to monitor the County’s and KCSO’s
21 compliance with the terms of the Judgment, or to address distinct and unrelated investigation
22 or enforcement of the laws of the State of California. Nothing in this Judgment shall
23 abrogate the confidentiality of any materials or information obtained by DOJ during its
24 investigation of KCSO, except as provided by law.

25 226. The injunctive provisions of this Judgment shall apply to the County and KCSO, as well as
26 their successors, directors, officers, employees, agents, independent contractors, partners,
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1 associates, and representatives of each of them with respect to their activities in the State of
2 California.

3 227. The clerk is ordered to enter this Judgment forthwith.

4 **XII. TERMINATION OF THE AGREEMENT**

5 228. The Parties anticipate that KCSO and the County can reach Full and Effective Compliance
6 with the Material Requirements of this Agreement within five years of the Effective Date.

7 229. The Parties may jointly petition the Court to terminate this Agreement at any time after three
8 years of the Effective Date if the Parties believe that KCSO has reached Full and Effective
9 Compliance with the Material Requirements of this Agreement, and has maintained that
10 compliance for one year. If, at any time after three years from the Effective Date, the Parties
11 disagree about whether KCSO has been Full and Effective Compliance for one year, either
12 party may seek to terminate the Agreement, by petitioning the court for an order terminating
13 the Agreement. In the case of termination sought by the County or KCSO, prior to filing a
14 motion to terminate, the County and KCSO agree to notify DOJ in writing when the County
15 or KCSO has determined that KCSO is in Full and Effective Compliance with this
16 Agreement, and that such compliance has been maintained for no less than one year.
17 Thereafter, the Parties shall promptly confer as to the status of compliance. The Monitor will
18 certify whether he or she agrees that the County and KCSO are in Full and Effective
19 Compliance with the Material Requirements of this Agreement, or portions of the
20 Agreement, for at least one year, at the time of the notification. No later than 21 days
21 thereafter, the Parties will meet and confer at a mutually agreeable time as to the status of
22 compliance. If, after a reasonable period of consultation and the completion of any
23 additional audit or evaluation that DOJ and/or the Monitor may wish to undertake, including
24 on-site observations, document review, or interviews with the County and KCSO personnel,
25 the Parties cannot resolve any compliance issues, the County and/or KCSO may file a
26 petition to terminate the Agreement. The Monitor's certification shall be admissible at the
27 hearing on said petition. At all times, KCSO shall bear the burden of demonstrating Full
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1 and Effective Compliance with the Material Requirements of this Agreement.

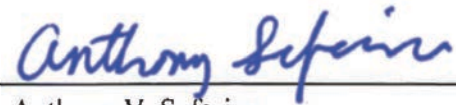
2 **IT IS SO STIPULATED.**

3 Respectfully submitted this _____ day of December 2020.

4 For the STATE OF CALIFORNIA:

Xavier Becerra
Attorney General of the State of California
Michael L. Newman
Senior Assistant Attorney General
Nancy A. Beninati
Supervising Deputy Attorney General
Marisol León
Deputy Attorney General

9 By: _____



10 Anthony V. Seferian

Deputy Attorney General

11 *Attorneys for Plaintiff, The People of the*
12 *State of California*

13 For the COUNTY OF KERN and the KERN COUNTY SHERIFFS OFFICE:

15 By: _____

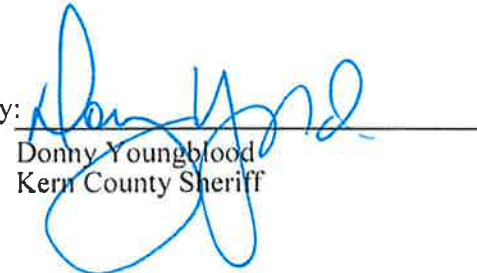


16 Margo A. Raison

County Counsel

Office of the Kern County Counsel

19 By: _____



20 Donny Youngblood

21 Kern County Sheriff

22 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED.**

24
25
26 DATE: _____

JUDGE OF THE SUPERIOR COURT