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16 **UNITED STATES DISTRICT COURT**
17 **DISTRICT OF ARIZONA**

18 Manuel De Jesus Ortega Melendres,
19 on behalf of himself and all others
20 similarly situated; et. al,

21 Plaintiffs,

22 and

23 United States of America,

24 Plaintiff-Intervenor,

25 v.

26 Paul Penzone, in his official capacity
27 as Sheriff of Maricopa County,
28 Arizona, et. al.,

Defendants.

No. CV-07-2513-PHX-GMS

**DEFENDANT PAUL PENZONE'S
NOTICE OF FILING THIRTIETH
QUARTERLY COMPLIANCE REPORT**

23 Pursuant to the Court's October 2, 2013, Order (Doc. 606), Defendant Paul
24 Penzone files with the Court Defendant's Thirtieth Quarterly Compliance Report, which
25 covers the Third Quarter of 2021, July 1, 2021 through September 30, 2021. (Attached as
26 Exhibit 1.)

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RESPECTFULLY SUBMITTED this 23rd day of December, 2021.

ALLISTER ADEL
MARICOPA COUNTY ATTORNEY

BY: /s/ Joseph I. Vigil
JOSEPH I. VIGIL, ESQ.
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*Attorneys for Defendants Paul Penzone
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CERTIFICATE OF SERVICE

I hereby certify that on December 23, 2021, I caused the foregoing document to be electronically transmitted to the Clerk's Office using the CM/ECF System for filing and served on counsel of record via the Court's CM/ECF system.

/s/ G. Barksdale

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Exhibit 1

(MCSO's Thirtieth Quarterly Compliance Report)

Maricopa County Sheriff's Office

Paul Penzone, Sheriff

COURT IMPLEMENTATION DIVISION

**Thirtieth Quarterly Compliance
Report**



**COVERING THE THIRD QUARTER OF 2021
July 1, 2021 – September 30, 2021**

Table of Contents

Section 1: Introduction.....	1
Section 2: Compliance Summary.....	2
Section 3: Implementation Unit Creation and Documentation Requests.....	18
Section 4: Policies and Procedures.....	21
Section 5: Pre-Planned Operations.....	32
Section 6: Training.....	35
Section 7: Traffic Stop Documentation and Data Collection.....	48
Section 8: Early Identification System (EIS).....	58
Section 9: Supervision and Evaluation of Officer Performance	68
Section 10: Misconduct and Complaints.....	74
Section 11: Community Engagement.....	77
Section 12: Misconduct Investigations, Discipline, and Grievances	81
Section 13: Community Outreach and Community Advisory Board	105
Section 14: Supervision and Staffing.....	106
Section 15: Document Preservation and Production.....	108
Section 16: Additional Training.....	110
Section 17: Complaints and Misconduct Investigations Relating to Members of the Plaintiff Class	111
Section 18: Conclusion.....	115

Section 1: Introduction

This is the 30th Quarterly Report (Report) covering July 1, 2021 through September 30, 2021. It reports on the Maricopa County Sheriff's Office (MCSO or Office)'s compliance with the Hon. G. Murray Snow's October 2, 2013, Supplemental Permanent Injunction/Judgment Order (Doc. 606), as amended (First Order), and the Second Supplemental Permanent Injunction/Judgment Order (Doc. 1765), as amended (Second Order) (collectively, the "Court's Order"). MCSO submits this Report to comply with Paragraph 11 of the Court's Order.

The purpose of this Report is to describe and document the steps MCSO has taken to implement the Court's Order, describe and document MCSO's plans to correct any issues moving forward, and provide responses to concerns raised in the Monitor's 29th Quarterly Report covering the second quarter of 2021 (April 1, 2021 – June 30, 2021) and filed with the Court on November 23, 2021 (Monitor's 29th Quarterly Report).

MCSO has created many procedures and divisions to implement the Court's Order and achieve Full and Effective Compliance. Specific accomplishments for this reporting period have contributed to MCSO's current and future progress.

The COVID-19 pandemic and the guidelines put forth by the Center for Disease Control (CDC) to mitigate the spread of Coronavirus have required MCSO to adjust operations and focus on essential services. MCSO's Executive Command meets daily to evaluate and assess needs of the organization and community, as well as necessary changes based upon CDC guideline updates. These are challenging times. MCSO continues to closely examine its mandates and personnel needed to ensure the continuance of essential law enforcement services and compliance with the Court's Order.

Contained within this report, by section, is a listing of each Paragraph for which MCSO is "in compliance" for both Phase 1 and Phase 2. Paragraphs for which MCSO remains in "Full and Effective Compliance" are detailed with the reasons for the assertions. Also listed in detail are Paragraphs that MCSO asserts are in "Full and Effective Compliance", along with the reasons for the assertions. Paragraphs that are rated as "not in compliance" or "deferred" are listed along with information about efforts to come into compliance.

Section 2: Compliance Summary

This Report from MCSO includes compliance ratings from the First and Second Orders issued by the Hon. G. Murray Snow. The Monitor rates MCSO compliance in two phases. Phase 1 compliance assessment entails a consideration of “whether MCSO has developed and approved requisite policies and procedures, and MCSO personnel have received documented training on their contents.” Twenty-Seventh Report, Independent Monitor for the Maricopa County Sheriff’s Office, 5/14/21 at 4 (Doc. 2637). Phase 2 compliance is “generally considered operational implementation” and must comply with Order requirements “more than 94% of the time or in more than 94% of the instances under review.” Id.

The Monitor assesses MCSO’s compliance with 99 Paragraphs of the First Order, and 113 Paragraphs of the Second Order, for a total of 212 Paragraphs. The reporting period for this Report covers the third quarter of 2021 (July 1, 2021 through September 30, 2021). Based on the Monitor’s 29th Quarterly report, when the third quarter of 2021 began, MCSO’s compliance rating for the Orders were:

- First Order compliance rating:
 - Phase 1 compliance -- 98% (78 Paragraphs)
 - Phase 2 compliance -- 77% (73 Paragraphs)
- Second Order compliance rating:
 - Phase 1 compliance -- 100% (103 Paragraphs)
 - Phase 2 compliance -- 90% (102 Paragraphs)

Factoring the requirements of both Orders, MCSO began the third quarter 2021 in Phase 1 compliance with 181 Paragraphs, a 99% overall rating, and in Phase 2 compliance with 175 Paragraphs, an 83% overall rating.

MCSO has achieved Full and Effective Compliance with 81 Paragraphs of the Court’s Orders. This means that MCSO has been in both Phase 1 and Phase 2 compliance with the requirements of these Paragraphs for at least three consecutive years. **In this report, MCSO asserts Full and Effective Compliance with 12 additional Paragraphs of the Court’s Orders: Paragraphs 167, 168, 169, 170, 171, 172, 189, 191, 193, 196, 199, and 201.**

MCSO <i>Melendres</i> Court Order Compliance Chart			
Paragraph No.	Requirement	07/01/2021-09/30/2021	
		Phase 1	Phase 2
Section III. MCSO Implementation Unit and Internal Agency-wide Assessment			
9	Form a Court Order Implementation Unit	Full and Effective Compliance	
10	Collection and Maintenance of All Data and Records	Full and Effective Compliance	
11	MCSO Quarterly Report	Full and Effective Compliance	
12	MCSO Annual Internal Assessment - Information	Full and Effective Compliance	
13	MCSO Annual Internal Assessment - Dates/Compliance	Full and Effective Compliance	
Section IV. Policies and Procedures			
19	Conduct Comprehensive Review of All Patrol Policies and Procedures	In Compliance	In Compliance
21	Create and Disseminate Policy Regarding Biased-Free Policing	Full and Effective Compliance	
22	Reinforce Discriminatory Policing is Unacceptable	In Compliance	In Compliance
23	Modify Code of Conduct Policy (CP-2): Prohibited Use of County Property	Full and Effective Compliance	
24	Ensure Operations are Not Motivated, Initiated, or Based on Race or Ethnicity	Full and Effective Compliance	
25	Revise Policies to Ensure Bias-Free Traffic Enforcement	In Compliance	Deferred
26	Revise Policies to Ensure Bias-Free Investigatory Detentions and Arrests	Full and Effective Compliance	
27	Remove LEAR Policy from Policies and Procedures	Full and Effective Compliance	
28	Revise Policies Regarding Immigration- Related Law	Full and Effective Compliance	
29	All Policies and Procedures shall Define Terms Clearly, Comply with Applicable Law and Order Requirements, and Use Professional Standards	Full and Effective Compliance	

30	Submit All Policies to Monitor within 90 Days of Effective Date; and Have Approval by Monitor Prior to Implementation	Full and Effective Compliance	
31	Ensure Personnel Receive, Read, and Understand Policy	Full and Effective Compliance	
32	All Personnel shall Report Violations of Policy; and Employees shall be Held Accountable for Policy Violations	In Compliance	Not in Compliance
33	Personnel Who Engage in Discriminatory Policing shall be Subject to Discipline	In Compliance	Not In Compliance
34	On Annual Basis, Review Policy and Document It in Writing	Full and Effective Compliance	
Section V. Pre-Planned Operations			
35	Monitor shall Regularly Review Documents of any Specialized Units Enforcing Immigration- Related Laws to Ensure Accordance with Law and Court Order	Full and Effective Compliance	
36	Ensure Significant Ops or Patrols are Race- Neutral in Fashion; Written Protocol shall be Provided to Monitor in Advance of any Significant Op or Patrol	Full and Effective Compliance	
37	Have Standard Template for Op Plans and Standard Instructions for Supervisors, Deputies, and Posse Members	Full and Effective Compliance	
38	Create and Provide Monitor with Approved Documentation of Significant Op within 10 Days After Op	Full and Effective Compliance	
39	Hold community outreach meeting within 40 days after any significant operations or patrol in the affected District(s)	Full and Effective Compliance	
40	Notify Monitor and Plaintiffs within 24 hrs. of any Immigration Related Traffic Enforcement Activity or Significant Op Arrest of 5 or more People	Full and Effective Compliance	
Section VI. Training			
42	Selection and Hiring of Instructors for Supervisor Specific Training	In Compliance	In Compliance
43	Training at Least 60% Live Training, 40% On- line Training, and Testing to Ensure Comprehension	In Compliance	In Compliance
44	Training Schedule, Keeping Attendance, and Training Records	In Compliance	In Compliance
45	Training may Incorporate Role-Playing Scenarios, Interactive Exercises, and Lectures	Full and Effective Compliance	

46	Curriculum, Training Materials, and Proposed Instructors	Full and Effective Compliance	
47	Regularly Update Training (from Feedback and Changes in Law)	In Compliance	In Compliance
48	Bias-Free Policing Training Requirements (12 hrs. Initially, then 6 hrs. Annually)	N/A	In Compliance
49	Bias-Free Policing Training Shall Incorporate Current Developments in Federal and State Law and MCSO Policy	N/A	In Compliance
50	Fourth Amendment Training (6 hrs. Initially, then 4 hrs. Annually)	N/A	In Compliance
51	Fourth Amendment Training Shall Incorporate Current Developments in Federal and State Laws and MCSO Policy	N/A	In Compliance
52	Supervisor Responsibilities Training (6 hrs. Initially, then 4 hrs. Annually)	Full and Effective Compliance	
53	Supervisor Responsibilities Training Curriculum	Full and Effective Compliance	
Section VII. Traffic Stop Documentation and Data Collection and Review			
54	Collection of Traffic Stop Data	In Compliance	Not in compliance
55	Assign Unique ID for Each Incident/Stop, So Other Documentation Can Link to Stop	Full and Effective Compliance	
56	Maintaining Integrity and Accuracy of Traffic Stop Data	Not in Compliance	Not in Compliance
57	Ensure Recording of Stop Length Time and Providing Signed Receipt for Each Stop	Full and Effective Compliance	
58	Ensure all Databases Containing Individual- Specific Data Comply with Federal and State Privacy Standards; Develop Process to Restrict Database Access	Full and Effective Compliance	
59	Providing Monitors and Plaintiffs' Representative Full Access to Collected Data	Full and Effective Compliance	
60	Develop System for Electronic Data Entry by Deputies	Full and Effective Compliance	
61	Installing Functional Video and Audio Recording Equipment (Body-Cameras)	Full and Effective Compliance	
62	Activation and Use of Recording Equipment (Body-Cameras)	In Compliance	In Compliance
63	Retaining Traffic Stop Written Data and Camera Recordings	Full and Effective Compliance	
64	Protocol for Periodic Analysis of Traffic Stop Data and Data Gathered for Significant Ops	Not in Compliance	Not in Compliance
65	Designate Group to Analyze Collected Data	In Compliance	Not in Compliance
66	Conduct Annual, Agency-Wide Comprehensive Analysis of Data	In Compliance	In Compliance

67	Warning Signs or Indicia of Possible Racial Profiling or Other Misconduct	In Compliance	Not in Compliance
68	Criteria for Analysis of Collected Patrol Data (Significant Ops)	Full and Effective Compliance	
69	Supervisor Review of Collected Data for Deputies under Their Command	In Compliance	Not in Compliance
70	Response to/Interventions for Deputies or Units Involved in Misconduct	In Compliance	Not in Compliance
71	Providing Monitor and Plaintiffs' Representative Full Access to Supervisory and Agency Level Reviews of Collected Data	Full and Effective Compliance	
Section IX. Early Identification System (EIS)			
72	Develop, implement, and maintain a computerized EIS	In Compliance	Not in Compliance
73	Create Unit or Expand Role of MCSO IT to Develop, Implement, and Maintain EIS	Full and Effective Compliance	
74	Develop and Implement Protocol for Capturing and Inputting Data	In Compliance	In Compliance
75	EIS shall include a Computerized Relational Database	In Compliance	In Compliance
76	The EIS shall include appropriate identifying information for each involved Deputy (i.e., name, badge number, shift and Supervisor) and civilian (e.g., race and/or ethnicity).	Full and Effective Compliance	
77	Maintaining Computer Hardware and Software, All Personnel Have Ready and Secure Access	Full and Effective Compliance	
78	Maintaining All Personally Identifiable Information	Full and Effective Compliance	
79	The EIS computer program and computer hardware will be operational, fully implemented, and be used in accordance with policies and protocols	In Compliance	Not in Compliance
80	EIS Education and Training for all Employees	In Compliance	In Compliance
81	Develop and Implement Protocol for Using EIS and Information Obtained from It	In Compliance	Not in Compliance
Section X. Supervision and Evaluation of Officer Performance			
83	Provide Effective Supervision of Deputies	In Compliance	In Compliance
84	Adequate Number of Supervisors (1 Field Supervisor to 12 Deputies)	Full and Effective Compliance	
85	Supervisors Discuss and Document Traffic Stops with Deputies	Full and Effective Compliance	
86	Availability of On-Duty Field Supervisors	Full and Effective Compliance	
87	Quality and Effectiveness of Commanders and Supervisors	In Compliance	Not in Compliance

88	Supervisors in Specialized Units (Those Enforcing Immigration-Related Laws) Directly Supervise LE Activities of New Members	Full and Effective Compliance	
89	Deputies Notify a Supervisor Before Initiating any Immigration Status Investigation and/or Arrest	Full and Effective Compliance	
90	Deputies Submit Documentation of All Stops and Investigatory Detentions Conducted to Their Supervisor by End of Shift	In Compliance	In Compliance
91	Supervisors Document any Investigatory Stops and Detentions that Appear Unsupported by Reasonable Suspicion or Violate Policy	In Compliance	In Compliance
92	Supervisors Use EIS to Track Subordinate's Violations or Deficiencies in Investigatory Stops and Detentions	In Compliance	Not in Compliance
93	Deputies Complete All Incident Reports Before End of Shift. Field Supervisors Review Incident Reports and Memorialize Their Review within 72 hrs. of an arrest	Full and Effective Compliance	
94	Supervisor Documentation of Any Arrests that are Unsupported by Probable Cause or Violate Policy	In Compliance	Not in Compliance
95	Supervisors Use EIS to Track Subordinate's Violations or Deficiencies in Arrests and the Corrective Actions Taken	In Compliance	Not in Compliance
96	Command Review of All Supervisory Review Related to Arrests that are Unsupported by Probable Cause or Violate Policy	In Compliance	Not in Compliance
97	Commander and Supervisor Review of EIS Reports	In Compliance	Not in Compliance
98	System for Regular Employee Performance Evaluations	In Compliance	Not in Compliance
99	Review of All Compliant Investigations, Complaints, Discipline, Commendations, Awards, Civil and Admin. Claims and Lawsuits, Training History, Assignment and Rank History, and Past Supervisory Actions	In Compliance	In compliance
100	The quality of Supervisory reviews shall be taken into account in the Supervisor's own performance evaluations	In Compliance	Not in Compliance
101	MCSO shall develop and implement eligibility criteria for assignment to Specialized Units enforcing Immigration-Related Laws.	Full and Effective Compliance	
Section XI. Misconduct and Complaints			
102	MCSO shall require all personnel to report without delay alleged or apparent misconduct by other MCSO Personnel to a Supervisor or directly to IA	Full and Effective Compliance	

103	MCSO shall develop a plan for conducting regular, targeted, and random integrity audit checks to identify and investigate Deputies possibly engaging in improper behavior	In Compliance	In Compliance
104	MCSO shall require Deputies to cooperate with administrative investigations	Full and Effective Compliance	
105	Investigator Access to Collected Data, Records, Complaints, and Evaluations	Full and Effective Compliance	
106	Disclosure of Records of Complaints and Investigations	Full and Effective Compliance	
Section XII. Community Engagement			
109	As part of its Community Outreach and Public Information program, the MCSO shall hold at least one public meeting per quarter to coincide with the quarterly site visits by the Monitor in a location convenient to the Plaintiffs class.	N/A	In Compliance
110	At public meetings MCSO representatives are to listen to community members' experiences and concerns about MCSO practices implementing this order including the impact on public trust. MCSO representatives shall make reasonable effort to address such concerns during the meetings and afterward as well as explain to attendees how to file a comment or complaint.	N/A	N/A
111	English and Spanish-speaking MCSO Personnel shall attend these meetings and be available to answer questions from the public.	N/A	N/A
112	At least ten days before such meetings, the MCSO shall widely publicize the meetings in English and Spanish after consulting with Plaintiffs' representatives and Community Advisory Board regarding advertising methods.	N/A	N/A
113	MCSO shall select or hire a Community Liaison who is fluent in English and Spanish. The hours and contact information of the MCSO Community Outreach Division (COD) shall be made available to the public including on the MCSO website.	In Compliance	In Compliance
114	COD shall coordinate the district community meetings and provide administrative support for, coordinate and attend meetings of the Community Advisory Board and compile any complaints, concerns and suggestions submitted to the COD. Communicate concerns received from the community with the Monitor and MCSO leadership.	In Compliance	In Compliance
115	MCSO and Plaintiffs' representatives shall work with community representatives to create a Community Advisory Board (CAB) to facilitate regular dialogue between MCSO and the community.	In Compliance	Not in Compliance
116	CAB members must be selected by MCSO and Plaintiffs' representatives.	In Compliance	In Compliance
117	MCSO shall coordinate the meeting as dictated by the CAB members and provide administrative support for the CAB.	N/A	N/A

118	CAB members will relay or gather community concerns about MCSO practices that may violate the Order and transmit them to the COD for investigation and/or action.	N/A	N/A
SECOND ORDER			
Section XV. Misconduct Investigations, Discipline and Grievances			
165	Conduct comprehensive review all policies, procedures, manuals and written directives related to misconduct investigations, employee discipline and grievances	N/A	Deferred
167	Ensure provision of policies pertaining to any and all reports of misconduct	MCSO Asserts Full and Effective Compliance	
168	All forms of alleged reprisal, discouragement, intimidation, coercion or adverse action against any person reporting or attempting to report misconduct is strictly prohibited.	MCSO Asserts Full and Effective Compliance	
169	Ensure policies identify no retaliation to an employee for reporting misconduct	MCSO Asserts Full and Effective Compliance	
170	Ensures completed investigations of all complaints including third-party	MCSO Asserts Full and Effective Compliance	
171	Ensures administrative investigations are not terminated due to withdrawal, unavailability or unwillingness of complainant	MCSO Asserts Full and Effective Compliance	
172	Provide instruction to employees that all relevant evidence and information for investigations be submitted and intention withholding shall result in discipline	MCSO Asserts Full and Effective Compliance	
173	Ensure disciplinary checks are conducted by PSB prior to any promotion process	In Compliance	In Compliance
174	Ensure disciplinary history is considered and documented prior to hiring, promotion and transfers	In Compliance	In Compliance
175	Ensure Commanders review disciplinary history who are transferred to their command in timely fashion	In Compliance	In Compliance
176	Quality of IA investigations and Supervisors review of investigations be taken into account in performance evaluations	In Compliance	In Compliance
177	Removal of name-clearing hearings and referenced as pre-determination hearings	Full and Effective Compliance	
178	Provide 40 hours of comprehensive training to all Supervisors and PSB staff for conducting employee misconduct investigations	N/A	In Compliance
179	Provide 8 hours annually of in-service to all Supervisors and PSB staff for conducting misconduct investigations	In Compliance	In Compliance
180	Provide training to all employees on MCSO's new or revised policies related to misconduct investigation, discipline and grievances	In Compliance	In Compliance

181	Provide adequate training to all employees to properly handle civilian complaint intake and providing information	In Compliance	In Compliance
182	Provide adequate training to all Supervisors as their obligations to properly handle civilian complaints	Full and Effective Compliance	
184	Standards will be clearly delineated in policies, training and procedures. Samples must be included	Full and Effective Compliance	
185	Any allegation of misconduct must be reported to PSB upon receipt	Full and Effective Compliance	
186	PSB must maintain a centralized electronic numbering and tracking system for all allegations of misconduct	Full and Effective Compliance	
187	PSB must maintain a complete file of all documents relating to any investigations, disciplinary proceedings, pre-determination hearings, grievance proceeding and appeals to the Law Enforcement Merit System Council or a state court	Full and Effective Compliance	
188	PSB will promptly assign IA investigator after initial determination of the category of alleged offense	Full and Effective Compliance	
189	PSB shall investigate misconduct allegation of a serious nature, or that result in suspension, demotion, termination or indication apparent criminal conduct by employee	MCSO Asserts Full and Effective Compliance	
190	Allegations of employee misconduct that are of a minor nature may be administratively investigated by a trained and qualified Supervisor in the employee's District.	In Compliance	In Compliance
191	Trained Supervisor must immediately contact PSB if it is believed the principal may have committed misconduct of a serious or criminal nature	MCSO Asserts Full and Effective Compliance	
192	PSB shall review investigations outside of the Bureau at least semi-annually	In Compliance	In Compliance
193	The most serious policy violation shall be used for determination of category of offense when multiple separate policy violations are present in a single act of alleged misconduct	MCSO Asserts Full and Effective Compliance	
194	PSM Commander ensures investigations comply with MCSO policy, requirement of this Order including those related to training, investigators disciplinary backgrounds and conflicts of interest	In Compliance	Not in Compliance
195	PSB shall include sufficient trained personnel to fulfill requirements of Order within six months	In Compliance	Not in Compliance
196	Commander of PSB or the Chief Deputy may refer misconduct investigations to another law enforcement agency or retain qualified outside investigator to conduct the investigation	MCSO Asserts Full and Effective Compliance	
197	PSB will be headed by qualified Commander. If designation is declined by Sheriff, the Court will designate a qualified candidate	In Compliance	In Compliance
198	PSB shall be physically located in separate facility of MCSO facilities and must be accessible to public and present a non- intimidating atmosphere to file complaints	N/A	In Compliance

199	Ensure qualifications for an internal affairs investigator are clearly defined and candidates are eligible to conduct investigations	MCSO Asserts Full and Effective Compliance	
200	Investigations shall be conducted in a rigorous and impartial manner without prejudging the facts, and completed in a through manner	In Compliance	In Compliance
201	No preference shall be given for an employee's statement over a non-employee statement, nor disregard a witness's statement solely because the witness has connection to the complainant or the employee or due to a criminal history of either party	MCSO Asserts Full and Effective Compliance	
202	Investigate any evidence of potential misconduct uncovered during the course of the investigation regardless weather the potential misconduct was part of the original allegation	In Compliance	In Compliance
203	Despite a person being involved in an encounter with MCSO and pleading guilty or found guilty of offense, IA investigators will not consider that information alone to determine whether the MCSO employee engaged in misconduct	In Compliance	In Compliance
204	Complete investigations within 85 calendar days of the initiation of the investigation, or 60 calendar days if within a Division	In Compliance	Not in Compliance
205	PSB maintain database to track cases which generates alerts when deadlines are not met	In Compliance	In Compliance
206	At conclusion of each investigation, IA will prepare an investigation report which includes elements from the eleven subsections of this paragraph	In Compliance	In Compliance
207	When investigating the incident for policy, training, tactical or equipment concerns, the report must include compliance with standards, use of tactics and indicate need for training and suggestion of policy changes	In Compliance	In Compliance
208	Each allegation of misconduct shall explicitly identify and recommend a disposition for each allegation	In Compliance	In Compliance
209	Investigation forms completed by Supervisors outside of PSB shall be sent through Chain of Command to Division Commander for approval	In Compliance	In Compliance
210	Investigation forms completed by PSB shall be sent to the Commander	Full and Effective Compliance	
211	Commander shall return report to investigator for correction when inadequacies are noted	In Compliance	Not in Compliance
212	IA investigator shall receive corrective or disciplinary action for a deficient misconduct investigation. Failure to improve is grounds for demotion or removal from PSB	In Compliance	In Compliance
213	Minor misconduct investigations must be conducted by Supervisor (not by line-level deputies) and file forwarded to PSB	In Compliance	In Compliance
214	Misconduct investigation can be assigned or re-assigned at the discretion of the PSB Commander	Full and Effective Compliance	
215	Investigations conducted by Supervisors (outside of PSB) shall direct and ensure appropriate discipline and/or corrective action	Full and Effective Compliance	
216	PSB Commander shall direct and ensure appropriate discipline and/or corrective action for investigations conducted by PSB	In Compliance	In Compliance
217	PSB shall conduct targeted and random reviews of discipline imposed by Commanders for minor misconduct	Full and Effective Compliance	

218	Maintain all administrative reports and files for recording keeping in accordance with applicable law	Full and Effective Compliance	
220	Sheriff shall review MCSO disciplinary matrices and ensure consistency discipline	In Compliance	In Compliance
221	Sheriff shall mandate misconduct allegation is treated as a separate offense for imposing discipline	Full and Effective Compliance	
222	Sheriff shall provide that Commander of PSB make preliminary determinations of the discipline and comment in writing	In Compliance	In Compliance
223	MCSO Command staff shall conduct a pre- determination hearing if serious discipline should be imposed based on the preliminary determination	Full and Effective Compliance	
224	Pre-determination hearings will be audio and video recorded in their entirety, and the recording shall be maintained with the administrative investigation file.	Full and Effective Compliance	
225	Pre-determination hearings will be suspended and returned to investigator if employee provides new or additional evidence	Full and Effective Compliance	
226	If designated member of MCSO command staff conducting the pre-determination hearing does not uphold charges and/or discipline recommended by PSB a written justification by that member is required	In Compliance	In Compliance
227	MCSO shall issue policy providing the designated member conducting the pre- determination hearing with instructions to apply the disciplinary matrix and set guidelines when deviation is permitted.	Full and Effective Compliance	
228	Sheriff or designee has authority to rescind, revoke or alter disciplinary decisions	Full and Effective Compliance	
229	When an IA investigator or Commander finds evidence of misconduct indicating apparent criminal conduct by employee the PSB Command must be immediately notified, PSB will assume any admin misconduct investigation outside PSB, Commander will provide evidence directly to the appropriate prosecuting authority when necessary	Full and Effective Compliance	
230	PBS must first consult with the criminal investigator and the relevant prosecuting authority if a misconduct allegation is being investigated criminally, prior to a compelled interview pursuant to Garrity v. New Jersey. No admin investigation shall be held in abeyance unless authorized by Commander of PSB. Any deviations must be documented by PSB.	Full and Effective Compliance	
231	Sheriff shall ensure investigators conducting a criminal investigation do not have access to any statement by the principal that were compelled pursuant to Garrity	Full and Effective Compliance	
232	PBS shall complete admin investigations regardless of the outcome of any criminal investigation. MCSO policies and procedures and the PSB Ops manual shall remind members of PSB that administrative and criminal cases are held to different standards of proof and the investigative processes differ.	Full and Effective Compliance	
233	Criminal investigations closed without referring it to a prosecuting agency must be documented in writing and provided to PSB	Full and Effective Compliance	
234	Criminal investigations referred to a prosecuting agency shall be reviewed by PSB to ensure quality and completeness	Full and Effective Compliance	

235	PSB shall request explanation and document any decisions by the prosecuting agency to decline or dismiss the initiation of criminal charges	Full and Effective Compliance	
236	Sheriff shall require PSB to maintain all criminal investigation reports and files as applicable by law	Full and Effective Compliance	
237	Monitor and CAB shall develop and implement a program to promote awareness throughout the County about the process for filing complaints about MCSO employee conduct.	N/A	N/A
238	Sheriff shall require MCSO to accept all forms of civilian complaints and document in writing	Full and Effective Compliance	
239	Clearly display placards (English and Spanish) describing the complaint process at MCSO headquarters and all district stations	Full and Effective Compliance	
240	Sheriff shall require all deputies to carry complaint forms in their MCSO vehicles	In Compliance	In Compliance
241	Sheriff shall ensure that PSB is easily accessible to member of public and available for walk-ins	N/A	In Compliance
242	Make complaint forms widely available at locations around the County: website, HQ lobby, Districts, MC offices and public locations	In Compliance	In Compliance
243	Establish a free 24-hour hotline for reporting complaints	In Compliance	In Compliance
244	Ensure complaint form does not contain language that can be construed as to discourage the filing of a complaint	Full and Effective Compliance	
245	Complaints forms will be made available in English and Spanish	Full and Effective Compliance	
246	PSB will send periodic written updates to the complainant during investigation	In Compliance	In Compliance
247	Complainant make contact the PAS at any time to obtain status of their complaint	Full and Effective Compliance	
248	PSB will track allegations of biased policing as a separate category of complaints	Full and Effective Compliance	
249	PSB will track allegations of unlawful investigatory stops, searches, seizures or arrests as a separate category of complaints	Full and Effective Compliance	
250	PSB will conduct regular assessments of complaints to identify potential problematic patterns and trends	In Compliance	In Compliance
251	PSB shall produce a semi-annual public report on misconduct investigations	In Compliance	In Compliance
252	Make detailed summaries of completed IA investigations readily available to the public	In Compliance	In Compliance
253	BIO shall produce a semi-annual public audit report regarding misconduct investigations	In Compliance	In Compliance
254	Initiate a testing program designed to assess civilian complaint intake	In Compliance	In Compliance

255	Testing program for investigation of civilian complaints should not use fictitious complaints	In Compliance	In Compliance
256	Testing program shall assess complaint intake for complaints made in person, telephonically, by mail, email or website.	In Compliance	In Compliance
257	Testing program shall include sufficient random and targeted testing to assess the complaint intake process	In Compliance	In Compliance
258	Testing program shall assess if employees promptly notify PSB of citizen complaints with accurate and complete information	In Compliance	In Compliance
259	Current or former employees cannot serve as testers	In Compliance	In Compliance
260	Produce annual report on the testing program	In Compliance	In Compliance
SECOND ORDER			
Section XVI. Community Outreach and Community Advisory Board			
261	Community Advisory Board may conduct a study to identify barriers to the filing of civilian complaints against MCSO personnel	N/A	N/A
262	The Boards shall be provided annual funding to support activities	N/A	N/A
SECOND ORDER			
Section XIV. Supervision and Staffing			
264	Sheriff to ensure all patrol deputies are assigned to clearly identified first-line supervisor	Full and Effective Compliance	
265	First-line Supervisors shall be responsible for closely and consistently supervising all	In Compliance	Not in Compliance
266	Provide written explanation of deficiencies for number of Deputies assigned to a First-line Supervisors (no more than 10 deputies)	Full and Effective Compliance	
267	Supervisors shall be responsible for close and effective supervision and ensure staff complies with MCSO policy, federal, state and local law, and this Court Order	In Compliance	Not in Compliance
268	Approval by Monitor for any transfers of sworn personnel or Supervisors in or out of PSB, BIO or CID	In Compliance	In Compliance
SECOND ORDER			
Section XVIII. Document Preservation and Production			
269	Promptly communicate any document preservation notices to all personnel who have responsive documents	In Compliance	Deferred
270	Sheriff shall ensure a request for documents in the course of litigation is promptly communicated to all personnel and the need	In Compliance	Deferred
271	Sheriff shall ensure Compliance Division promulgates detailed protocols for the preservation and production of documents requested in litigation	In Compliance	In Compliance

272	Ensure MCSO policy provides that all employees comply with document preservation and production requirements and maybe subject to discipline if violated	In Compliance	In Compliance
SECOND ORDER Section XIX. Additional Training			
273	Within two months of the entry of this Order, the Sheriff shall ensure that all employees are briefed and presented with the terms of the Order, along with relevant background information about the Court's May 13, 2016 Findings of Fact, (Doc. 1677) upon which this order is based	Full and Effective Compliance	
SECOND ORDER Section XX. Complaints and Misconduct Investigation Relating to Members of the Plaintiff Class			
276	Monitor shall have the authority to direct and/or approve all aspects of the intake and investigation of Class Remedial Matters and the assignment of these investigations	Full and Effective Compliance	
278	Sheriff shall alert the Monitor in writing to matters that could be considered Class Remedial Matters and has the authority to independently identify such matters	Full and Effective Compliance	
279	Monitor has complete authority to conduct review, research and investigation deemed necessary to determine if matters qualify as Class Remedial Matters and MCSO is dealing in a thorough, fair, consistent and unbiased manner	Full and Effective Compliance	
280	Monitor shall provide written notice to the Court and Parties when he determines he has jurisdiction over a Class Remedial Measure.	N/A	N/A
281	Sheriff shall ensure MCSO receives and processes Remedial Matters consistently with the requirements of the orders of the Court, MCSO policies, and the manner in which all other disciplinary matters are handled per policy	In Compliance	Not in Compliance
282	Sheriff and/or appointee may exercise the authority given pursuant to this Order to direct and/or resolve such Class Remedial Matters. The decisions and/or directives maybe vacated or overridden by the Monitors.	In Compliance	In Compliance
283	Monitor shall review and approve all disciplinary decisions on Class Remedial Measures.	N/A	N/A
284	MCSO must expeditiously implement the Monitor's directions, investigations, hearings and disciplinary decisions	In Compliance	In Compliance
285	Should Monitor decide to deviate from the policies set forth in the Order or the standard application of the disciplinary matrix, the Monitor shall justify the decision in writing.	N/A	N/A

286	Monitor shall instruct PSB to initiate a confidential criminal investigation and oversee the matter or report to the appropriate prosecuting agency	In Compliance	In Compliance
287	Persons receiving discipline approved by Monitor shall maintain any rights they have under Arizona law or MCSO policy	Full and Effective Compliance	
288	Monitor's authority will cease when the elements of the two subsections of this paragraph have been met	N/A	In Compliance
289	To make the determination required by subpart (b), the Court extends the scope of the Monitor's authority to inquire and report on all MCSO internal affairs investigations and not those merely that are related to Class Remedial Matters	N/A	N/A
291	Monitor shall report to the Court on a quarterly basis whether MCSO has fairly, adequately, thoroughly and expeditiously assessed, investigated, disciplined and made grievance decisions consistent with the Order.	N/A	N/A
292	Monitor is to be given full access to all MCSO Internal affairs investigation or matters that have been the subject of investigation, Monitor shall comply with rights of principals under investigation	Full and Effective Compliance	
293	Monitor shall append its findings on MCSO's overall internal affairs investigations to the quarterly report produced to the Court.	N/A	N/A
300	Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the Montgomery investigation, the existence of the McKessy investigation, the untruthful statements to Lt. Seagraves and other uninvestigated acts of his do not justify an independent investigation	N/A	Deferred
337	When discipline is imposed by the Independent Disciplinary Authority, the employee shall maintain his or her appeal rights following the imposition of administrative discipline as specified by Arizona law and MCSO policy with the following exceptions with the two exceptions documented within the two subparagraphs.	Full and Effective Compliance	

Community input is an important aspect of the Order. In addition to the Community Advisory Board (CAB) created by the Court's Order, MCSO continues to work with and receive feedback from several community advisory boards which were created at the direction of Sheriff Penzone to advise the Office on important matters that affect the community as well as be a voice to and for the communities they represent:

- SPEAR – Sheriff Penzone's Executive Advisory Review. SPEAR is made up of diverse community members from across the County.
- The Hispanic Advisory Board is made up of Dreamers, businesspeople, activists, educators, and community leaders.
- The Sheriff has also formed an African American Advisory Board and an LGBTQ Advisory Board.

MCSO continues to implement the Paragraph 70 plan in conjunction with the CAB and the Parties. The plan was developed as an institutional bias remediation program to implement Paragraph 70 of the Court's Order. Progress has been impacted by the public health crisis and necessary restrictions, but the work has continued.

MCSO continues to work with CNA Analysis & Solutions (CNA) on MCSO's annual, monthly, and quarterly traffic stop analyses. MCSO's Traffic Stop Analysis Unit (TSAU), in partnership with CNA, has been developing a refined methodology for the Monthly and Annual Traffic Stop Report processes. The pilot program for the Traffic Stop Monthly Report ("TSMR") process began in the second quarter of 2021, which was a major step forward for the compliance effort.

The Bureau of Internal Oversight (BIO) continues to assist MCSO in its efforts to maintain and gain compliance by providing timely and professional auditing of MCSO personnel to assure compliance with the Court's Order. During this quarter, BIO completed several inspections to verify compliance with the Court's Order requirements and identify any deficiencies.

A major challenge has been the growing back log of administrative investigations. The Professional Standards Bureau (PSB) continues to expand its staff and its use of private contractors and to explore other strategies to address this problem.

MCSO is dedicated to achieving Full and Effective Compliance with the Court's Order. Compliance is a top priority for Sheriff Penzone and the leadership he has in place.

Section 3: Implementation Unit Creation and Documentation Requests

General Comments regarding CID

MCSO has taken major steps to implement Section III of the Court's Order. In October 2013, MCSO formed a division titled the Court Compliance and Implementation Division consistent with Paragraph 9 of the Court's Order. In February 2015, MCSO changed the name of this division to the CID, which stands for Court Implementation Division. CID coordinates site visits and other activities with each of the Parties, as the Court's Order requires.

CID, with the Sheriff's approval, ensures the proper allocation of document production requests to the appropriate MCSO units to achieve Full and Effective Compliance with the Court's Order. Thus, the efforts to achieve compliance and to fulfill the Monitor's requests involve the efforts of MCSO divisions, bureaus, personnel and command staff, as well as personnel from the Maricopa County Attorney's Office ("MCAO").

During this quarter, CID responded to the three required monthly document requests, the quarterly document requests, and the April site visit document requests. In addition to the document requests, CID facilitates the production of training materials, policies and procedures to the Monitor for review and approval. As a reflection of MCSO's efforts to achieve Full and Effective Compliance with the Court's Order, CID, through MCSO counsel, produced approximately 76,004 pages of documents during the three-month period of July 1, 2021 – September 30, 2021, alone.

CID strives to continue to foster a positive working relationship with the Monitor and Parties. This positive attitude continues to be reflected in MCSO's ongoing collaboration with the Monitor and Parties.

MCSO remains in "Full and Effective Compliance" with all of the Paragraphs in Section 3, Implementation Unit Creation and Documentation Requests. These Paragraphs are detailed below.

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

MCSO remains in Full and Effective Compliance with Paragraph 9.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 10.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 11.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 12.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

The Court may, at its option, order hearings on any such assessments to establish whether the Defendants are in Full and Effective Compliance with the Order or in compliance with any subpart(s).

MCSO remains in Full and Effective Compliance with Paragraph 13.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Section 4: Policies and Procedures

General Comments Regarding Policies and Procedures

Consistent with Paragraph 18 requirements that MCSO deliver police services consistent with the Constitution, and the laws of the United States and Arizona, MCSO continually reviews its Office Policies and Procedures. In fulfillment of its duties and obligations under federal and Arizona law, MCSO is committed to ensuring equal protection under the law and bias-free policing. To ensure compliance with the Court Order, MCSO continues to comprehensively review all Patrol Operations Policies and Procedures, consistent with Paragraph 19 of the Court Order.

In addition to its annual review of all Critical Policies, consistent with Paragraph 34 requirements that MCSO review each policy and procedure on an annual basis to ensure that the policy provides effective direction to personnel and remains consistent with the Court Order, the MCSO Policy Development Section continues with its annual review of all policies relevant to the Court Order.

During this reporting period, MCSO published three (3) policies relevant to the Court Order:

- GC-4, *Employee Performance Appraisals (Annual Review)*
- GC-12, *Hiring and Promotional Procedures (Annual Review)*
- GD-9, *Litigation Initiation, Document Preservation, and Document Production Notices (Annual Review)*

MCSO Policy Section worked on revisions to the following policies:

- CP-2, *Code of Conduct (Annual Review)*
- CP-3, *Workplace Professionalism: Discrimination and Harassment (Annual Review)*
- CP-5, *Truthfulness (Annual Review)*
- CP-8, *Preventing Racial and Other Bias-Based Profiling (Annual Review)*
- CP-11, *Anti-Retaliation (Annual Review)*
- EA-2, *Patrol Vehicles (Annual Review)*
- EA-3, *Non-Traffic Contact (Annual Review)*
- EA-11, *Arrest Procedures (Annual Review)*
- EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance (Annual Review)*
- EB-2, *Traffic Stop Data Collection (Annual Review)*
- EB-7, *Traffic Control and Services (Annual Review)*
- ED-2, *Covert Operations (Annual Review)*
- ED-3, *Review of Cases Declined for Prosecution (Annual Review)*
- GA-1, *Development of Written Orders (Annual Review)*
- GB-2, *Command Responsibility (Annual Review)*
- GC-4, *Employee Performance Appraisals (Annual Review)*
- GC-7, *Transfer of Personnel (Annual Review)*
- GC-11, *Employee Probationary Periods (Annual Review)*
- GC-12, *Hiring and Promotional Procedures (Annual Review)*
- GC-13, *Awards (Annual Review)*

- GC-16, *Employee Grievance Procedures (Annual Review)*
- GC-17, *Employee Disciplinary Procedures (Annual Review)*
- GD-9, *Litigation Initiation, Document Preservation, and Document Production Notices (Annual Review)*
- GE-3, *Property Management and Evidence Control (Annual Review)*
- GE-4, *Use, Operation, and Assignment of Vehicles (Annual Review)*
- GF-1, *Criminal Justice Data Systems (Annual Review)*
- GF-3, *Criminal History Record Information and Public Records (Annual Review)*
- GF-5, *Incident Report Guidelines (Annual Review)*
- GG-1, *Peace Officer Training Administration (Annual Review)*
- GG-2, *Detention/Civilian Training Administration (Annual Review)*
- GH-2, *Internal Investigations (Annual Review)*
- GH-4, *Bureau of Internal Oversight (Annual Review)*
- GH-5, *Early Identification System (Annual Review)*
- GI-1, *Radio and Enforcement Communications Procedures (Annual Review)*
- GI-5, *Voiance Language Line Services (Annual Review)*
- GI-7, *Processing of Bias-Free Tips (Annual Review)*
- GJ-2, *Critical Incident Investigations (Annual Review)*
- GJ-3, *Search and Seizure (Annual Review)*
- GJ-5, *Crime Scene Management (Annual Review)*
- GJ-24, *Community Relations and Youth Programs (Annual Review)*
- GJ-26, *Sheriff's Reserve Deputy Program (Annual Review)*
- GJ-27, *Sheriff's Posse Program (Annual Review)*
- GJ-33, *Significant Operations (Annual Review)*
- GJ-35, *Body-Worn Cameras (Annual Review)*
- GJ-36, *Use of Digital Recording Devices (Annual Review)*
- GM-1, *Electronic Communication and Voice Mail (Annual Review)*

Policies submitted to CAB for input/recommendations during the reporting period:

- CP-2, *Code of Conduct*
- CP-8, *Preventing Racial and Other Bias-Based Profiling (Annual Review)*
- CP-11, *Anti-Retaliation*

Statement of Annual Review (SOAR) policies to the Monitor for approval:

- None

Policies submitted to the Monitor for review:

- CP-2, *Code of Conduct (2020-21 Annual Review)*
- CP-8, *Preventing Racial and Other Bias-Based Profiling (Annual Review)*
- GD-9, *Litigation Initiation, Document Preservation, and Document Production Notices (2020-21 Annual Review)*
- GJ-35, *Body-Worn Cameras (2020-21 Annual Review)*

In addition, to implement the Court's directives, three (3) Administrative Broadcasts and three (3) Briefing Boards that referenced Court Order related topics were published during this reporting period. The Administrative Broadcasts and Briefing Boards are listed in the following table:

Table #3 MCSO Administrative Broadcasts/Briefing Boards		
A.B. #	Subject	Date Issued
AB 21-82	Constitutional Policing Plan Cultural Competency Roll Call Briefing	07/15/21
AB 21-93	Reminder: Constitutional Policing Plan Cultural Competency Roll Call Briefing	08/13/21
AB 21-101	SB1420 Amend ARS 41-5001	09/13/21
BB-21-46	Immediate Policy Change GE-3, <i>Property Management and Evidence Control</i>	08/19/21
BB 21-47	Immediate Policy Change GJ-5, <i>Crime Scene Management</i>	08/19/21
BB 21-52	Immediate Policy Change EB-1, <i>Traffic Enforcement, Violator Contacts, and Citation Issuance</i>	09/13/21

MCSO Administrative Broadcasts

MCSO Administrative Broadcast 21-82, published July 15, 2021, announced a CPP 2021 roll call briefing related to trends in traffic stop data. The most recent annual traffic stop study had concluded that Latino drivers receive different post-stop outcomes than White drivers. This Administrative Broadcast was deployed to all supervisors who supervise sworn personnel for a required briefing with their sworn staff. This is the second of three roll call briefings to be completed this year.

MCSO Administrative Broadcast 21-93, published August 13, 2021, was a reminder to MCSO Administrative Broadcast 21-82, published July 15, 2021, which is described in more detail above.

MCSO Administrative Broadcast 21-101, published September 13, 2021, was provided to sworn employees as additional information regarding *The Briefing Board 21-52*, published September 13, 2021. The Arizona Governor signed Senate Bill 1420 into law which amends Arizona Revised Statute (ARS) 41-5001.

Briefing Boards

MCSO Briefing Board 21-46, published August 19, 2021, advised employees of a policy change to Office Policy GE-3, *Property Management and Evidence Control*, regarding handling and packaging of firearms and ammunition.

MCSO Briefing Board 21-47, published August 19, 2021, advised employees of a policy change to Office Policy GJ-5, *Crime Scene Management*, regarding handling and packaging of firearms and ammunition.

MCSO Briefing Board 21-52, published September 13, 2021, with MCSO Administrative Broadcast 21-101, advised employees of a policy change to Office Policy EB-1, *Traffic Enforcement, Violator Contacts, and Citation Issuance*, regarding acceptable identification and accepting Consular identification cards due to a change in ARS.

Consistent with the Court Order, Paragraph 31 requirements regarding MCSO personnel's receipt and comprehension of the policies and procedures, MCSO implemented the E-Policy system in January 2015 which was transitioned into TheHUB effective January 2018. MCSO utilizes the system to distribute and require attestation of all *Briefing Boards* and published policies. TheHUB system memorializes and tracks employee compliance with the required reading of MCSO Policy and Procedures, employee acknowledgement that he or she understands the subject policies and procedures and employee expression of his or her agreement to abide by the requirements of the policies and procedures. MCSO provides the Critical, Detention, Enforcement, and General Policies via TheHUB as a resource for all MCSO personnel.

During the subject three-month reporting period, MCSO used the TheHUB system to distribute and obtain attestation of seventeen (17) policies, and six (6) immediate change Briefing Boards. This includes three (3) policies and three (3) immediate change Briefing Boards related to the Court Order. In Section 4, Policies and Procedures, MCSO is rated as "in compliance" for both Phase 1 and Phase 2 for Paragraph 19.

Paragraphs for which MCSO remains in "Full and Effective Compliance" are detailed below. Paragraphs that are rated as "not in compliance" or "deferred" are listed in detail along with plans to correct any problems and responses to concerns.

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

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

and oversight mechanisms to detect and prevent racial profiling, including disciplinary consequences for officers who engage in racial profiling.

MCSO remains in Full and Effective Compliance with Paragraph 21.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

To comply with this Paragraph, MCSO uses a two-step process to reinforce the importance of CP-8, Preventing Racial and Other Bias-Based policing. For the first step, MCSO employees, Reserve deputies, and Posse members are required to view training videos, which is to be completed within the first six months of each year. After viewing the training videos, supervisors are required to discuss the training with their subordinates. These discussions are documented in BlueTeam.

In the previous quarter, the Monitor noted a concern with the rate of compliance of supervisors documenting their discussions. MCSO has focused on ensuring clear and precise instructions are provided regarding CP-8 training file locations and directions on how to effectively document training and related discussions in BlueTeam. This effort has reduced confusion and documenting issues. The compliance rate for 3rd Quarter is 95%; a combined average of 98% in the Hub and 91% discussion compliance. Due to increased, clear directions, MCSO anticipates increased compliance in the future.

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

MCSO remains in Full and Effective Compliance with Paragraph 23.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 24.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

- a. *prohibit racial profiling in the enforcement of traffic laws, including the selection of which vehicles to stop based to any degree on race or ethnicity, even where an officer has reasonable suspicion or probable cause to believe a violation is being or has been committed;*
- b. *provide Deputies with guidance on effective traffic enforcement, including the prioritization of traffic enforcement resources to promote public safety;*
- c. *prohibit the selection of particular communities, locations or geographic areas for targeted enforcement based to any degree on the racial or ethnic composition of the community;*
- d. *prohibit the selection of which motor vehicle occupants to question or investigate based to any degree on race or ethnicity;*
- e. *prohibit the use of particular tactics or procedures on a traffic stop based on race or ethnicity;*
- f. *require deputies at the beginning of each stop, before making contact with the vehicle, to contact dispatch and state the reason for the stop, unless Exigent Circumstances make it unsafe or impracticable for the deputy to contact dispatch;*
- g. *prohibit Deputies from extending the duration of any traffic stop longer than the time that is necessary to address the original purpose for the stop and/or to resolve any apparent criminal violation for which the Deputy has or acquires reasonable suspicion or probable cause to believe has been committed or is being committed;*
- h. *require the duration of each traffic stop to be recorded;*
- i. *provide Deputies with a list and/or description of forms of identification deemed acceptable for drivers and passengers (in circumstances where identification is required of them) who are unable to present a driver's license or other state-issued identification; and*
- j. *instruct Deputies that they are not to ask for the Social Security number or car of any motorist who has provided a valid form of identification, unless it is needed to complete a citation or report*

MCSO in in Phase 1 compliance with Paragraph 25. Phase 2 compliance is deferred.

That Monitor has deferred its assessment of Phase 2 compliance with this Paragraph until it deems MCSO in compliance with Paragraph 67. However, the Monitor has already found MCSO in compliance with each subparagraph of Paragraph 67. It nevertheless had declined to find MCSO in compliance with Paragraph 67 until the TSMR is finalized and approved. Because MCSO is in compliance with all subparts of Paragraph 67, and because the text of Paragraph 25 does not refer to the TSMR, MCSO asserts that its compliance status for Phase 2 should be switched from Deferred to In Compliance.

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

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

- c. *provide Deputies with guidance on factors to be considered in deciding whether to cite and release an individual for a criminal violation or whether to make an arrest;*
- d. *require Deputies to notify Supervisors before effectuating an arrest following any immigration-related investigation or for an Immigration-Related Crime, or for any crime by a vehicle passenger related to lack of an identity document;*
- e. *prohibit the use of a person's race or ethnicity as a factor in establishing reasonable suspicion or probable cause to believe a person has, is, or will commit a crime, except as part of a reliable and specific suspect description; and*
- f. *prohibit the use of quotas, whether formal or informal, for stops, citations, detentions, or arrests (though this requirement shall not be construed to prohibit the MCSO from reviewing Deputy activity for the purpose of assessing a Deputy's overall effectiveness or whether the Deputy may be engaging in unconstitutional policing).*

MCSO remains in Full and Effective Compliance with Paragraph 26.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 27.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

- a. *specify that unauthorized presence in the United States is not a crime and does not itself constitute reasonable suspicion or probable cause to believe that a person has committed or is committing any crime;*
- b. *prohibit officers from detaining any individual based on actual or suspected "unlawful presence," without something more;*
- c. *prohibit officers from initiating a pre-textual vehicle stop where an officer has reasonable suspicion or probable cause to believe a traffic or equipment violation has been or is being committed in order to determine whether the driver or passengers are unlawfully present;*
- d. *prohibit the Deputies from relying on race or apparent Latino ancestry to any degree to select whom to stop or to investigate for an Immigration-Related Crime (except in connection with a specific suspect description);*
- e. *prohibit Deputies from relying on a suspect's speaking Spanish, or speaking English with an accent, or appearance as a day laborer as a factor in developing reasonable suspicion or probable cause to believe a person has committed or is committing any crime, or reasonable suspicion to believe that an individual is in the country without authorization;*

- f. unless the officer has reasonable suspicion that the person is in the country unlawfully and probable cause to believe the individual has committed or is committing a crime, the MCSO shall prohibit officers from (a) questioning any individual as to his/her alienage or immigration status; (b) investigating an individual's identity or searching the individual in order to develop evidence of unlawful status; or (c) detaining an individual while contacting ICE/CBP with an inquiry about immigration status or awaiting a response from ICE/CBP. In such cases, the officer must still comply with Paragraph 25(g) of this Order. Notwithstanding the foregoing, an officer may (a) briefly question an individual as to his/her alienage or immigration status; (b) contact ICE/CBP and await a response from federal authorities if the officer has reasonable suspicion to believe the person is in the country unlawfully and reasonable suspicion to believe the person is engaged in an Immigration-Related Crime for which unlawful immigration status is an element, so long as doing so does not unreasonably extend the stop in violation of Paragraph 25(g) of this Order;*
- g. prohibit Deputies from transporting or delivering an individual to ICE/CBP custody from a traffic stop unless a request to do so has been voluntarily made by the individual; and*
- h. require that, before any questioning as to alienage or immigration status or any contact with ICE/CBP is initiated, an officer checks with a Supervisor to ensure that the circumstances justify such an action under MCSO policy and receive approval to proceed. Officers must also document, in every such case, (a) the reason(s) for making the immigration-status inquiry or contacting ICE/CBP, (b) the time approval was received, (c) when ICE/CBP was contacted, (d) the time it took to receive a response from ICE/CBP, if applicable, and (e) whether the individual was then transferred to ICE/CBP custody.*

MCSO remains in Full and Effective Compliance with Paragraph 28.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 29.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 30.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 31.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO is in Phase 1 compliance with Paragraph 32. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

MCSO continues to object to the method of assessment utilized by the Monitor for compliance with Paragraph 32 because it far exceeds the actual requirements of Paragraph 32, and instead imports requirements from other Paragraphs. MCSO requests the assessment methodology for Paragraph 32 be limited to the specific requirements of this paragraph and not include requirements specifically addressed in other paragraphs.

Paragraph 32 requires that (1) patrol personnel report policy violations; (2) supervisors are held accountable for identifying and responding to violations; (3) that personnel are held accountable for violations; and (4) that policies are applied uniformly. Yet the Monitor assesses compliance with this Paragraph by applying an exhaustive 223-point checklist to completed investigations that entails an extensive and scrutinizing review of all documents and recordings in the entire investigation. Included in the Monitor's assessment are: all audio and/or video recordings of interviews associated with those investigations; all body-worn camera videos related to the incidents; all emails related to the investigations; all corrective actions taken by PSB on District/Division cases; all records and memoranda written regarding the investigations; copies of all documentation completed by the Compliance Division related to category of violations, offense numbers, work history, prior discipline, or other information that is used to determine the sanction for any sustained violation of policy; copies of the documentation and audio/visual recordings from the Pre-Determination Hearing, including all documentation/justification for the final disciplinary decision; copies of any grievance filed, including its outcome; copies of the documentation of any appeal filed on serious discipline; and copies of any documentation that MCSO has deviated from the discipline matrix and a written justification for the deviation.

The Monitor reviews all the above listed submitted material even though most are not related to Paragraph 32's requirements and in fact relate to other Paragraphs in the Order. As a result, the Monitor's methodology inappropriately lumps the requirements of several Paragraphs together and applies the same analysis to all of the Paragraphs, instead of addressing the specific requirements in each Paragraph individually. A more appropriate method of assessment would be for the Monitor to assess for the requirements in Paragraph 32 alone, and not apply far-reaching assessments of the entire case file when assessing Paragraph 32.

MCSO continues to work with Deputy Chiefs to improve District case compliance. In the summer of 2020 MCSO began requiring all Deputy Chiefs to review District internal investigations before they are submitted to PSB for review. This review will permit the Deputy Chiefs to understand where the failures of these investigations are and give them the opportunity for corrective action at the front end. The Monitor's 27th Quarterly Report (at 36) noted its observation of instances where District Command personnel identified and addressed deficiencies in investigations prior to forwarding the investigations to PSB. Although we have made some progress, improvements still need to be made. Reducing deficiencies in District reviews continues to be a priority focus for MCSO.

MCSO continues to object to the Monitor's review of requests for extensions of time to complete investigations as part of its assessment of compliance with Paragraph 32, as the timeline for completing administrative investigations is a specific requirement of Paragraph 204 and is not a requirement in Paragraph 32. Absent the inclusion of those requests in its assessment, MCSO has achieved a compliance rate of 62% for district investigation, and improvement over previous quarters. As PSB continues to focus on improving the quality of district investigations, that rate will increase and timeliness will follow.

Finally, MCSO acknowledges the concerns raised by the Monitor regarding the use of a single supervisor to investigate multiple claims. However, MCSO anticipates that the delays caused by this process will decrease as those investigators continue gaining experience in undertaking misconduct investigations. Additionally, the use of a single investigator creates a pipeline for possible assignments to PSB.

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

MCSO is in Phase 1 compliance with Paragraph 33. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance. MCSO requests Phase 2 compliance for Paragraph 33.

The cases the Monitor reviewed for compliance with Paragraph 33 were all found to be in compliance regarding the investigative quality and findings and the Monitor agreed with the findings in each case. However, the Monitor determined that these cases were not in compliance with the requirements for timely completion of administrative investigations and therefore not in compliance with the requirements for completion of investigations covered in this Paragraph.

MCSO continues to object to the Monitor's application of its timeframe methodology to its assessment of compliance with Paragraph 33, as the timeline for completing administrative investigations is a specific requirement of Paragraph 204 and is not a requirement in Paragraph 33.

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

MCSO remains in Full and Effective Compliance with Paragraph 34.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Section 5: Pre-Planned Operations

General comments regarding Pre-Planned Operations:

MCSO did not conduct any Significant Operations during this rating period.

MCSO has achieved Full and Effective Compliance with the requirements for all of the Paragraphs that pertain to Pre-Planned Operations – Paragraphs 35, 36, 37, 38, 39 and 40.

The requirements of conducting Pre-Planned Operations as outlined in these Paragraphs have been fully adopted by MCSO as evident in Policy GJ-33, the Special Investigations Division (SID) Operations Manual, and the CID Operations Manual. MCSO has demonstrated through practice and implementation of policy and operations manuals that it is committed to conducting Significant Operations in accordance with these recognized and adopted procedures.

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

MCSO remains in Full and Effective Compliance with Paragraph 35.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 36.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

the requirement of this Order. Any Significant Operations or Patrols thereafter must be in accordance with the approved template and instructions.

MCSO remains in Full and Effective Compliance with Paragraph 37.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

(Note: Amendments to Paragraphs 38 and 39 were ordered on August 03, 2017. See Doc. 2100.)

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

- a. documentation of the specific justification/reason for the operation, certified as drafted prior to the operation (this documentation must include analysis of relevant, reliable, and comparative crime data);*
- b. information that triggered the operation and/or selection of the particular site for the operation;*
- c. documentation of the steps taken to corroborate any information or intelligence received from non-law enforcement personnel;*
- d. documentation of command staff review and approval of the operation and operations plans;*
- e. a listing of specific operational objectives for the patrol;*
- f. documentation of specific operational objectives and instructions as communicated to participating MCSO Personnel;*
- g. any operations plans, other instructions, guidance or post-operation feedback or debriefing provided to participating MCSO Personnel;*
- h. a post-operation analysis of the patrol, including a detailed report of any significant events that occurred during the patrol;*
- i. arrest lists, officer participation logs and records for the patrol; and*
- j. data about each contact made during the operation, including whether it resulted in a citation or arrest.*

MCSO remains in Full and Effective Compliance with Paragraph 38.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 39.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 40.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Section 6: Training

General Comments Regarding Training

The global COVID-19 pandemic continued to present MCSO Training with challenges regarding training delivery and training development. MCSO Training resumed in-person CORT Training while following mitigation guidelines. The MCSO Court Order Related Training Unit (CORT) has remained committed to accomplishing training and development and is on track to deliver all 2021 Training in 2021. MCSO Training thanks the Monitor and Parties for their continued understanding. During this quarter MCSO submitted the following training curriculums for review/approval:

- 2021 ACT was approved on 8/09/21 and the Train the Trainer was held on 9/20/21
- 2021 SRELE was approved on 9/14/21 and the Train the Trainer was held on 10/27/21
- 2021 PSB-8 External/Internal was approved 07/19/21 and the Train the Trainer was held on 8/19/21
- EIS 10 Hour was approved on 9/28/21
- Complaint Intake was approved on 7/30/21 and implemented in the HUB on 8/23/21
- 2021 FIDM Video Library was approved on 7/19/21
- 2021 Cultural Competency Video Library was approved on 7/20/21
- Guadalupe Cultural Competency Video was approved on 9/28/21
- 2021 TraCS was approved on 09/16/21

MCSO Training developed a reference guide to assist Monitor, Parties, and others to view all the different Court Order Related Training as a holistic training regimen. It is included below for reference:

MCSO Training Division CORT Unit CPP Projects and Classes Reference Guide

CORT Training Classes and Briefings Created Annually

Class Title	Governing Court Order ¶'s and Topics Covered	Intended Students and Use	Important Considerations
Annual Combined Training (ACT) Implicit Bias	¶48 & 49- 6 hours of annual training - Topics to include Implicit Bias, Racial Profiling, Community Policing, etc.	Continuing Education for All Sworn Deputies and Supervisors, Reserve Deputies, DSAs and Posse	ACT-Bias-Free Policing, will be a bifurcated curriculum commencing in 2022 per approved proposal.

Class Title	Governing Court Order ¶'s and Topics Covered	Intended Students and Use	Important Considerations
Annual Combined Training (ACT) 4 th and 14 th Amendment	¶50 & 51 – 4 hours of annual training – Topics to include search and seizure of persons, Equal Protection Clause, etc.	Continuing Education for All Sworn Deputies and Supervisors, Reserve Deputies, DSAs and Posse. This class is always taught by an attorney.	Search and Seizure case law is fairly consistent year to year, therefore content does not change drastically, but new learning activities are incorporated.
Supervisor Responsibilities for Effective Law Enforcement (SRELE)	¶52 & 53 – 4 hours of annual training – Topics to include Supervision tools, review of written reports, Community partnerships, etc.	Continuing Education for All Sworn Supervisors	SRELE has been bifurcated in recent years to alternate and cover each sub-paragraph every other year to allow for more time to teach on topics in their assigned year.
PSB 8 External	¶179 – 8 hours of annual training – Topics to include conducting misconduct investigations.	Continuing Education for All Sworn Supervisors and anyone who conducts misconduct investigations for the Office.	Non-PSB Supervisors attend this course annually after attending the PSB-40 the first year.
PSB 8 Internal	¶179 – 8 hours of annual training – Topics to include conducting misconduct investigations.	Continuing Education for all personnel assigned to PSB.	This course is limited to current PSB assigned investigators. The class is vendor-driven with a specific topic focus. Vendor approval difficulties place this class's future in jeopardy. All PSB staff will attend the PSB-8 External 2021.
CP-8 Semi Annual Briefing	Policy CP-8 Reminders regarding MCSO's Policy regarding Bias-Free policing	Continuing Education for all Office personnel.	Briefing that covers the entire policy but has a focus on a particular sub-section for a deeper dive.

CORT Classes Requiring Annual Updates

Class Title	Governing Court Order ¶'s and Topics Covered	Intended Students and Use	Important Considerations
Early Identification System (EIS)	¶80 MCSO Supervisors shall be trained in and required to use EIS to ensure that each Supervisor has a complete and current understanding of the employees under the Supervisor's command.	This is 10-hour initial training for NEW supervisors. This class is used during the 80- hour supervisor orientation and is foundational for teaching new supervisors how to use Blue Team and EIPro.	This is one-time training for newly promoted individuals only and covers the basics of the systems.
Early Identification System (EIS) for New Users: Civilian Employees	This class provides an overview of Blue Team and its application to civilian staff.	This is an introductory class provided to all newly hired civilian staff as part of orientation training.	This is one-time training for new civilian hires.
Early Identification System (EIS) for New Users: Academy Recruits and Lateral Transfer Personnel	This class provides an overview of Blue Team and its application to Sworn staff from the end user perspective.	This is an introductory class for all Sworn Deputies and DSAs after academy graduation and prior to going on patrol.	This is one-time initial training.
TraCS	This class provides an overview of TraCS and its applications, MCSO Policies, and practical use to Sworn staff.	This is an initial introductory class for all Sworn Deputies and DSAs after academy graduation and prior to going on patrol.	This is one-time initial training.
TraCS for Supervisors	This class focuses on the different responsibilities and access from a supervisory level.	This class is for newly promoted supervisors.	This is one-time training for new supervisors only.

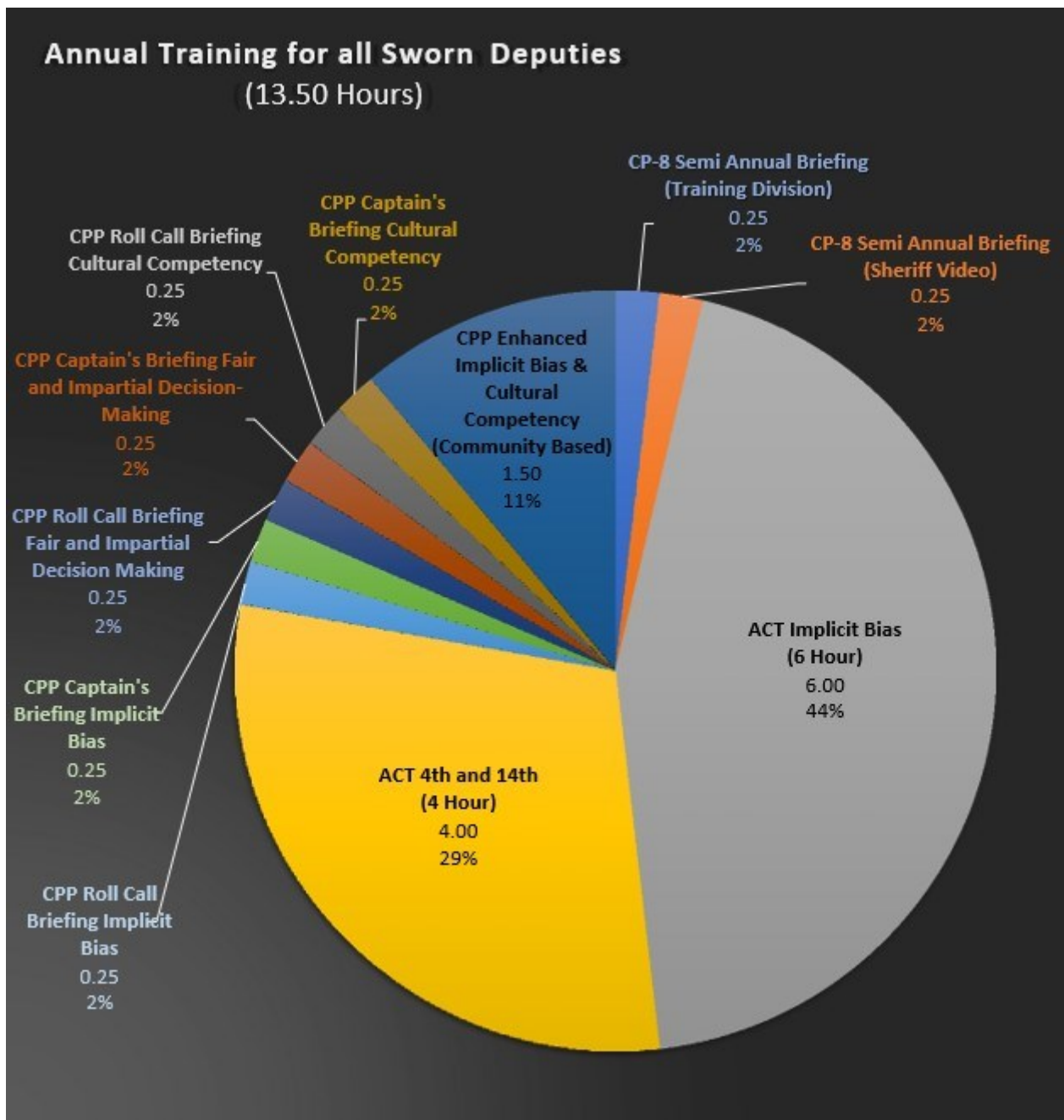
Class Title	Governing Court Order ¶'s and Topics Covered	Intended Students and Use	Important Considerations
Complaint Reception and Processing	¶181 & 182	This is for all new employees of the Office.	This is one-time training for new employees.
Implicit Bias 12 Hour	¶48 & 49 – 12 hours of training - Topics to include Implicit Bias, Racial Profiling, Community Policing, etc. listed in ¶49.	This initial class is for all Sworn Deputies and DSAs to attend after academy graduation and prior to going on patrol, as well as all new posse members	This is one-time initial training.
4 th and 14 th Amendment 8 hour	¶50 & 51 – 8 hours of training – Topics to include search and seizure of persons, Equal Protection Clause, etc. listed in ¶51.	This initial class is for all Sworn Deputies and DSAs to attend after academy graduation and prior to going on patrol, as well as all new posse members This class is taught by an attorney.	This is one-time initial training.
PSB 40 Hour	¶178--This class covers conducting misconduct related investigations, service complaints, findings, etc.	This class is for newly promoted supervisors and anyone who will be conducting investigations.	This is one-time initial training.
Effective Employee Performance Management (Sworn)	¶98 This class focuses on the performance evaluations, discussions, and systems related.	This newly developed course will be delivered to all sworn supervisors in 2021 SRELE. It will be delivered to newly promoted sworn supervisors thereafter.	This is one-time initial training.

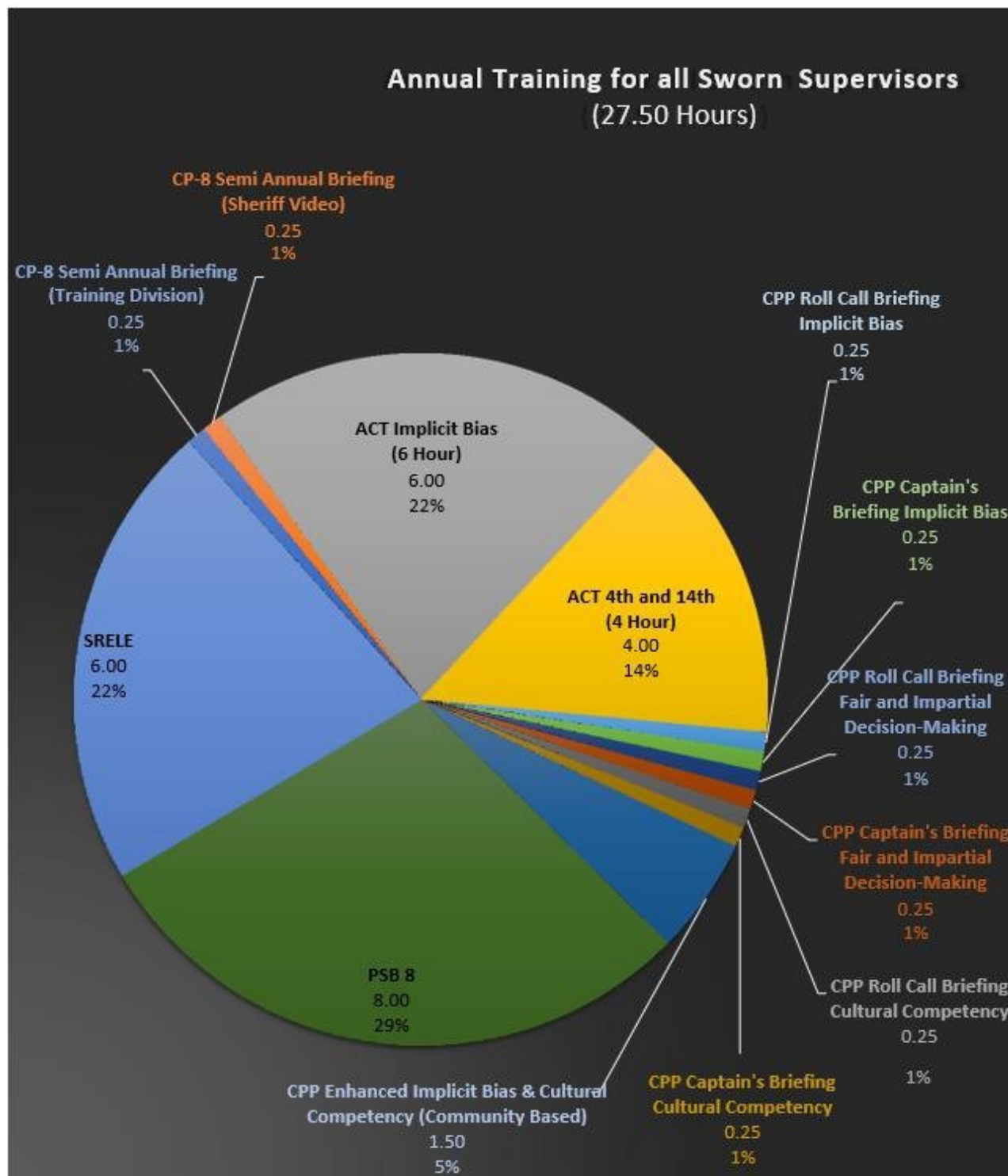
Class Title	Governing Court Order ¶'s and Topics Covered	Intended Students and Use	Important Considerations
Employee Performance Appraisals (Civilian)	¶98 This class focuses on the performance evaluations, discussions, and systems related.	This initial class is for newly promoted supervisors.	This is one-time initial training.
Body Worn Camera	This class focuses on the operations and policies related to BWC.	This class is for all Sworn Deputies and DSAs to attend	This is one-time initial training.

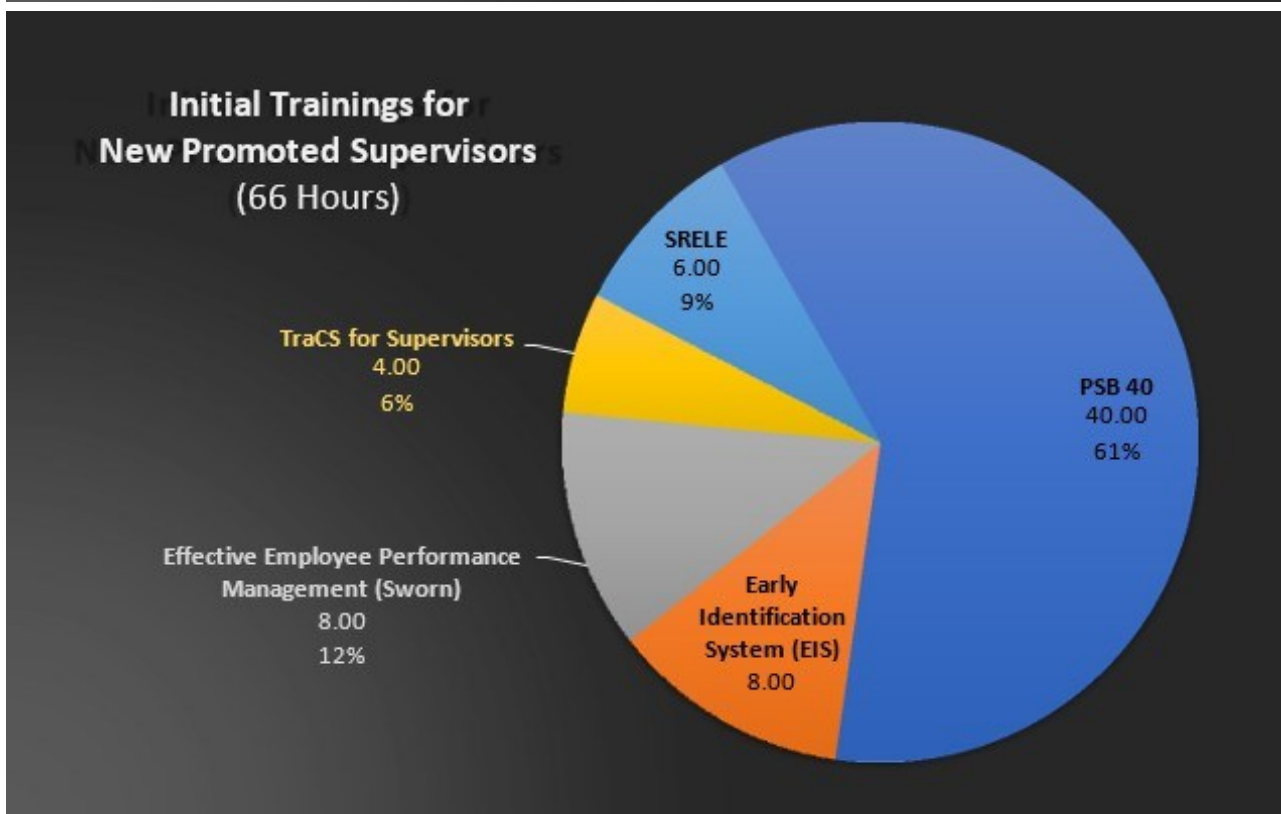
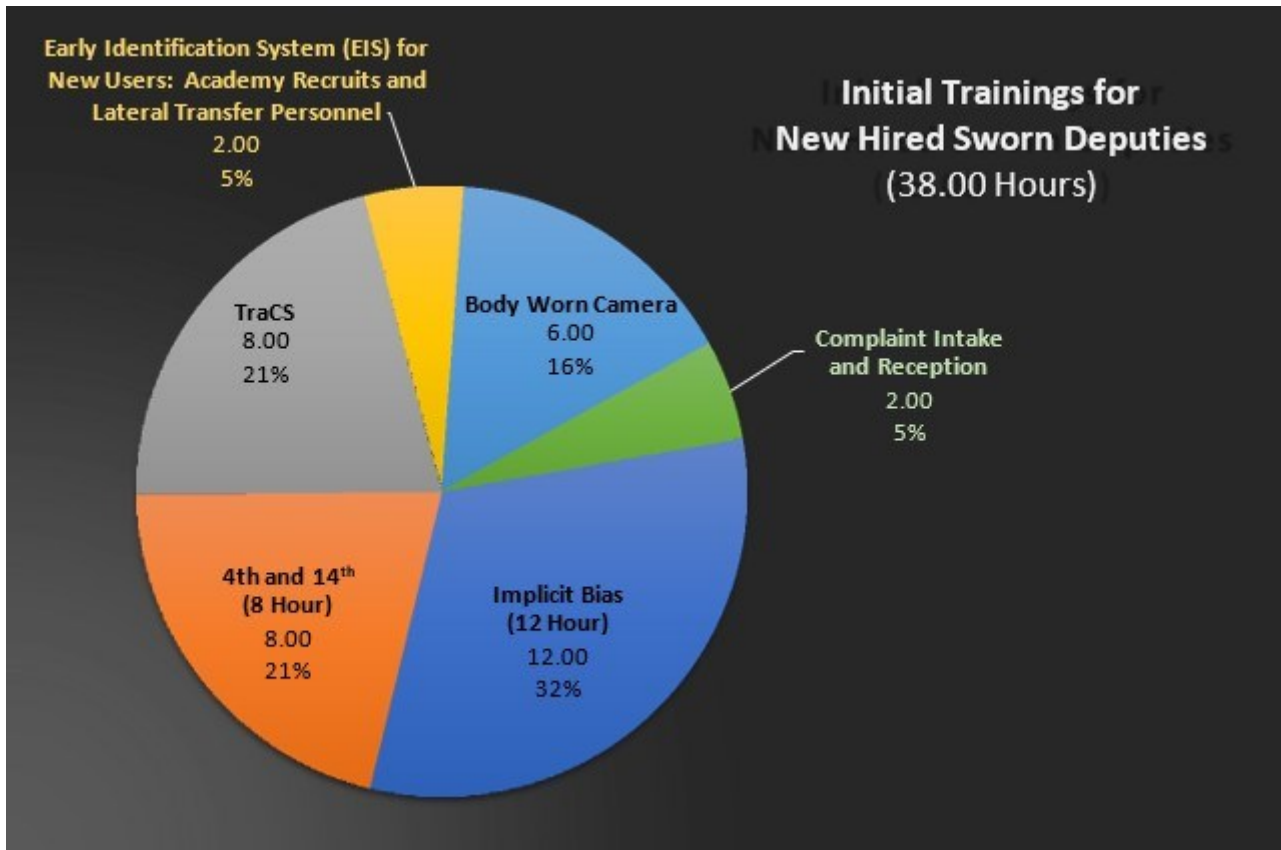
CPP Related Training Requirements

Class Title	Governing Court Order ¶'s and Topics Covered	Intended Students and Use	Important Considerations
Enhanced Implicit Bias & Cultural Competency Training Goals 3 & 5	¶70 The CPP is the Office response to disparate outcomes in the TSAR Report	This is continuing education for all Sworn employees and reserves. At the time of deployment, it will be assigned to everyone's HUB profile. Additionally, as classes are created for particular communities, anytime a new Deputy is assigned to that area past classes can be added to their profile to increase awareness of the areas they serve.	The content in this series of classes is demonstrably different from other MCSO offerings and is driven by the communities' experience and what the community wants us to know.
Video Library Submissions Goals 3, 4, 5	¶70 The CPP is the Office response to disparate outcomes in the TSAR Report	The video library is a curation of videos and discussion points available to supervisors for use in training scenarios and TSMR interventions.	These are not Training Classes or HUB presentations. They are simply added as a resource for supervisor- led interventions and discussions.
Roll Call Briefing with Discussion Points Goals 3, 4, 5	¶70 The CPP is the Office response to disparate outcomes in the TSAR Report	A roll call briefing will be conducted in each third of the year to coincide with either Goal 3, 4, or 5, covering each topic once throughout the year. To be given to all Sworn, Reserves, and DSAs by a supervisor and	This is not a HUB training class and is time sensitive. These briefings are usually a short video and supervisor- led discussion points that must fit within approx. a 15- minute pre-shift briefing. They serve as continuing education and as continuous reminders of MCSO's commitment to

Class Title	Governing Court Order ¶'s and Topics Covered	Intended Students and Use	Important Considerations
		documented in Blue Team with the Notes - CPP Briefing Allegation.	CPP Goals 3, 4, and 5.
CPP Captain's Briefing Goals 3, 4, 5	¶70 The CPP is the Office response to disparate outcomes in the TSAR Report	To be given to all Sworn, Reserves, and DSAs by a supervisor and documented in Blue Team with the Notes – CPP Briefing Allegation.	These are not Training Classes or HUB presentations. Each CPP Goal topic will be covered once a year.







MCSO Training will continue to work closely with the Monitor and Parties to continue and deliver valuable and relevant Training pursuant to the Order.

The following is a listing of each Paragraph in Section 6, Training, that MCSO is rated as “in compliance” or “not applicable” for Phase 1 and Phase 2: 44, 47, 48, 49, 50, 51. Paragraphs that MCSO remains in “Full and Effective Compliance” are detailed below.

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

MCSO is in Phase 1 and Phase 2 Compliance with Paragraph 42.

MCSO continues to take steps to address the relative shortage of Field Training Officers (“FTOs”). This shortage is due to a surge in the number of officers in training. While that surge is a benefit to MCSO in the long term, it has presented a short-term challenge in ensuring an adequate number of FTOs.

That said, MCSO instituted several important measures to increase FTO recruitment. First, MCSO now offers incentive pay on a full-time basis to all FTOs as long as they actively participate in the FTO program. Second, MCSO has increased the number of times per year that it offers the trainings necessary to qualify as an FTO. Third, MCSO has taken steps to space out the graduation dates for academy classes, which will prevent a “bottle neck” situation when the new deputies enter the FTO program. Finally, MCSO continues to stress the importance of FTO participation as a means of career advancement. Taken together, these strategies are expected to reduce the strain on FTO recruitment.

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

MCSO continues to improve on its testing regiment. To assist in that endeavor, MCSO has been working to develop a written process for instructors to follow when conducting test remediation. MCSO has made substantial progress on developing that process in the third quarter of 2021, and MCSO anticipates submitting an updated operations manual containing the written process in the fourth quarter of 2021.

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

MCSO remains in Full and Effective Compliance with Paragraph 45.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 46.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 52.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 28th Quarterly Report (Doc. 2665-1).

Paragraph 32. The Supervisor-specific Training shall address or include, at a minimum:

- a. techniques for effectively guiding and directing Deputies, and promoting effective and constitutional police practices in conformity with the Policies and Procedures in Paragraphs 18-34 and the Fourth and Fourteenth Amendment Training in Paragraphs 48-51;*
- b. how to conduct regular reviews of subordinates;*
- c. operation of Supervisory tools such as EIS;*
- d. evaluation of written reports, including how to identify conclusory, "canned," or perfunctory language that is not supported by specific facts;*
- e. how to analyze collected traffic stop data, audio and visual recordings, and patrol data to look for warning signs or indicia of possible racial profiling or unlawful conduct;*
- f. how to plan significant operations and patrols to ensure that they are race-neutral and how to supervise Deputies engaged in such operations;*

- g. incorporating integrity-related data into COMSTAT reporting;*
- h. how to respond to calls from Deputies requesting permission to proceed with an investigation of an individual's immigration status, including contacting ICE/CBP;*
- i. how to respond to the scene of a traffic stop when a civilian would like to make a Complaint against a Deputy;*
- j. how to respond to and investigate allegations of Deputy misconduct generally;*
- k. evaluating Deputy performance as part of the regular employee performance evaluation; and*
- l. building community partnerships and guiding Deputies to do the Training for Personnel Conducting Misconduct Investigations.*

MCSO remains in Full and Effective Compliance with Paragraph 53.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 28th Quarterly Report (Doc. 2665-1).

Section 7: Traffic Stop Documentation and Data Collection

General Comments regarding Traffic Stop Documentation and Data Collection

Between July 1, 2021 and September 30, 2021, BIO conducted three traffic stop-related inspections to comply with Paragraph 64 of the Court's Order. The Traffic Stop Data Collection inspection reviews monthly traffic stop data to ensure compliance with Office Policy and Paragraphs 54-57 of the Court's Order. This inspection is based on Paragraph 64 of the Court's Order and is conducted using the traffic stop data sample that is randomly chosen by the Monitoring Team. This inspection ensures that MCSO: a) collected all traffic stop data to comply with MCSO Policy, EB-2, Traffic Stop Data Collection; b) accurately completed all forms associated to traffic stops; c) closed and validated all TraCS forms; and d) used the correct CAD codes and sub codes. The third quarter of 2021 had an overall compliance rate of 99%. This was the same as the previous quarter.

With the implementation of BWCs, the Audits and Inspections Unit (AIU)'s inspection matrix increased beyond the scope of the Court's Order or Monitor.

MCSO uses the TraCS system which enables deputies to electronically record traffic stop data and issue printed contact receipts to vehicle occupants. All marked patrol vehicles, approximately 189, assigned to the Patrol Bureau are equipped with the TraCS system to capture the traffic stop data as required by Paragraph 54.

The following is a listing of each Paragraph in Section 7, Traffic Stop Documentation and Data Collection, that MCSO is rated as "in compliance" or "not applicable" for Phase 1 and Phase 2: 66. Paragraphs for which MCSO remains in "Full and Effective Compliance" are detailed below. Paragraphs that are rated as "not in compliance" or "deferred" along with plans to correct any problems and responses to concerns are also listed in detail.

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

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

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

MCSO is in Phase 1 compliance with Paragraph 54. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

There are 13 subparagraph requirements for Paragraph 54, a through m. The Monitor rates MCSO as "Not in Compliance" for Subparagraph 54.g.

Paragraph 54.g requires an indication of whether the Deputy otherwise contacted any passengers, the nature of the contact, and the reasons for such contact. MCSO has added a prompt in the TraCS system to remind the deputy to provide a receipt when the passenger contact field of the Vehicle Stop Contact Form (VSCF) is populated. As discussed in the Monitor's report, AIU was developing a methodology for a monthly passenger contract inspection. That methodology was recently approved, and MCSO anticipates conducting the first of these inspections in the first quarter of 2022. That, combined with the focus on teach and train on this topic, will improve MCSO's compliance with this subparagraph.

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

MCSO remains in Full and Effective Compliance with Paragraph 55.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 1 or Phase 2 compliance with Paragraph 56.

Phase 1: Twenty-five of the total twenty-six sections in the TSAU Operations Manual have been approved. One section, the Definitions section, remains pending and needs to be finalized. The Monitor's 29th Quarterly Report refers to outstanding sections of the EIU Operations Manual. The TSAU and EIU Operations Manuals used to be part of a single manual but they have since been separated into two separate manuals. Only the TSAU Operations Manual includes the information relevant to Paragraph 56.

Phase 2: MCSO believes compliance should be considered at this time. Operations Manual Section 306 Quality Control Process and Data Validation was approved on August 2, 2019. MCSO continues to perform constant review and validation of traffic stop data on a weekly, monthly and quarterly basis. This process results in Data Validations as well as Alerts related to Data Validations. MCSO's vendor CNA has commended MCSO for having very complete and clean data in the analysis data set.

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

MCSO remains in Full and Effective Compliance with Paragraph 57.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 58.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 59.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 60.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 61.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO is in in Phase 1 and Phase 2 Compliance with Paragraph 62.

In the previous quarter, MCSO achieved a compliance rate of 99% for this Paragraph. However, the Monitor noted some concerns with number of instances where a deputy failed to complete a required Assisting Deputy and Body-Worn Camera Log. To address that issue, MCSO used the town halls conducted in the third quarter to stress the importance of completing these forms. Moreover, AIU will be adding this issue to its Integrity Testing schedule, which will allow it to identify the deputies responsible for not completing the necessary form. Follow up will be handled through the BAF process.

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

MCSO remains in Full and Effective Compliance with Paragraph 63.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 1 or Phase 2 Compliance with Paragraph 64.

Phase 1: 97%, or 25 of the 26 Operation Manual sections were approved and finalized during the first quarter of 2021. The remaining one section, section 308 Traffic Stop Annual Analysis, Reporting, and Responses will be submitted to the Monitor and Parties for approval during the third quarter of 2021. MCSO is continuing to explore methods and develop methodologies to address the findings resulting from the Monthly analyses during the TSMR pilot period.

Phase 2: MCSO continues to prioritize and work to achieve compliance with this Paragraph. Currently MCSO has produced 6 Traffic Stop Annual Analysis Reports. Quarterly report five (TSQR 5) was approved during first quarter of 2021 and completed at the end of the Q3 of 2021. MCSO is slated to complete TSQR 6 in the beginning of Q1 2022. Due to the expansion of the original proposed report, the Monitor Team agreed that TSQR 6 would satisfy the requirements for the TSQR for the Q4 of 2021 and Q1 of 2022. The TSMR pilot started in April 2021, and, throughout this quarter, MCSO continued to work with the Monitor and Parties to improve and implement the TSMR pilot program.

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

MCSO is in Phase 1 compliance with Paragraph 65. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

Phase 2: MCSO continues to prioritize and work to achieve compliance with this Paragraph. Currently MCSO has produced 6 Traffic Stop Annual Analysis Reports.

The fifth Quarterly Report (TSQR 5) was completed and published during Q3 of 2021. The sixth Quarterly report (TSQR 6) is slated to be completed in Q1 of 2022. Due to the expansion of the original proposal the Monitoring Team has agreed that TSQR 6 would satisfy the for Q4 2021 and Q1 2022. MCSO continued to work with the Monitor and the Parties to improve and complete the TSMR pilot program.

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

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

- deputies' peers;*
- b. evidence of extended traffic stops or increased inquiries/investigations where investigations involve a Latino driver or passengers;*
- c. a citation rate for traffic stops that is an outlier when compared to data of a Deputy's peers, or a low rate of seizure of contraband or arrests following searches and investigations;*
- d. indications that deputies, units or the agency is not complying with the data collection requirements of this Order; and*
- e. other indications of racial or ethnic bias in the exercise of official duties.*

MCSO is in Phase 1 compliance with Paragraph 67. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance. MCSO requests Phase 2 compliance with Paragraph 67.

The TSMR pilot started in April 2021. Throughout the third quarter of 2021, MCSO continued to work with the Monitor and Parties to improve and implement the TSMR pilot program. The TSMR pilot permits a deputy-specific review of the issues identified in Paragraph 67.

The Monitor has found MCSO in compliance with each subparagraph of Paragraph 67. However, it has nevertheless withheld finding MCSO in Phase 2 compliance until MCSO "demonstrates consistent use of" the benchmarks relevant to this paragraph "in both the TSAR and the TSMR." MCSO has done so. As detailed elsewhere, MCSO has produced six TSARs, and the TSMR process has been successfully conducted for several months. As such, MCSO asserts that it is in Phase 2 compliance with this Paragraph.

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

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

MCSO remains in Full and Effective Compliance with Paragraph 68.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO is in Phase 1 compliance with Paragraph 69. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

The Audit and Inspections Unit submitted the methodology for the Bio Action Form (BAF) Tracking Study Inspection during Third Quarter of 2020 addressing previous comments. The monitor response was received and at present a revised methodology is currently in the development and re-submittal process with AIU. The goal of the inspection is to identify trends found within the AIU inspections on a semi-annual basis, then recommend possible solutions for the office, the divisions, and specific supervisors. The BAF study was put on a temporary hold while personnel in BIO focused on the development of the TSMR and the start of the TSQR's. MCSO will focus on the BAF study as soon as feasible in light of the demands of the TSMR pilot that is now underway.

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

MCSO is in Phase 1 compliance with Paragraph 70. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 Compliance.

MCSO continues to implement the Constitutional Policing Plan (CPP) in conjunction with the CAB and the Parties. The plan was developed as an institutional bias remediation program to implement Paragraph 70 of the Court's Order. Progress on the CPP, Enhanced Cultural Competency District Presentation (Paragraph 70, Goals 3 & 5) was severely impacted by the risk of the spread of Coronavirus. In this reporting period the Training Division continued its work on a presentation regarding the Town of Aguila, including two submissions of a cultural competency video for review by the Monitor and Parties.

MCSO has completed 95% of Goal 1 of the CPP, implementing an effective Early Intervention System. The major work to be done on Goal 1 involves continued implementation of a monthly TSMR process. The TSMR pilot is proceeding, with regular communication with the Monitoring Team and all parties.

Each month five deputies are identified for a detailed review and, when appropriate, supervisory interventions. The TSMR process is one part of the comprehensive effort to prevent potentially biased policing.

On Goal 2, which involves evaluating supervisor performance through an EPA, MCSO finalized its preparations for trainings related to policy GC-4(s). Additionally, MCSO continued work on the development of an online EPA application. These efforts are meant to encourage the and streamline the process of EPA completion.

Overall, MCSO has completed 63% of Goal 2. The main outstanding item for Goal 2 is configuration of EPA systems. This process has been slowed by tight IT resources.

MCSO has completed 98% of Goal 3, which addresses enhanced implicit bias training. “The History of Discrimination in Maricopa County” video will be presented as part of the 2021 ACT.

Similarly, MCSO has completed 94% of Goal 4, which addresses enhanced fair and impartial decision-making training. The Fair and Impartial Decision-Making training will be part of the 2021 ACT.

MCSO has completed 90% of Goal 5, which addresses enhanced training on cultural competency and community perspectives on policing. The 2021 Cultural Competency Video Library was approved this quarter. Additionally, MCSO has made progress on creating a dashboard reflecting community survey results on its website. There have been few responses to the survey, and MCSO is evaluating ways to increase participation.

Goal 6, which addresses traffic stop data collection and analysis is 97% complete. The relevant work for Goal 6 includes EIS alert development, TSMR refinement, and the TSQRs.

MCSO has fully completed Goals 7 (encouraging and commending employees’ performance and service to the community) and 8 (studying the peer intervention program).

Goal 9 concerns building a workforce that provides constitutional and community-oriented policing and reflects the community MCSO serves. As part of its work to achieve this goal, MCSO finalized its contract with a third-party vendor responsible for providing promotional tests to sworn and Detention officers. Testing is currently underway.

MCSO also finalized a contract with a third-party recruiting agency to assist in finding suitable candidates to fill Detention officer vacancies. To further assist in recruitment efforts, the Maricopa County Board of Supervisors approved salary increases for Detention officers in the areas of highest turnover; increasing the base pay rate from \$19.43 to \$20.50; and creating a \$3,000 sign-on incentive for new hires. Additionally, a Detention sergeant was assigned to MCSO’s Pre-Employment Division to further assist in recruitment and orientation efforts. Additionally, MCSO began offering relocation assistance of up to \$1,500 to Detention Officer candidates from out-of-county.

To improve the hiring process more broadly, MCSO finalized the curriculum for hiring manager interview training in September 2021. The pilot class is scheduled to take place in the final quarter of

2021. Policy GC-7, which governs transfer of personnel, was also revised to streamline the application and selection process for specialized assignments.

Finally, MCSO drafted an employee engagement survey. The strategy for disseminating the survey is being finalized, with the hope that the survey can be used to target the areas of highest turnover to create an action plan to improve retention.

MCSO expects all of these efforts to move it towards completion of Goal 9, which is currently 72% complete.

MCSO acknowledges and understands the seriousness of the staffing issues, particularly in Custody Services. These problems are similar to those being faced by other law enforcement and detention agencies across the country. MCSO is taking comprehensive steps, as described above, to attempt to address these challenges.

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

MCSO remains in Full and Effective Compliance with Paragraph 71.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Section 8: Early Identification System (EIS)

General Comment regarding BIO and BIO Inspections

The inspection process is a valuable and successful tool in achieving and maintaining compliance with various Office Policies and stipulations of the Court's Order.

These general comments represent BIO's inspection activities for the period of July 1, 2021, through September 30, 2021. BIO completed 40 inspection reports, broken down as follows:

- Three Incident Report inspections
- Three Civilian Supervisory Note inspections
- Three Detention Supervisory Note inspections
- Three Sworn Supervisory Note inspections
- Three Traffic Stop Data inspections
- One Quarterly Employee Email inspection
- One Quarterly CAD/Alpha Paging inspection
- One Quarterly Patrol Shift Roster inspection
- Three TraCS Review of Traffic Stops inspections
- Three TraCS Discussion of Traffic Stops inspections
- Three Patrol Activity Log inspections
- Three Misconduct Investigations inspections
- Three Complaint Intake Testing inspections
- Three EIS Alerts inspections
- Three Post-Stop Ethnicity inspections
- Two Constitutional Policing Plan (CPP) Briefing inspection
- One CP-8 Semi Annual Report
- One Targeted Integrity Test Inspection Report

The following paragraphs represent compliance rates and brief progress assessments for the inspections during the Third Quarter of 2021:

Incident Reports: The Third Quarter of 2021 overall compliance rate was 99%. This was the same score as the Second Quarter of 2021. The months of July, August and September had a 99% compliance rate.
Facility/Property and Evidence: In March of 2020 AIU halted Facility and Property Inspection due to the risk posed by COVID-19. Therefore, there are no recorded compliance rate for the Second Quarter of 2021.

Supervisory Notes-Civilian: This inspection had an overall compliance rate of 93% for the Third Quarter of 2021. This was the same score as the Second Quarter of 2021. In July the compliance rate was 94%, August was 90%, and September was 94%.

Supervisory Note-Sworn (Patrol): The overall compliance rate for the Third Quarter of 2021 was 98%. This was the same score as the Second Quarter of 2021. The months of July and September had a 100% compliance rate, and August had a 95% compliance rate.

Supervisory Notes-Detention: The overall compliance rate for the Third Quarter of 2021 was 97%. This was a 1% decrease from the Second Quarter of 2021. The compliance rate of July was 100%, August was 94%, and September was 97%.

Traffic Stop Data Collection: The overall compliance rate for the Third Quarter of 2021 was 99%. This was the same score as the Second Quarter of 2021. The months of July, August and September had a 99% compliance rate.

Quarterly Employee Email: The quarterly employee email compliance rate for the Third Quarter of 2021 was 100%. This was the same score as the Second Quarter of 2021.

Quarterly CAD/Alpha Paging: This inspection had an overall compliance rate of 100% for the Third Quarter of 2021. This was the same score as the Second Quarter of 2021.

Quarterly Patrol Shift Rosters: The overall compliance rate for the Third Quarter of 2021 was 99%. This was the same score as the Second Quarter of 2021. The MCSO has continued to adhere to the proper span of control for deputy-to-sergeant patrol squad ratios.

Reviewed Traffic Stop Data: The Third Quarter of 2021 overall compliance rate for the Reviewed Traffic Stop Data inspections was 96%, which was a 3% decrease from the previous Second Quarter of 2021. The compliance rate of July was 96%, August was 95%, and September was 98%.

Discussed Traffic Stop Data: The Third Quarter of 2021 overall compliance rate for the Discussed Traffic Stop Data inspections was 99%, which was a 3% increase from the previous Second Quarter of 2021. The months of July and September had a 100% compliance rate, and August had a 99% compliance rate.

Patrol Activity Logs: The Third Quarter of 2021 overall compliance rate for Patrol Activity Log inspections was 99%. This was the same score as the Second Quarter of 2021. The compliance rate of July was 99%, August was 100%, and September was 98%.

Misconduct Investigations: The Third Quarter of 2021 overall compliance rate for Misconduct Investigations inspections was 99%. This was the same score as the Second Quarter of 2021. The months of August and September had a 99% compliance rate, and July had a 100% compliance rate.

Complaint Intake Testing: There was three Complaint Intake Testing inspections conducted during the Third Quarter of 2021, one for each of the months of July, August, and September. Each Complaint Intake Testing Inspection revealed no complaint intake tests were conducted by the MCSO vendor for the month. As such, the Monthly Inspection Compliance Rate Chart below shows N/A for each month. As of the 4th Quarter of 2021 the MCSO vendor has resumed complaint intake testing.

EIS Alerts: The overall compliance rate for the Third Quarter of 2021 was 91%. This was a 3% decrease from the Second Quarter of 2021. In July, the compliance rate was 93%, August was 80%, and September was 100%.

Post-Stop Ethnicity: The overall compliance rate for the Third Quarter of 2021 was 86%. This was a 13% decrease from the Second Quarter of 2021. In July, the compliance rate was 87%, August was 75%, and September was 95%.

Constitutional Policing Plan Briefing (CPP): The Bureau of Internal Oversight's (BIO) Audits and Inspections Unit (AIU) conducted a briefing note inspection for the Constitutional Policing Plan (CPP) to ensure that CPP Roll Call briefings were being conducted. The purpose of the inspection was to ensure compliance with Office policies and to promote proper supervision. The overall compliance rate for the Second Quarter of 2021 was 95%. The overall compliance rate for the Third Quarter of 2021 was 90%. This was a 5% decrease from the Second Quarter of 2021. In July the compliance rate was 81%, August had no inspection, and for September the compliance rate was 99%.

CP-8 Semi-Annual Policing Plan: The Bureau of Internal Oversight's (BIO) Audits and Inspections Unit (AIU) will conduct inspections semi-annually basis to ensure that reinforcement of Bias-Free Policing is being conducted. The purpose of the inspection was to ensure compliance with Office policies and to promote proper supervision. The inspection resulted in 98% Hub Compliance and 91% Discussion Compliance. The overall compliance rate for the Third Quarter of 2021 was 95%.

Targeted Integrity Inspection Report: The AIU conducted a Targeted Integrity Test during the Second Quarter of 2021. This test, BI2021-0055, was started on June 23rd 2021, completed July 8th 2021, and published August 16th 2021. The inspection dealt with accurately marking passenger contact on the Vehicle Stop Contact Form and providing an Incidental Contact Receipt when appropriate. The inspection resulted in the compliance rate of 81% and was subsequently documented as a PROCEDURAL FAIL as the employee's actions were not in accordance with the procedures set forth in Office Policy, but the actions do not rise to the level of criminal or serious misconduct. The inspection revealed deputies were marking "yes" to passenger contact when passenger contact was not met by policy definition, and in seven cases Incidental Contact Receipts were not issued when they should have. These issues were remedied in a 3rd Quarter of 2021 Town Hall event carried out at each patrol district to enhance training and understanding of passenger contact and related forms.

The AIU initially planned to conduct another targeted integrity test during the 3rd Quarter of 2021 analyzing the use of length of stop indicators on Vehicle Stop Contact Forms; however, this targeted integrity test was pushed back to 4th Quarter due to operations tempo and staffing considerations. This targeted integrity test was started on October 11th 2021 and is currently underway.

The following table indicates the inspection monthly compliance rates and the overall compliance rates for the Third Quarter of 2021:

Table 2: Monthly Inspections Compliance Rate

Bureau of Internal Oversight- Monthly Inspections Compliance Rate				
2021 Inspections	July	August	September	Overall Compliance Rate
IR Inspection	99%	99%	99%	99%
Facility and Property Inspection	N/A	N/A	N/A	N/A
Supervisor Note Civilian	94%	90%	94%	93%
Supervisor Note Detention	100%	94%	97%	97%
Supervisor Note Sworn	100%	95%	100%	98%
Traffic Stop Data	99%	99%	99%	99%
Quarterly Employee Emails	N/A	N/A	100%	100%
Quarterly CAD/Alpha Paging	N/A	N/A	100%	100%
Quarterly Patrol Shift Roster	N/A	N/A	99%	99%
TraCS Reviewed	96%	95%	98%	96%
TraCS Discussed	100%	99%	100%	99%
Patrol Activity Logs	99%	100%	98%	99%
Misconduct Investigations	100%	99%	99%	99%
Complaint Intake Testing	N/A*	N/A*	N/A*	N/A*
EIS Alerts	93%	80%	100%	91%
Post Stop Ethnicity	87%	75%	95%	86%
Constitutional Policing Plan Briefing	81%	N/A	99%	90%
CP-8 Semi Annual Report	95%	N/A	N/A	95%
Targeted Integrity Inspection	81%	N/A	N/A	81%

*MCSO Complaint Intake Test vendor did not conduct any tests 3rd Quarter of 2021

General Comments Regarding EIS

The Early Identification System continues to operate and evolve in its processes to improve efficiency to achieve MCSO's goals. The MCSO Early Identification System has evolved since its inception and has become one of the most robust Early Intervention Systems in the country. The EIS tracks or utilizes 67 different incident types and using IAPRO, Blue Team, and EIPRO applications to provide tools and information necessary for supervisors to support effective supervision.

The EIU maintains the EIS system on a day-to-day basis for identification of employee behaviors that may require intervention. The EIU also facilitates training related to the EIS, builds and tracks action plans, manages the EIS alert process and offers liaison assistance to field personnel to support effective supervision and achieve full compliance.

During this reporting period, the IAPRO system generated 150 alerts. EIU evaluated these alerts which led to the creation and distribution of 55 EIS Alerts to supervisors for review. Once EIS Alerts are returned from the field, the Alert Review Group (ARG) reviews and verify alerts and interventions were properly documented. EIU has observed this adds additional time to the overall alert process but has improved the quality of alert documentation. EIU staff continue to work on alert tracking and assist supervisors to improve timeframe compliance. EIU is also working on internal processes to track alerts in the field for compliance with the 30-day timeframe. The goal is to improve compliance with the EIS Alert Inspection. For this quarter, compliance rates for the EIS Alert Inspections were 93.3%, 80%, and 100%.

EIU staff made progress on two pending projects this quarter. These projects include the Threshold Analysis proposal and the EIS Supervisor Course. EIU submitted the proposal for Threshold Analysis and is responding to comments from the Monitoring Team. The EIS Supervisor Course was submitted and received final approval. EIU is now working on implementing the new course which will improve EIS training for new supervisors.

In addition to alert processing and listed projects, EIU personnel are tasked with ensuring and maintaining the proper use of the EIS system. This includes quality assurance of data being entered into the system via Blue Team. For this quarter, EIU staff processed, and quality assured the following entries

Incident type	Jul/Sep 2021
Academy Notes	37
Action Plan	0
Award Recipient	85
Briefing Notes	581
Briefing Notes CPP	0
Coaching	34
Commendation	177
Data Validation	13
E I S Action	44
EIS Alert	55

Incident type	Jul/Sep 2021
Employee reported activity	140
Firearm discharge	4
Forced entry	6
Higher Award Nomination	25
IR Memorialization	4
Line Level Inspection	683
MCAO Further Notice	53
MCAO Turndown Notice	128
Minor Award Nomination	34
Notice of Claim/Law Suit	6
Performance Asmnt Measure	176
Preservation of Evidence	31
Supervisor Notes	13471
Use of force	147
Vehicle accident	35
Vehicle pursuit	3
Total:	15972

The following is a listing of each Paragraph in Section 8, EIS, that MCSO is rated as “in compliance” for both Phase 1 and Phase 2: 75, and 80.

Paragraphs for which MCSO remains in Full and Effective Compliance are detailed below. Paragraphs that are rated as “not in compliance” or “deferred” are listed in detail along with plans to correct any problems and responses to concerns.

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

MCSO is in Phase 1 compliance with Paragraph 72. Based on the Monitor’s 29th Quarterly Report, MCSO is not in Phase 2 compliance.

EIU staff submitted Section 302 of the EIU Operations Manual and received comments back for the Monitoring Team and Parties. EIU Section 302 and 311 have outstanding sections for effectiveness that are being developed. Although the final effectiveness for each section may be somewhat different, EIU is waiting for the effectiveness in 311 to be developed and approved so the same concepts can be used in Section 302. EIU continues to work on the Threshold Analysis Project/Proposal and it should be ready to be submitted to the Monitoring Team and Parties for review soon.

The BAF study and the NTCF project have been on a temporary hold as BIO staff has been focused on developing the TSMR and TSQR. BIO anticipates starting work on the NTCF project towards the end of the fourth quarter of 2021. That process will assess and address comments from the Monitor and the Parties. Similarly, the BAF study was put on hold as resources were dedicated to the TSMR Pilot and the start of the TSQRs. BIO is reviewing the BAF Study and will return the methodology to the Monitor and the Parties in the near future.

Traffic Stop Monthly Reports have been piloted beginning in April 2021. These monthly reports identify disparate outcomes in traffic stop activity over the course of the previous twelve months of data. Flags are tracked in the EIS system and MCSO is monitoring, investigating and intervening on deputies when necessary. Once the pilot is complete and the process is approved MCSO will be able to complete the sections of the Operations Manual associated with the TSMR.

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

MCSO is in Full and Effective Compliance with Paragraph 73.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please see Sheriff Penzone’s 29th Quarterly Report (Doc. 2703-1).

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

MCSO is in Phase 1 and Phase 2 Compliance with Paragraph 74.

The Monitor’s 29th Quarterly Report noted that the data for initial runs of the TSMR process included roughly 500 stops with incorrect geographic data. This occurred in instances where a deputy’s GPS unit was either disconnected or not recognized by MCSO’s GIS Maproll. To address the problem and prevent it from happening again, BIO has implemented monthly procedures to identify and correct inaccurate GPS readings before each TSMR report is run. This is a manual process completed by TSAU and Research Unit Staff that involves the manual lookup of the GPS coordinates described in the Location Field of the Vehicle Stop Contact Form. As these corrections are made, they are saved in a table that can be joined to the next data extract so it will automatically update the corrected x and y coordinates into future extracts (including TSAR, TSMR and TSQR Extracts). This process keeps the number that must be corrected each month to a manageable number—roughly 40 to 100 stops each month. Additionally, MCSO’s technology and radio staff are constantly working with our cellular vendors to improve connectivity and minimize the “dead zones” for the GPS antennae and replacing broken equipment.

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

MCSO is in Full and Effective Compliance with Paragraph 76.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 77.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 78.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO is in Phase 1 compliance with Paragraph 79. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

In MCSO's comments to the Monitor's 29th Report, we noted that MCSO's compliance rates for this Paragraph have "widely varied" over time. This is a result of the low number of EIS Alert Inspections

generated each month. Because that number is so low, MCSO recommends moving to a quarterly review in order to produce a more significant data set.

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

- a. *comparative data analysis, including peer group analysis, to identify patterns of activity by individual Deputies and groups of Deputies;*
- b. *identification of warning signs or other indicia of possible misconduct, including, but not necessarily limited, to:*
 - i. *failure to follow any of the documentation requirements mandated pursuant to this Order;*
 - ii. *racial and ethnic disparities in the Deputy's traffic stop patterns, including disparities or increases in stops for minor traffic violations, arrests following a traffic stop, and immigration status inquiries, that cannot be explained by statistical modeling of race neutral factors or characteristics of Deputies' specific duties, or racial or ethnic disparities in traffic stop patterns when compared with data of a Deputy's peers;*
 - iii. *evidence of extended traffic stops or increased inquiries/investigations where investigations involve a Latino driver or passengers;*
 - iv. *a citation rate for traffic stops that is an outlier when compared to data of a Deputy's peers, or a low rate of seizure of contraband or arrests following searches and investigations;*
 - v. *complaints by members of the public or other officers; and*
 - vi. *other indications of racial or ethnic bias in the exercise of official duties;*
- c. *MCSO commander and Supervisor review, on a regular basis, but not less than bimonthly, of EIS reports regarding each officer under the commander or Supervisor's direct command and, at least quarterly, broader, pattern-based reports;*
- d. *a requirement that MCSO commanders and Supervisors initiate, implement, and assess the effectiveness of interventions for individual Deputies, Supervisors, and units, based on assessment of the information contained in the EIS;*
- e. *identification of a range of intervention options to facilitate an effective response to suspected or identified problems. In any cases where a Supervisor believes a Deputy may be engaging in racial profiling, unlawful detentions or arrests, or improper enforcement of Immigration-Related Laws or the early warning protocol is triggered, the MCSO shall notify the Monitor and Plaintiffs and take reasonable steps to investigate and closely monitor the situation, and take corrective action to remedy the issue. Interventions may include but are not limited to counseling, Training, Supervisor ride-alongs, ordering changes in practice or procedure, changing duty assignments, Discipline, or other supervised, monitored, and documented action plans and strategies designed to modify activity. All interventions will be documented in writing and entered into the automated system;*

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

MCSO is in Phase 1 compliance with Paragraph 81. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

To achieve Phase 2 compliance, the monthly traffic stop analyses must resume using an approved methodology and be included in the Monthly Alert Report in addition to producing TSQRs. MCSO is making progress, notably with the TSMR pilot starting in April 2021 and the TSQR being published continually since the second quarter of 2020 and continues to work to achieve compliance with the requirements of this Paragraph. MCSO has seen an increase in compliance for the EIS Alert Inspection, however it remains below the compliance rate. AIU and EIU continue to work with divisions to try and increase compliance as well as address deficiencies through BAF's. For additional information on the development of the BAF Study, please see the comments for Paragraph 72.

Section 9: Supervision and Evaluation of Officer Performance

On September 5, 2017, MCSO instituted the Chain of Command program which delineates the reporting structure for every employee in the Office. The program is used to align every employee with their current supervisor so that necessary and/or required documentation is routed/captured by the required systems that currently link into the program. Additionally, the MCSO Training Division continues to deliver training to newly promoted employees to ensure they have the training and skills necessary to be successful.

The following is a listing of each Paragraph in Section 9, Supervision and Evaluation of Officer Performance, that MCSO is rated as “in compliance” or “not applicable” for both Phase 1 and Phase 2: 83, 90, and 91.

Paragraphs for which MCSO remains in “Full and Effective Compliance” are detailed below. Paragraphs that are rated as “not in compliance” or “deferred” are listed in detail along with plans to correct any problems and responses to concerns.

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

MCSO remains in Full and Effective Compliance with Paragraph 84.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please see Sheriff Penzone’s 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 85.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please see Sheriff Penzone’s 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 86.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO is in Phase 1 compliance with Paragraph 87. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

MCSO is continuing the process of updating its sworn personnel performance management policy, processes and tools. The Monitor and Parties have completed their review of a new policy and related training and supporting materials. MCSO is expected to release the new policy and related training in the final quarter of 2021, while development of a corresponding online evaluation application continues into 2022.

As an interim measure meant to specifically address the recurring deficiencies in the EPAs that are completed for supervisors and commanders, MCSO added to the questions that serve as prompts for the Quality of Supervisory Review/Supervisor Accountability rating dimension within the currently approved EPA format. These additions are reinforcements of the direct requirements of the Court's Order. MCSO believes that these reinforcements will improve compliance until such time as the new EPA process is fully implemented.

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

MCSO remains in Full and Effective Compliance with Paragraph 88.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 89. A Deputy shall notify a Supervisor before initiating any immigration status investigation, as discussed in Paragraph 28. Deputies shall also notify Supervisors before effectuating an arrest following any immigration-related investigation or for an Immigration Related Crime, or for any crime related to identity fraud or lack of an identity document. The responding Supervisor shall approve or disapprove the Deputy's investigation or arrest recommendation based on the available information and conformance with MCSO policy. The Supervisor shall take appropriate action to

address any deficiencies in Deputies' investigation or arrest recommendations, including releasing the subject, recommending non-disciplinary corrective action for the involved Deputy, and/or referring the incident for administrative investigation.

MCSO remains in Full and Effective Compliance with Paragraph 89.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO is in Phase 1 compliance with Paragraph 92. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

As previously mentioned in Paragraph 87, MCSO is continuing the process of updating its sworn personnel performance management policy, processes and tools. The Monitor and Parties have completed their review of a new policy and related training and supporting materials. MCSO is expected to release the new policy and related training in the final quarter of 2021, while development of a corresponding online evaluation application continues into 2022.

As an interim measure meant to specifically address the recurring deficiencies in the EPAs that are completed for supervisors and commanders, MCSO added to the questions that serve as prompts for the Quality of Supervisory Review/Supervisor Accountability rating dimension within the currently approved EPA format. These additions are reinforcements of the direct requirements of the Court's Order. MCSO believes that these reinforcements will improve compliance until such time as the new EPA process is fully implemented.

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

MCSO remains in Full and Effective Compliance with Paragraph 93.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO is in Phase 1 compliance with Paragraph 94. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

MCSO continues to work to achieve compliance with Paragraph 94. In the last quarter, MCSO achieved a compliance rating of 92.74% for this Paragraph. MCSO's compliance efforts are addressed more specifically in Paragraph 96.

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

MCSO is in Phase 1 compliance with Paragraph 95. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

A total of 41 of 46 EPAs met the requirements of this Paragraph. The compliance rate was 89.13%. MCSO is continuing the process of updating its sworn personnel performance management policy, processes and tools. The Monitor and Parties have completed their review of a new policy and related training and supporting materials. MCSO is expected to release the new policy and related training in the final quarter of 2021, while development of a corresponding online evaluation application continues into 2022. MCSO continues to reinforce the importance of this Paragraph's requirements to staff. MCSO believes that these reinforcements will improve compliance until such time as the new EPA process is fully implemented.

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

MCSO is in Phase 1 compliance with Paragraph 96. Based on the Monitor’s 29th Quarterly Report, MCSO is not in Phase 2 compliance.

MCSO continues to stress the importance of this Paragraph’s requirements through various methods, including training for all supervisors/commanders and in communication with division commanders. MCSO BIO has been identifying and addressing these matters directly with involved patrol supervisors and commanders. MCSO is encouraged by the effectiveness of its internal review processes in BIO and is committed to continued improvement in the identification and appropriate resolution of these matters at the district/division level.

The Monitor assess compliance with this Paragraph based on its review of MCSO Incident Report Memorializations, which the Monitor refers to as Incident Memorialization Forms (“IMFs”). Very few IMFs are generated each quarter. For example, for the second quarter, there were only four. Similarly, for the third quarter there were only four. As a result, even a single deficient IMF has a large impact on MCSO’s compliance rate. As the Monitor’s 29th Quarterly Report indicates, one out of the four second quarter IMFs was deficient, leading to a compliance rate of 75%. In order to provide a more meaningful sample, MCSO encourages a transition to a longer review period for IMFs.

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

MCSO is in Phase 1 compliance with Paragraph 97. Based on the Monitor’s 29th Quarterly Report, MCSO is not in Phase 2 compliance.

MCSO continues to audit command review of EIS profiles. For the third quarter of 2021, AIU found a compliance rating of 93% for civilian supervisory notes; 98% for sworn; and 97% for detention.

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

MCSO is in Phase 1 compliance with Paragraph 98. Based on the Monitor’s 29th Quarterly Report, MCSO is not in Phase 2 compliance.

MCSO is continuing the process of updating its sworn personnel performance management policy, processes and tools. The Monitor and Parties have completed their review of a new policy and related training and supporting materials. MCSO is expected to release the new policy and related training in the final quarter of 2021, while development of a corresponding online evaluation application continues into 2022. As an interim measure meant to specifically address the recurring deficiencies in the EPAs that are completed for supervisors and commanders, MCSO has added to the questions that serve as prompts for the “Quality of Supervisory Review/Supervisor Accountability” rating within the currently approved EPA format. These additions are reinforcements of the direct requirements of the Court’s

Order. MCSO believes that these reinforcements will improve compliance with these recurring deficiencies until such time as the new EPA process is fully implemented.

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

MCSO is in Phase 1 and Phase 2 compliance with Paragraph 99.

In the third quarter, MCSO made two significant achievements in stressing the importance of and maintaining compliance with this Paragraph. First, GC-4(S), Employment Performance Management, was finalized and approved. Second, MCSO has implemented performance management training for all sworn supervisors.

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

MCSO is in Phase 1 compliance with Paragraph 100. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

Like Paragraph 99, MCSO anticipates that the approval of GC-4(S) and the implementation of performance management training for all sworn supervisors will be significant drivers of compliance improvement under this Paragraph.

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

MCSO remains in Full and Effective Compliance with Paragraph 101.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Section 10: Misconduct and Complaints

General Comments Regarding Misconduct and Complaints:

In accordance with Paragraph 251, PSB implemented a voluntary survey for complainants to complete after the conclusion of an investigation. The surveys are intended to capture complainant demographic information for external complaints and to examine any patterns or trends involving the findings of investigations related to the complainant's demographic information. Beginning January 1, 2020, upon the closure of an external misconduct investigation, PSB provides prepaid postage return envelopes to the complainants, allowing them to return the survey to MCSO by mail, without incurring any fees. Additionally, complainants may complete a web-based version of the survey, capturing the same demographic information. The relevant demographic information and any identified patterns will be reported in subsequent Semi-Annual Misconduct Reports.

During the first three quarters of 2021, PSB closed 781 investigations, of which 216 were external administrative investigations. Of the closed external investigations, 17 post-complaint surveys were returned to PSB; for an approximate 8% rate of return.

Paragraphs for which MCSO remains in "Full and Effective Compliance" are detailed below. Paragraphs that are rated as "not in compliance" or "deferred" are listed in detail along with plans to correct any problems and responses to concerns.

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

MCSO remains in Full and Effective Compliance with Paragraph 102.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO is in Phase 1 and Phase 2 compliance with Paragraph 103.

AIU currently conducts regular, targeted, and random integrity audit checks. The regular and random integrity checks are done through monthly and quarterly inspections. The Targeted Integrity Test methodology was approved in August 2020. Since that time AIU has completed three Integrity Test. During the third quarter of 2021 AIU completed a Targeted Integrity Inspection that focused on passenger contact data. The inspection looked at all traffic stops between 01/01/2021 and 03/31/2021 that had passenger contact. AIU did not find any criminal, serious or continual, repetitive, or willful acts of misconduct. However, as 19% of the stops were found to deficiencies and inspection resulted in a “Procedural Failure” with an 81% pass rate. AIU issued BIO Action Forms to address the found deficiencies.

The Monitoring Team has noted that Paragraph 103 does not set frequency standards for the Integrity test. AIU is committed to identifying areas for the Targeted Integrity Tests on a continual basis. Each Targeted Integrity Test ranges in scope and work hours to complete resulting in the possibility of final reports not being completed each quarter or the possibility of multiple reports being completed in a quarter.

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

MCSO remains in Full and Effective Compliance with Paragraph 104.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone’s 29th Quarterly Report (Doc. 2703-1).

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

MCSO is in Full and Effective Compliance with Paragraph 105.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone’s 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 106.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Section 11: Community Engagement

The Maricopa County Sheriff's Office remains engaged in delivering quality community engagement for the youth and adults. The measures taken to attain and sustain the engagement is through the development of community partnerships with community members, local businesses, established faith-based groups and non-profit organizations. In furtherance of community engagement activity, the Office organized the Community Outreach Division (CO_rD). The Maricopa County Sheriff's Office CO_rD has been instrumental with, promoting, and participating in events that unite MCSO personnel with community members in comfortable, non-law enforcement environments.

The Maricopa County Sheriff's Office quarterly register records community policing activities performed by MCSO Patrol Deputies across the county. For the quarterly period beginning July 1, through September 30, 2021, the MCSO has 99 registered events, where public attendance approached 5,127. During this same period, MCSO recorded 462 occasions of community policing utilizing the Computer Aided Dispatch System; those engagements totaled over 857:14 staff hours and are primarily attributed to the community policing activities of Patrol Deputies.

The Community Outreach Division has continually worked on bringing MCSO and Community together with existing programs along with developing new relationships and programs in the community.

Through the above-mentioned collaborations, the Maricopa County Sheriff's Office participated in several community events the events listed is just a sample of the events and programs we participated in April – June 2021. These community contacts are reflective of the COVID 19 Pandemic occurrence. On a national level we have practiced social distancing and not participating in as many large crowd events. The longer we were required to practice these new guidelines the more creative and innovative we have become.

As a sample review, MCSO personnel participated in the following public events this reporting period: During the month of July, CO_rD attended a few virtual community membership meetings that dealt with youth issues and concerns in the community with the following organizations HEAL Coalition, ABLE, In and Out Network, ACYR, ASU School of Law, Arizona Department of Corrections Rehabilitation and Reentry, and AZ Department of Economic Security.

On July 13th, Community Outreach Division Liaison Ron Gomez met with Mayor Molina of the Town of Guadalupe and Charles Cobbs of the Tempe Union High School District. The meeting encompassed discussion related to the violence at Marcos de Niza High School. Recently, an uptick in violence and disruptive behavior has been taking place at the educational institution, some of the youth associated with the violence live in the Town of Guadalupe. All parties involved are seeking an answer to end the violence and troublesome behavior. The meetings are ongoing.

In July of 2021, the Community Outreach team attended several presentations. The Community Outreach team makes presentations to the Sworn Deputies and Detention Officers about the importance of volunteering their time at community events. CO_rD presentations are given to the recruits before graduation. The CO_rD team has provided a Community Outreach presentation to graduating detention and deputy classes for several months. The presentation includes contact information for District

Community Outreach Liaisons, Detention Facility Liaisons, community events, COrD, and advertising for the Community Outreach and Humanitarian Awards.

On July 21, 2021, MCSO Community Outreach and MCSO Staff were honored to make Julianna Kinnard's first day of kindergarten extra special by escorting her to school. Unfortunately, her father, Joshua Kinnard, was a Detention Officer with the Maricopa County Sheriff's office and is no longer with us to see Julianna off to her first day. However, MCSO wanted to show its support as she started her new journey as a kindergartener!

On July 23, 2021, Community Outreach assisted AZLEOS in filling over 2,500 backpacks with school supplies. The backpacks were then given to different law enforcement agencies so that they would be able to help children within their jurisdictions and communities start school ready with the supplies needed to succeed.

On July 29, 2021, the Community Outreach Team attended the Joseph Zito Elementary School back to school parent night. MCSO partnered with Counselor Mrs. Egwu who kindly asked MCSO to attend the first parent night back after the pandemic. Joseph Zito Elementary School has primarily Spanish speaking students, so Liaison Isidro was able to quickly present about our partnership with the school and donate over 1,000 children's books to all the students and relatives in attendance. With our partnership, every student that was in attendance received several books to take home and promote literacy in the community.

On August 8, 2021, multiple divisions of the MCSO came together to assist a community in need. MCSO employees from Enforcement Support, District 2, Community Outreach and other partners came together to assist the Town of Gila Bend residents after a very serious flood. The flood unfortunately took lives of two people from the town and left multiple people without homes. MCSO came together to help community members impacted by clearing debris from our community partners' homes and loading large trash dumpsters. After several hours of cleaning, MCSO was able to assist multiple homeowners' with lifting heavy objects and properly disposing of them.

On August 8, 2021, Community Outreach in collaboration with the Aguila Fire Department had their annual "Back to School" event in the town of Aguila, where haircuts and backpacks filled with school supplies were given away. There was also food, information, and a good old water day for the kids. Events like this allow MCSO to fully integrate within the communities we serve, allowing the public to feel comfortable and giving the opportunity to ask any questions they would like in a "safe" environment.

On August 20, 2021, District 2 patrol Deputies and Detectives, Enforcement Support, Posse, Lake Patrol, MCSO Community Outreach, and MCSO Training staff visited the town of Gila Bend to help clean up the devastation left behind from the unprecedented floods. This was an all-out team effort to help restore what was left of the area. We thank our staff for their willingness and their eagerness to help those in their greatest time of need.

During the month of August, COrD assisted several schools with distributing school supplies.

August 8, 2021, Aguila Community Schools (in-person, 50 participants)

August 11, 2021, Franklin Elementary School (in-person, 100 participants)
August 25, 2021, Ignacio Conchos Elementary School Supplies (in-person, 75 participants)
August 26, 2021, Mobile Elementary School (in-person, 35 participants)

By participating in these events, it shows a positive connection to the community and school for law enforcement.

The Combined Charitable Campaign (CCC) ran from September 13, 2021 through October 1, 2021. Everyone who participated in these challenging times and donated to these worthy causes. MCSO continues to make a positive difference in our community. MCSO surpassed our goal of \$25,000 again this year, raising **\$37,355.40** for our community partners. We also exceeded our participation goal of **10%** and reached a **13%** participation rate.

On September 11, 2021, COrD attended an event held by the Southwest Family Advocacy Center on Saturday. This event was centered around giving back to the children of our community. The center was presented with a check for \$3,000, and the "Put on a Cape" characters were given another \$3,000 to shop with the children at Five Below Store. Avondale AZ Police Department and Goodyear Police Department were also a part of the event. I received a "thank you card" for participation in this event from the Director Reem of the Southwest Family Advocacy Center.

On September 22, 2021, Sheriff Penzone and the COrD team were honored to attend the 6th Annual Law Enforcement Appreciation breakfast for Municipal, County, State, and Federal law enforcement officials throughout Arizona. The intent of this breakfast was to recognize the hard work of our law enforcement officers and other first responders who function as representatives of the state daily and place their lives on the line to serve communities throughout the state.

On September 25, 2021, Community Outreach along with Enforcement Support took part in the Old Navy kids safety event. We were outside with the MCSO booking van alongside the local fire department and ambulance services. This event was a hit with the kids as they were all allowed to enter and tour the booking van. Fire allowed them to put on some equipment and ambulance services showed them how to use the equipment on their own. The event was a hit with both parents/guardians and the kids. The MCSO Cadets were in attendance too, and it was a wonderful thing to see community teens interacting with them and asking how to become a Cadet.

On September 29, 2021, MCSO honored, celebrated, and remembered our Arizona Peace Officers alongside their family, friends, and loved ones. This year's 47th Annual Peace Officers Memorial paid tribute to those who made the ultimate sacrifice in 2019 and 2020.

On September 30, our MCSO Community Outreach team, Director Scheel and Officer Caro presented training to the Maryvale Cartwright District Promotors. The training included drug trafficking trends and drug prevention strategies. COrD also provided training to the group on using Naloxone, NARCAN, the Opioid overdose reversal drug used to prevent fentanyl overdose deaths. We appreciate the efforts from our community partners to learn techniques to help keep others safe.

On September 30, 2021, the Drug Education Director Shannon Scheel and the Community Outreach Team worked together with Maryvale Community Leader Herlinda Calderon and Chicanos por la

Causa to host Spanish Speaking opioid awareness presentations. Director Scheel provided a detailed Spanish PowerPoint presentation on the opioid epidemic and problems it has created in our community. Director Scheel also provided attendees with expired Narcan so students had an opportunity to administer it into the air and lastly, each student in attendance was sent home with up to date Narcan in case of an emergency.

The following is a listing of each Paragraph in Section 11, Community Engagement in which MCSO is rated as “in compliance” or “not applicable” for both Phase 1 and Phase 2: 109, 110, 111, 112, 113, 114, 116, 117, and 118. Listed in detail below, is Paragraph 115 that was rated as “not in compliance” along with plans to correct any problems and responses to concerns.

***Paragraph 115.** MCSO and Plaintiffs’ representatives shall work with community representatives to create a Community Advisory Board (“CAB”) to facilitate regular dialogue between the MCSO and the community, and to provide specific recommendations to MCSO and the Monitor about policies and practices that will increase community trust and ensure that the provisions of this Order and other orders entered by the Court in this matter are met. The MCSO shall cooperate with the Monitor to assure that members of the CAB are given appropriate access to relevant material, documents, and training so the CAB can make informed recommendations and commentaries to the Monitor.*

MCSO is in Phase 1 compliance with Paragraph 115. Based on the Monitor’s 29th Quarterly Report, MCSO is not in Phase 2 compliance.

In the 29th Quarterly Report, the Monitor found MCSO out of compliance with Paragraph 115.

MCSO understands the importance and value of communication with the CAB, as well as being responsive to the CAB’s requests/inquiries. During the October 2021 site visit, a CAB member expressed frustration regrading MCSO’s responsiveness. MCSO missed three emails as a result of human error, but the questions raised in those emails were all eventually answered upon receiving a follow-up email.

To the extent the Monitor is dissatisfied with MCSO’s responsiveness, MCSO is taking steps to address the Monitor’s concerns. Communications from CAB are never intentionally disregarded or ignored—any delay in a response is the result of human error that can be avoided with proper safeguards. MCSO is taking steps to ensure that CAB consistently receives timely responses to its inquiries.

Section 12: Misconduct Investigations, Discipline, and Grievances

In accordance with Paragraph 251, during the last rating period PSB developed a voluntary survey for complainants to complete after the conclusion of an investigation. The surveys are intended to capture complainant demographic information for external complaints and to examine any patterns or trends involving the findings of investigations related to the complainant's demographic information. Beginning January 1, 2020, upon the closure of an external misconduct investigation PSB provides prepaid postage return envelopes to the complainants, allowing them to return the survey to MCSO by mail, without incurring any fees. Additionally, complainants may complete a web-based version of the survey, capturing the same demographic information. During the first three quarters of 2021 PSB closed 781 investigations of which 216 were external administrative investigations. Of the closed external investigations, 17 post-complaint surveys were returned to PSB; for an approximate 8% rate of return. The relevant demographic information, and any identified patterns, will continue to be reported in subsequent Semi-Annual Misconduct Reports.

The following is a listing of each Paragraph in Section 12, Misconduct Investigations, Discipline, and Grievances, that MCSO is rated as "in compliance" or "not applicable" for both Phase 1 and Phase 2: 167, 168, 169, 170, 171, 172, 173, 174, 178, 179, 180, 181, 189, 190, 191, 192, 193, 196, 197, 198, 199, 200, 201, 202, 203, 205, 206, 207, 208, 209, 212, 213, 216, 222, 226, 240, 241, 242, 243, 246, 250, 251, 252, 253, 254, 255, 256, 257, 258, and 259.

Listed in detail below, are Paragraphs that are rated as "not in compliance" or "deferred" along with plans to correct any problems and responses to concerns. Paragraphs for which MCSO remains in "Full and Effective Compliance" are below.

Paragraph 165. *Within one month of the entry of this Order, the Sheriff shall conduct a comprehensive review of all policies, procedures, manuals, and other written directive related to misconduct investigations, employee discipline, and grievances, and shall provide to the Monitor and Plaintiffs new policies and procedure or revise existing policies and procedures. The new or revised policies and procedures that shall be provided shall incorporate all of the requirements of this Order. If there are any provisions as to which the parties do not agree, they will expeditiously confer and attempt to resolve their disagreements. To the extent that the parties cannot agree on any proposed revisions, those matters shall be submitted to the Court for resolution within three months of the date of the entry of this Order. Any party who delays the approval by insisting on provisions that are contrary to this Order is subject to sanction.*

Phase 1 compliance for this Paragraph is not applicable. Based on the Monitor's 29th Quarterly Report, Phase 2 compliance is deferred.

Pursuant to the Second Supplemental order, the MCSO Policy Section submitted twenty-six (26) policies to the Monitor Team. The Monitor Team has approved all twenty-six (26) of these policies:

- CP-2, *Code of Conduct (Monitor Approved)*
- CP-3, *Workplace Professionalism: Discrimination and Harassment (Monitor Approved)*
- CP-5, *Truthfulness (Monitor Approved)*

- CP-11, *Anti-Retaliation (Monitor Approved)*
- EA-2, *Patrol Vehicles (Monitor Approved)*
- GA-1, *Development of Written Orders (Monitor Approved)*
- GB-2, *Command Responsibility (Monitor Approved)*
- GC-4, *Employee Performance Appraisals (Monitor Approved)*
- GC-7, *Transfer of Personnel (Monitor Approved)*
- GC-11, *Employee Probationary Periods (Monitor Approved)*
- GC-12, *Hiring and Promotional Procedures (Monitor Approved)*
- GC-16, *Employee Grievance Procedures (Monitor Approved)*
- GC-17, *Employee Disciplinary Procedures (Monitor Approved)*
- GC-22, *Critical Incident Stress Management Program (Monitor Approved)*
- GD-9, *Litigation Initiation, Document Preservation, and Document Production Notices (Annual Review)*
- GE-4, *Use, Assignment, and Operation of Vehicles (Monitor Approved)*
- GG-1, *Peace Officer Training Administration (Monitor Approved)*
- GG-2, *Detention/Civilian Training Administration (Monitor Approved)*
- GH-2, *Internal Investigations (Monitor Approved)*
- GH-4, *Bureau of Internal Oversight (Monitor Approved)*
- GH-5, *Early Identification System (EIS)(Monitor Approved)*
- GI-4, *Calls for Service (Monitor Approved)*
- GI-5, *Voiance Language Services (Monitor Approved)*
- GJ-24, *Community Relations and Youth Programs (Monitor Approved)*
- GJ-26, *Sheriff's Reserve Deputy Program (Monitor Approved)*
- GJ-27, *Sheriff's Posse Program (Monitor Approved)*

The Monitor's 29th Quarterly Report defers assessment of this Paragraph to the ongoing discussions related to MCSO's policies. As such, there was no feasible way of meeting the timelines set out in this Paragraph. However, it is unclear when, if ever, this Paragraph will be moved from deferred status. Throughout the course of MCSO's compliance efforts, MCSO policies have been subjected to repeated revisions and improvements. MCSO assumes that process will continue. As such, MCSO requests that the Monitor provide a more definite metric for achieving compliance with this Paragraph.

Paragraph 167. *The policies shall include the following provisions:*

- a. *Conflicts of interest in internal affairs investigations or in those assigned by the MCSO to hold hearings and make disciplinary decisions shall be prohibited. This provision requires the following:*
 - i. *No employee who was involved in an incident shall be involved in or review a misconduct investigation arising out of the incident.*
 - ii. *No employee who has an external business relationship or close personal relationship with a principal or witness in a misconduct investigation may investigate the misconduct. No such person may make any disciplinary decisions with respect to the misconduct including the determination of any grievance or appeal arising from any discipline.*

- iii. No employee shall be involved in an investigation, whether criminal or administrative, or make any disciplinary decisions with respect to any persons who are superior in rank and in their chain of command. Thus, investigations of the Chief Deputy's conduct, whether civil or criminal, must be referred to an outside authority. Any outside authority retained by the MCSO must possess the requisite background and level of experience of internal affairs investigators and must be free of any actual or perceived conflicts of interest.*
- b. If an internal affairs investigator or a commander who is responsible for making disciplinary findings or determining discipline has knowledge of a conflict of interest affecting his or her involvement, he or she should immediately inform the Commander of the Professional Standards Bureau or, if the holder of that office also suffers from a conflict, the highest-ranking, non-conflicted chief-level officer at MCSO or, if there is no non-conflicted chief-level officer at MCSO, an outside authority. Any outside authority retained by the MCSO must possess the requisite background and level of experience of internal affairs investigators and must be free of any actual or perceived conflicts of interest.*
- c. Investigations into an employee's alleged untruthfulness can be initiated by the Commander of the Professional Standards Bureau or the Chief Deputy. All decisions not to investigate alleged untruthfulness must be documented in writing.*
- d. Any MCSO employee who observes or becomes aware of any act of misconduct by another employee shall, as soon as practicable, report the incident to a Supervisor or directly to the Professional Standards Bureau. During any period in which a Monitor is appointed to oversee any operations of the MCSO, any employee may, without retaliation, report acts of alleged misconduct directly to the Monitor.*
- e. Where an act of misconduct is reported to a Supervisor, the Supervisor shall immediately document and report the information to the Professional Standards Bureau.*
- f. Failure to report an act of misconduct shall be considered misconduct and may result in disciplinary or corrective action, up to and including termination. The presumptive discipline for a failure to report such allegations may be commensurate with the presumptive discipline for the underlying misconduct.*
- g. No MCSO employee with a rank lower than Sergeant will conduct an investigation at the District level.*

MCSO asserts full and effective compliance with the requirements for Paragraph 167 in accordance with Paragraph 13.

MCSO asserts that it has been in compliance with the requirements of Paragraph 167 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 167 was first achieved on June 30, 2017. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2020.

Phase 1 compliance with the requirements of this Paragraph is demonstrated by MCSO Policy GC-17 (Employee Disciplinary Procedures), most recently amended on May 28, 2021, GH-2 (Internal Investigations), most recently amended on May 28, 2021, CP-2 (Code of Conduct), most recently amended on October 28, 2021, CP-3 (Workplace Professionalism: Discrimination and Harassment), most recently amended on March 4, 2021, CP-5 (Truthfulness), most recently amended on September 11, 2020, CP-11 (Anti-Retaliation), most recently amended on December 13, 2018, GC-16 (Employee

Grievance Procedures), most recently amended on April 7, 2020, the Administrative Services Division Operations Manual, most recently amended on September 2, 2020, and the Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2 compliance with the requirements of this Paragraph is demonstrated by the Monitor's review of administrative misconduct investigations each reporting period. The Monitor has consistently found that MCSO has been in compliance with the requirements of this Paragraph.

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

MCSO asserts full and effective compliance with the requirements for Paragraph 168 in accordance with Paragraph 13.

MCSO asserts that it has been in compliance with the requirements of Paragraph 168 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 168 was first achieved on June 30, 2017. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2020.

Phase 1 compliance with the requirements of this Paragraph is demonstrated by MCSO Policy CP-2 (Code of Conduct), most recently amended on October 28, 2021, CP-3 (Workplace Professionalism: Discrimination and Harassment), most recently amended on March 4, 2021, CP-5 (Truthfulness), most recently amended on September 11, 2020, CP-11 (Anti-Retaliation), most recently amended on December 13, 2018, GC-16 (Employee Grievance Procedures), most recently amended on April 7, 2020, GC-17 (Employee Disciplinary Procedures), most recently amended on May 28, 2021, GH-2 (Internal Investigations), most recently amended on May 28, 2021, Administrative Services Division Operations Manual, most recently amended on September 2, 2020, and the Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2 compliance with the requirements of this Paragraph is demonstrated by the Monitor's review of administrative misconduct investigations each reporting period. The Monitor has consistently found that MCSO has been in compliance with the requirements of this Paragraph.

***Paragraph 169.** Retaliating against any person who reports or investigates alleged misconduct shall be considered a serious offense and shall result in discipline, up to and including termination.*

MCSO asserts full and effective compliance with the requirements for Paragraph 169 in accordance with Paragraph 13.

MCSO asserts that it has been in compliance with the requirements of Paragraph 169 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 169 was first achieved on June 30,

2017. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2020.

Phase 1 compliance with the requirements of this Paragraph is demonstrated by MCSO Policy CP-2 (Code of Conduct), most recently amended on October 28, 2021, CP-3 (Workplace Professionalism: Discrimination and Harassment), most recently amended on March 4, 2021, CP-5 (Truthfulness), most recently amended on September 11, 2020, CP-11 (Anti-Retaliation), most recently amended on December 13, 2018, GC-16 (Employee Grievance Procedures), most recently amended on April 7, 2020, GC-17 (Employee Disciplinary Procedures), most recently amended on May 28, 2021, GH-2 (Internal Investigations), most recently amended on May 28, 2021, Administrative Services Division Operations Manual, most recently amended on September 2, 2020, and the Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2 compliance with the requirements of this Paragraph is demonstrated by the Monitor's review of administrative misconduct investigations each reporting period. The Monitor has consistently found that MCSO has been in compliance with the requirements of this Paragraph.

***Paragraph 170.** The Sheriff shall investigate all complaints and allegations of misconduct, including third-party and anonymous complaints and allegations. Employees as well as civilians shall be permitted to make misconduct allegations anonymously.*

MCSO asserts full and effective compliance with the requirements for Paragraph 170 in accordance with Paragraph 13.

MCSO asserts that it has been in compliance with the requirements of Paragraph 170 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 170 was first achieved on June 30, 2017. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2020.

Phase 1 compliance with the requirements of this Paragraph is demonstrated by MCSO Policy GC-17 (Employee Disciplinary Procedures), most recently amended on May 28, 2021, and GH-2 (Internal Investigations), most recently amended on May 28, 2021.

Phase 2 compliance with the requirements of this Paragraph is demonstrated by the Monitor's review of administrative misconduct investigations each reporting period. The Monitor has consistently found that MCSO has been in compliance with the requirements of this Paragraph.

***Paragraph 171.** The MCSO will not terminate an administrative investigation solely on the basis that the complainant seeks to withdraw the complaint, or is unavailable, unwilling, or unable to cooperate with an investigation, or because the principal resigns or retires to avoid discipline. The MCSO will continue the investigation and reach a finding, where possible, based on the evidence and investigatory procedures and techniques available.*

MCSO asserts full and effective compliance with the requirements for Paragraph 171 in accordance with Paragraph 13.

MCSO asserts that it has been in compliance with the requirements of Paragraph 171 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 171 was first achieved on June 30, 2017. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2020.

Phase 1 compliance with the requirements of this Paragraph is demonstrated by MCSO Policy GH-2 (Internal Investigations), most recently amended on May 28, 2021 and the Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2 compliance with the requirements of this Paragraph is demonstrated by the Monitor's review of administrative misconduct investigations each reporting period. The Monitor has consistently found that MCSO has been in compliance with the requirements of this Paragraph.

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

MCSO asserts full and effective compliance with the requirements for Paragraph 172 in accordance with Paragraph 13.

MCSO asserts that it has been in compliance with the requirements of Paragraph 172 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 172 was first achieved on June 30, 2017. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2020.

Phase 1 compliance with the requirements of this Paragraph is demonstrated by MCSO Policy CP-5 (Truthfulness), most recently amended on September 11, 2020, GC-17 (Employee Disciplinary Procedures), most recently amended on May 28, 2021, GH-2 (Internal Investigations), most recently amended on May 28, 2021 and the Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2 compliance with the requirements of this Paragraph is demonstrated by the Monitor's review of administrative misconduct investigations each reporting period. The Monitor has consistently found that MCSO has been in compliance with the requirements of this Paragraph.

Paragraph 175. As soon as practicable, commanders shall review the disciplinary history of all employees who are transferred to their command.

MCSO is in Phase 1 and Phase 2 compliance with Paragraph 175.

As noted in the Monitor's 25th Report, the compliance issues for the timely reviews of transferred employees' EIS histories are a Detention issue. A tracking measure to ensure that the transfer forms are completed in the 14-day time frame has been instituted by the Detention administrative personnel. Since the Monitor's 26th Report, MCSO has maintained a compliance rate of over 98% for all employee categories. MCSO commanders continue to review the disciplinary history of employees transferred to their command as this Paragraph requires.

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

MCSO is in Phase 1 and Phase 2 compliance with Paragraph 176.

MCSO is continuing the process of updating its sworn personnel performance management policy, processes and tools. The Monitor and Parties have completed their review of a new policy and related training and supporting materials. MCSO is expected to release the new policy and related training in the final quarter of 2021, while development of a corresponding online evaluation application continues into 2022. The Monitor and Parties have reviewed the draft proposals. The draft proposal addresses the requirements of documenting the quality of investigators' internal affairs investigations and supervisors' reviews of investigations.

As an interim measure meant to specifically address the recurring deficiencies in the EPAs that are completed for supervisors and commanders, MCSO has added to the questions that serve as prompts for the "Quality of Supervisory Review/Supervisor Accountability" rating within the currently approved EPA format. These additions are reinforcements of the direct requirements of the Court's Order. MCSO believes that these reinforcements will improve compliance until such time as the new EPA process is approved and fully implemented. In the past three quarters, MCSO has consistently realized compliance rates exceeding 96%.

Paragraph 177. There shall be no procedure referred to as a "name-clearing hearing." All pre-disciplinary hearings shall be referred to as "pre-determination hearings," regardless of the employment status of the principal.

MCSO remains in Full and Effective Compliance with Paragraph 177.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 182. Within three months of the finalization of these policies consistent with ¶ 165 of this Order, the Sheriff will provide training that is adequate in quality, quantity, scope, and type, as determined by the Monitor, to all Supervisors on their obligations when called to a scene by a subordinate to accept a civilian complaint about that subordinate's conduct and on their obligations when they are phoned or emailed directly by a civilian filing a complaint against one of their subordinates.

MCSO remains in Full and Effective Compliance with Paragraph 182.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 184. All findings will be based on the appropriate standard of proof. These standards will be clearly delineated in policies, training, and procedures, and accompanied by detailed examples to ensure proper application by internal affairs investigators.

MCSO remains in Full and Effective Compliance with Paragraph 184.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 185. Upon receipt of any allegation of misconduct, whether internally discovered or based upon a civilian complaint, employees shall immediately notify the Professional Standards Bureau.

MCSO remains in Full and Effective Compliance with Paragraph 185.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 186. Effective immediately, the Professional Standards Bureau shall maintain a centralized electronic numbering and tracking system for all allegations of misconduct, whether internally discovered or based upon a civilian complaint. Upon being notified of any allegation of misconduct, the Professional Standards Bureau will promptly assign a unique identifier to the incident. If the allegation was made through a civilian complaint, the unique identifier will be provided to the complainant at the time the complaint is made. The Professional Standards Bureau's centralized numbering and tracking system will maintain accurate and reliable data regarding the number, nature, and status of all misconduct allegations, from initial intake to final disposition, including investigation timeliness and notification to the complainant of the interim status, if requested, and final disposition of the complaint. The system will be used to determine the status of misconduct investigations, as well as for periodic assessment of compliance with relevant policies and procedures and this Order, including requirements of timeliness of investigations. The system also will be used to monitor and maintain appropriate caseloads for internal affairs investigators.

MCSO remains in Full and Effective Compliance with Paragraph 186.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 187. The Professional Standards Bureau shall maintain a complete file of all documents within the MCSO's custody and control relating to any investigations and related disciplinary proceedings, including pre-determination hearings, grievance proceedings, and appeals to the Maricopa County Law Enforcement Merit System Council or a state court.

MCSO remains in Full and Effective Compliance with Paragraph 187.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

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

MCSO remains in Full and Effective Compliance with Paragraph 188.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 189. The Professional Standards Bureau shall administratively investigate:

- a. misconduct allegations of a serious nature, including any allegation that may result in suspension, demotion, or termination; and*
- b. misconduct indicating apparent criminal conduct by an employee.*

MCSO asserts full and effective compliance with the requirements for Paragraph 189 in accordance with Paragraph 13.

MCSO asserts that it has been in compliance with the requirements of Paragraph 189 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 189 was first achieved on June 30, 2017. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2020.

Phase 1 compliance with the requirements of this Paragraph is demonstrated by MCSO Policy CP-2 (Code of Conduct), most recently amended on October 28, 2021, CP-3 (Workplace Professionalism: Discrimination and Harassment), most recently amended on March 4, 2021, CP-5 (Truthfulness), most recently amended on September 11, 2020, CP-11 (Anti-Retaliation), most recently amended on December 13, 2018, GC-17 (Employee Disciplinary Procedures), most recently amended on May 28, 2021, GH-2 (Internal Investigations), most recently amended on May 28, 2021, and the Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2 compliance with the requirements of this Paragraph is demonstrated by the Monitor's review of administrative misconduct investigations each reporting period. The Monitor has consistently found that MCSO has been in compliance with the requirements of this Paragraph.

***Paragraph 191.** If at any point during a misconduct investigation an investigating Supervisor outside of the Professional Standards Bureau believes that the principal may have committed misconduct of a serious or criminal nature, he or she shall immediately notify the Professional Standards Bureau, which shall take over the investigation.*

MCSO asserts full and effective compliance with the requirements for Paragraph 191 in accordance with Paragraph 13.

MCSO asserts that it has been in compliance with the requirements of Paragraph 191 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 191 was first achieved on June 30, 2017. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2020.

Phase 1 compliance with the requirements of this Paragraph is demonstrated by MCSO Policy GH-2 (Internal Investigations), most recently amended on May 28, 2021.

Phase 2 compliance with the requirements of this Paragraph is demonstrated by the Monitor's review of administrative misconduct investigations each reporting period. The Monitor has consistently found that MCSO has been in compliance with the requirements of this Paragraph.

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

MCSO asserts full and effective compliance with the requirements for Paragraph 193 in accordance with Paragraph 13.

MCSO asserts that it has been in compliance with the requirements of Paragraph 193 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 193 was first achieved on June 30, 2017. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2020.

Phase 1 compliance with the requirements of this Paragraph is demonstrated by MCSO Policy GC-17 (Employee Disciplinary Procedures), most recently amended on May 28, 2021, GH-2 (Internal Investigations), most recently amended on May 28, 2021, the Administrative Services Division Operations Manual, most recently amended on September 2, 2020, and the Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2 compliance with the requirements of this Paragraph is demonstrated by the Monitor's review of administrative misconduct investigations each reporting period. The Monitor has consistently found that MCSO has been in compliance with the requirements of this Paragraph.

Paragraph 194. The Commander of the Professional Standards Bureau shall ensure that investigations comply with MCSO policy and all requirements of this Order, including those related to training, investigators' disciplinary backgrounds, and conflicts of interest.

MCSO is in Phase 1 compliance with Paragraph 194. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

MCSO continues to object to the Monitor's method of assessment for compliance with Paragraph 194. Paragraph 194 requires the PSB Commander to ensure that investigations comply with MCSO policy and the Order. Deficiencies in District investigations are addressed in Paragraph 211 and are outside of the requirements for Paragraph 194. Yet the Monitor has determined that cases are not in compliance if PSB discovers and corrects deficiencies in an investigation prior to the completion of the investigation. PSB's reviews correct most deficiencies identified. As the Monitor's 29th Quarterly Report notes, "We continue to find that PSB personnel are identifying and ensuring that corrections are made and all documentation is completed in those cases they review." (Monitor's 29th Quarterly Report at Paragraph 194).

PSB's actions comply with Paragraph 194 and meet this Paragraph's goal of ensuring compliant final investigations by MCSO.

Paragraph 195. Within six months of the entry of this Order, the Professional Standards Bureau shall include sufficient trained personnel to fulfill the requirements of this Order.

MCSO is in Phase 1 compliance with Paragraph 195. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

MCSO has continued its efforts to hire civilian investigators and has contracted with an outside consulting firm that is providing further investigative support. It has also been increasing its administrative staff who support the investigators' work. By the end of the second quarter of 2021, PSB staff included 19 sworn personnel, 19 detention personnel, 17 civilian personnel. The total number of investigators was 27. As a result of a recent restructuring, PSB has hired three more civilian investigators during this quarter. Furthermore, during this quarter PSB initiated the hiring process of four additional administrative support staff. These will replace three vacant sergeant positions. Filling sworn positions has been difficult for PSB and for MCSO officewide.

These efforts to increase PSB staff and consultant support have been one part of MCSO's effort to reduce the backlog of administrative investigations that has developed while implementing the orders. MCSO believes that hiring more staff is part of the solution, but other issues also need to be addressed. As part of the process for identifying solutions, MCSO has been working with the Court's appointed management expert, Michael Gennaco. Mr. Gennaco was appointed on September 7, 2021, and his evaluation of MCSO continues. MCSO hopes that Mr. Gennaco's recommendations will guide MCSO, the Monitor, and the Parties to workable solutions for reducing the backlog.

PSB has demonstrated that it conducts fair, impartial, thorough, and complete misconduct investigations, and issues fair and equitable discipline when warranted. All investigators assigned to

PSB receive annual training to include the initial 40-hour Misconduct Investigations training and the 8-hour annual training for conducting misconduct investigations, as specified in Paragraphs 178 and 179.

***Paragraph 196.** Where appropriate to ensure the fact and appearance of impartiality, the Commander of the Professional Standards Bureau or the Chief Deputy may refer administrative misconduct investigations to another law enforcement agency or may retain a qualified outside investigator to conduct the investigation. Any outside investigator retained by the MCSO must possess the requisite background and level of experience of Internal Affairs investigators and must be free of any actual or perceived conflicts of interest.*

MCSO asserts full and effective compliance with the requirements for Paragraph 196 in accordance with Paragraph 13.

MCSO asserts that it has been in compliance with the requirements of Paragraph 189 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 189 was first achieved on June 30, 2017. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2020.

Phase 1 compliance with the requirements of this Paragraph is demonstrated by MCSO Policy GH-2 (Internal Investigations), most recently amended on May 28, 2021, and the Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2 compliance with the requirements of this Paragraph is demonstrated by the Monitor's review of the number of misconduct investigations assigned to outside investigators and the qualifications of those outside investigators. The Monitor has consistently found that MCSO has been in compliance with the requirements of this Paragraph.

***Paragraph 199.** The MCSO will ensure that the qualifications for service as an internal affairs investigator shall be clearly defined and that anyone tasked with investigating employee misconduct possesses excellent investigative skills, a reputation for integrity, the ability to write clear reports, and the ability to be fair and objective in determining whether an employee committed misconduct. Employees with a history of multiple sustained misconduct allegations, or one sustained allegation of a Category 6 or Category 7 offense from MCSO's disciplinary matrices, will be presumptively ineligible to conduct misconduct investigations. Employees with a history of conducting deficient investigations will also be presumptively ineligible for these duties.*

MCSO asserts full and effective compliance with the requirements for Paragraph 199 in accordance with Paragraph 13.

MCSO asserts that it has been in compliance with the requirements of Paragraph 199 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 199 was first achieved on June 30, 2017. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2020.

Phase 1 compliance with the requirements of this Paragraph is demonstrated by MCSO Policy GH-2 (Internal Investigations), most recently amended on May 28, 2021, and the Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2 compliance with the requirements of this Paragraph is demonstrated by the Monitor's review of MCSO's documentation of the review process used to ensure that only supervisors who meet the criteria established by this Paragraph are assigned misconduct investigations. The Monitor has consistently found that MCSO has been in compliance with the requirements of this Paragraph.

***Paragraph 201.** There will be no automatic preference for an employee's statement over a nonemployee's statement. Internal affairs investigators will not disregard a witness's statement solely because the witness has some connection to either the complainant or the employee or because the witness or complainant has a criminal history, but may consider the witness's criminal history or any adjudicated findings of untruthfulness in evaluating that witness's statement. In conducting the investigation, internal affairs investigators may take into account the record of any witness, complainant, or officer who has been determined to have been deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation.*

MCSO asserts full and effective compliance with the requirements for Paragraph 201 in accordance with Paragraph 13.

MCSO asserts that it has been in compliance with the requirements of Paragraph 201 for at least three consecutive years. Phase 1 and Phase 2 compliance with Paragraph 201 was first achieved on June 30, 2017. MCSO achieved three consecutive years of Phase 1 and Phase 2 compliance with this Paragraph on June 30, 2020.

Phase 1 compliance with the requirements of this Paragraph is demonstrated by MCSO Policy GH-2 (Internal Investigations), most recently amended on May 28, 2021, and the Professional Standards Bureau Operations Manual, published on December 13, 2018.

Phase 2 compliance with the requirements of this Paragraph is demonstrated by the Monitor's review of administrative misconduct investigations each reporting period. The Monitor has consistently found that MCSO has been in compliance with the requirements of this Paragraph.

***Paragraph 204.** Internal affairs investigators will complete their administrative investigations within 85 calendar days of the initiation of the investigation (60 calendar days if within a Division). Any request for an extension of time must be approved in writing by the Commander of the Professional Standards Bureau. Reasonable requests for extensions of time may be granted.*

MCSO is in Phase 1 compliance with Paragraph 204. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

MCSO has a significant caseload of administrative investigations. Reducing that caseload and shortening the time required to complete investigations is a priority. MCSO initiated 1,204 complaint investigations in 2020. The total number of investigations for 2019 was 1,111. The total number of

investigations for 2018 was 1,114. The total number of investigations for 2017 was 1,028. MCSO closed 628 investigations in 2017, 518 investigations in 2018, 727 investigations in 2019, and 995 investigations in 2020.

During the first three quarters of 2021 MCSO initiated 890 investigations and closed 781. The current average caseload is 72 investigations per investigator.

MCSO has continued to try to use its resources effectively to produce quality investigations and manage the caseload. A new captain joined PSB during the first quarter of 2021, and he has been examining ways to complete cases more efficiently. PSB has also made several modifications to improve efficiency, such as removing redundant levels of the command review process, a command review project to address cases that have been in stagnant in the command review stage, the implementation of a PSB case tracking worksheet to identify additional areas of efficiency enhancement, and the transition of transitioning division review sergeants back to investigating cases. PSB triages and assigns cases to investigators to attempt to maximize efficiency. In early 2021, MCSO initiated a pilot program in which the Employee Retention and Performance Division (“ERPD”) reviewed some internal PSB complaints to assess whether employee personal relationship concerns or performance issues in which internal policy violations were not readily apparent, could be addressed by the ERPD rather than PSB. (MCSO will provide additional information about this pilot after its conclusion.) It is anticipated that some complaints could be resolved through ERPD rather than an administrative investigation process, which would help reduce the caseload. During the second quarter of 2021, PSB has prioritized efforts to identify additional efficiencies and establish a plan to implement these efficiencies within the parameters of this Order. This has included eliminating redundant command reviews, along with adjustments to the organizational structure of PSB staff. Furthermore, PSB’s efforts this quarter also focused on identifying and processing cases where command review was pending while also processing current cases without the redundant reviews.

Since becoming concerned about the increased caseloads in 2018, MCSO has put forth suggestions for changes to the requirements for administrative misconduct investigations. It has proposed permitting more management discretion regarding opening and closing administrative investigations. It has also recommended that the timelines in this paragraph be modified to be consistent with state law. MCSO and the Parties were unable to agree on proposals to help reduce the caseload. Because MCSO’s suggestions require modifications to the Order, during this quarter, MCSO filed a motion asking the Court to approve these changes. That motion remains pending. Also, in response to Plaintiffs’ motion (filed in the first quarter of 2021) asking the Court to hold the Sheriff in contempt because of the backlog in administrative investigations, the Sheriff proposed that the Court engage a management consultant to make recommendations on issues related to the backlog of administrative investigations. MCSO will report on that work in future reports.

While MCSO has attempted to address these issues about the volume of administrative investigations, it has also requested for the past several reporting periods that the Monitor use his authority to address the issue. As outlined in Paragraph 138, the Monitor is required to conduct a comprehensive annual reassessment and determine whether and to what extent the desired outcomes have been achieved and whether any modifications to the Order are necessary in light of the unanticipated high volume of administrative investigations. This reassessment is required to address areas of greatest concern, including strategies for accelerating Full and Effective Compliance. Based upon this comprehensive

reassessment, the Monitor may recommend modifications to the Order that he believes are necessary to achieve and sustain the intended outcomes.

The Sherriff's 29th Quarterly Report noted that a court appointed management consultant may also help develop proposals that could be part of the Monitor's assessment on methods of accelerating achievement of Full and Effective Compliance. The Court appointed Michael Gennaco on September 7, 2021, and his review continues. MCSO looks forward to continuing to work with Mr. Gennaco and reviewing his proposals

MCSO recognizes the importance of addressing the volume of administrative investigations and will continue to attempt to do so.

Paragraph 207. *In assessing the incident for policy, training, tactical, or equipment concerns, investigation reports will include an assessment of whether:*

- a. the law enforcement action was in compliance with training and legal standards;*
- b. the use of different tactics should or could have been employed;*
- c. the incident indicates a need for additional training, counseling, or other non-disciplinary corrective actions; and*
- d. the incident suggests that the MCSO should revise its policies, strategies, tactics, or training.*

MCSO in Phase 1 and Phase 2 Compliance with Paragraph 207

The Monitor has assessed MCSO as being in Phase 1 and Phase 2 compliance with this Paragraph since its 13th Quarterly Report, which reflects MCSO's efforts in ensuring complete and well-done investigations. PSB continues to work to improve communications within MCSO to allow for command structures to better monitor and track items of concern.

Paragraph 210. *For investigations carried out by the Professional Standards Bureau, the investigator shall forward the completed investigation report to the Commander.*

MCSO remains in Full and Effective Compliance with Paragraph 210.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 211. *If the Commander—meaning the Commander of the PSB or the Commander of the Division in which the internal affairs investigation was conducted—determines that the findings of the investigation report are not supported by the appropriate standard of proof, the Commander shall return the investigation to the investigator for correction or additional investigative effort, shall document the inadequacies, and shall include this documentation as an addendum to the original investigation. The investigator's Supervisor shall take appropriate action to address the inadequately supported determination and any investigative deficiencies that led to it. The Commander shall be*

responsible for the accuracy and completeness of investigation reports prepared by internal affairs investigators under his or her command.

MCSO is in Phase 1 compliance with Paragraph 211. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

MCSO continues to object to the Monitor's method of assessment for compliance with Paragraph 211 because it far exceeds the actual requirements of Paragraph 211, and instead imports requirements from other Paragraphs. For example, the Monitor's assessment of compliance with Paragraph 211 includes a timeline evaluation for completion of administrative investigations, which is a requirement of Paragraph 204, not 211.

Paragraph 211 requires that (1) the Commander of the Division in which an administrative investigation is conducted shall return investigations that have findings not supported by the appropriate standard of proof for correction or additional investigation; (2) the Commander shall document the inadequacies and include this documentation as an addendum to the original investigation; and (3) the investigator's supervisor shall take action to address the deficiencies. MCSO's Commanders and supervisors continue their efforts to comply with these requirements.

***Paragraph 214.** At the discretion of the Commander of the Professional Standards Bureau, a misconduct investigation may be assigned or re-assigned to another Supervisor with the approval of his or her Commander, whether within or outside of the District or Bureau in which the incident occurred, or may be returned to the original Supervisor for further investigation or analysis. This assignment or re-assignment shall be explained in writing.*

MCSO remains in Full and Effective Compliance with Paragraph 214.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 215.** If, after an investigation conducted outside of the Professional Standards Bureau, an employee's actions are found to violate policy, the investigating Supervisor's Commander shall direct and ensure appropriate discipline and/or corrective action. Where the incident indicates policy, training, tactical, or equipment concerns, the Commander shall also ensure that necessary training is delivered and that policy, tactical, or equipment concerns are resolved.*

MCSO remains in Full and Effective Compliance with Paragraph 215.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 217. The Professional Standards Bureau shall conduct targeted and random reviews of discipline imposed by Commanders for minor misconduct to ensure compliance with MCSO policy and legal standards.

MCSO remains in Full and Effective Compliance with Paragraph 217.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 218. The Professional Standards Bureau shall maintain all administrative investigation reports and files after they are completed for record-keeping in accordance with applicable law.

MCSO remains in Full and Effective Compliance with Paragraph 218.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 220. To ensure consistency in the imposition of discipline, the Sheriff shall review the MCSO's current disciplinary matrices and, upon approval of the parties and the Monitor, will amend them as necessary to ensure that they:

- a. establish a presumptive range of discipline for each type of violation;*
- b. increase the presumptive discipline based on an employee's prior violations;*
- c. set out defined mitigating and aggravating factors;*
- d. prohibit consideration of the employee's race, gender, gender identity, sexual orientation, national origin, age, or ethnicity;*
- e. prohibit conflicts, nepotism, or bias of any kind in the administration of discipline;*
- f. prohibit consideration of the high (or low) profile nature of the incident, including media coverage or other public attention;*
- g. clearly define forms of discipline and define classes of discipline as used in policies and operations manuals;*
- h. provide that corrective action such as coaching or training is not considered to be discipline and should not be used as a substitute for discipline where the matrix calls for discipline;*
- i. provide that the MCSO will not take only non-disciplinary corrective action in cases in which the disciplinary matrices call for the imposition of discipline;*
- j. provide that the MCSO will consider whether non-disciplinary corrective action is also appropriate in a case where discipline has been imposed;*
- k. require that any departures from the discipline recommended under the disciplinary matrices be justified in writing and included in the employee's file; and*
- l. provide a disciplinary matrix for unclassified management level employees that is at least as demanding as the disciplinary matrix for management level employees.*

MCSO is in Phase 1 and Phase 2 compliance with Paragraph 220.

Compliance for this Paragraph is based on the discipline findings for both minor and serious discipline. The Monitor's 29th Report found MCSO in compliance for this rating period. MCSO continues to review the current disciplinary matrices and propose amendments as necessary to address the requirements of this Paragraph.

Paragraph 221. The Sheriff shall mandate that each act or omission that results in a sustained misconduct allegation shall be treated as a separate offense for the purposes of imposing discipline.

MCSO remains in Full and Effective Compliance with Paragraph 221.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 223. If the Commander of the Professional Standards Bureau makes a preliminary determination that serious discipline (defined as suspension, demotion, or termination) should be imposed, a designated member of MCSO's command staff will conduct a pre-determination hearing and will provide the employee with an opportunity to be heard.

MCSO remains in Full and Effective Compliance with Paragraph 223.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 224. Pre-determination hearings will be audio and video recorded in their entirety, and the recording shall be maintained with the administrative investigation file.

MCSO remains in Full and Effective Compliance with Paragraph 224.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 225. If an employee provides new or additional evidence at a pre-determination hearing, the hearing will be suspended and the matter will be returned to the internal affairs investigator for consideration or further investigation, as necessary. If after any further investigation or consideration of the new or additional evidence, there is no change in the determination of preliminary discipline, the matter will go back to the pre-determination hearing. The Professional Standards Bureau shall initiate a separate misconduct investigation if it appears that the employee intentionally withheld the new or additional evidence during the initial misconduct investigation.

MCSO remains in Full and Effective Compliance with Paragraph 225.

MCSO remains in Full and Effective Compliance with this Paragraph. For more detailed information, please refer to Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 227. The Sheriff shall promulgate MCSO policy which shall provide that the designated member of MCSO's command staff conducting a pre-determination hearing should apply the disciplinary matrix and set forth clear guidelines for the grounds on which a deviation is permitted. The Sheriff shall mandate that the designated member of MCSO's command staff may not consider the following as grounds for mitigation or reducing the level of discipline prescribed by the matrix:

- a. his or her personal opinion about the employee's reputation;*
- b. the employee's past disciplinary history (or lack thereof), except as provided in the disciplinary matrix;*
- c. whether others were jointly responsible for the misconduct, except that the MCSO disciplinary decision maker may consider the measure of discipline imposed on other employees involved to the extent that discipline on others had been previously imposed and the conduct was similarly culpable.*

MCSO remains in Full and Effective Compliance with Paragraph 227.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 228. The Sheriff or his designee has the authority to rescind, revoke or alter any disciplinary decision made by either the Commander of the Professional Standards Bureau or the appointed MCSO disciplinary authority so long as:

- a. that decision does not relate to the Sheriff or his designee;*
- b. the Sheriff or his designee provides a thorough written and reasonable explanation for the grounds of the decision as to each employee involved;*
- c. the written explanation is placed in the employment files of all employees who were affected by the decision of the Sheriff or his designee; and*
- d. the written explanation is available to the public upon request.*

MCSO remains in Full and Effective Compliance with Paragraph 228.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 229. Whenever an internal affairs investigator or Commander finds evidence of misconduct indicating apparent criminal conduct by an employee, the Sheriff shall require that the internal affairs investigator or Commander immediately notify the Commander of the Professional Standards Bureau. If the administrative misconduct investigation is being conducted by a Supervisor outside of the Professional Standards Bureau, the Sheriff shall require that the Professional Standards Bureau immediately take over the administrative investigation. If the evidence of misconduct pertains to

someone who is superior in rank to the Commander of the Professional Standards Bureau and is within the Commander's chain of command, the Sheriff shall require the Commander to provide the evidence directly to what he or she believes is the appropriate prosecuting authority—the Maricopa County Attorney, the Arizona Attorney General, or the United States Attorney for the District of Arizona—without notifying those in his or her chain of command who may be the subject of a criminal investigation.

MCSO remains in Full and Effective Compliance with Paragraph 229.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 230.** If a misconduct allegation will be investigated criminally, the Sheriff shall require that the Professional Standards Bureau not compel an interview of the principal pursuant to *Garrity v. New Jersey*, 385 U.S. 493 (1967), until it has first consulted with the criminal investigator and the relevant prosecuting authority. No other part of the administrative investigation shall be held in abeyance unless specifically authorized by the Commander of the Professional Standards Bureau in consultation with the entity conducting the criminal investigation. The Sheriff shall require the Professional Standards Bureau to document in writing all decisions regarding compelling an interview, all decisions to hold any aspect of an administrative investigation in abeyance, and all consultations with the criminal investigator and prosecuting authority.*

MCSO remains in Full and Effective Compliance with Paragraph 230.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 231.** The Sheriff shall require the Professional Standards Bureau to ensure that investigators conducting a criminal investigation do not have access to any statements by the principal that were compelled pursuant to *Garrity*.*

MCSO remains in Full and Effective Compliance with Paragraph 231.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 232.** The Sheriff shall require the Professional Standards Bureau to complete all such administrative investigations regardless of the outcome of any criminal investigation, including cases in which the prosecuting agency declines to prosecute or dismisses the criminal case after the initiation of criminal charges. The Sheriff shall require that all relevant provisions of MCSO policies and procedures and the operations manual for the Professional Standards Bureau shall remind members of the Bureau that administrative and criminal cases are held to different standards of proof, that the*

elements of a policy violation differ from those of a criminal offense, and that the purposes of the administrative investigation process differ from those of the criminal investigation process.

MCSO remains in Full and Effective Compliance with Paragraph 232.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 233.** If the investigator conducting the criminal investigation decides to close the investigation without referring it to a prosecuting agency, this decision must be documented in writing and provided to the Professional Standards Bureau. The Commander of the Professional Standards Bureau shall separately consider whether to refer the matter to a prosecuting agency and shall document the decision in writing.*

MCSO remains in Full and Effective Compliance with Paragraph 233.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 234.** If the investigator conducting the criminal investigation decides to refer the matter to a prosecuting agency, the Professional Standards Bureau shall review the information provided to the prosecuting agency to ensure that it is of sufficient quality and completeness. The Commander of the Professional Standards Bureau shall direct that the investigator conduct additional investigation when it appears that there is additional relevant evidence that may improve the reliability or credibility of the investigation. Such directions shall be documented in writing and included in the investigatory file.*

MCSO remains in Full and Effective Compliance with Paragraph 234.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 235.** If the prosecuting agency declines to prosecute or dismisses the criminal case after the initiation of criminal charges, the Professional Standards Bureau shall request an explanation for this decision, which shall be documented in writing and appended to the criminal investigation report.*

MCSO remains in Full and Effective Compliance with Paragraph 235.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 236.** The Sheriff shall require the Professional Standards Bureau to maintain all criminal investigation reports and files after they are completed for record-keeping in accordance with applicable law.*

MCSO remains in Full and Effective Compliance with Paragraph 236.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 238.** The Sheriff shall require the MCSO to accept all civilian complaints, whether submitted verbally or in writing; in person, by phone, by mail, or online; by a complainant, someone acting on the complainant's behalf, or anonymously; and with or without a signature from the complainant. MCSO will document all complaints in writing.*

MCSO remains in Full and Effective Compliance with Paragraph 238.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 239.** In locations clearly visible to members of the public at the reception desk at MCSO headquarters and at all District stations, the Sheriff and the MCSO will post and maintain permanent placards clearly and simply describing the civilian complaint process that is visible to the public at all hours. The placards shall include relevant contact information, including telephone numbers, email addresses, mailing addresses, and Internet sites. The placards shall be in both English and Spanish.*

MCSO remains in Full and Effective Compliance with Paragraph 239.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 244.** The Sheriff shall ensure that the MCSO's complaint form does not contain any language that could reasonably be construed as discouraging the filing of a complaint, such as warnings about the potential criminal consequences for filing false complaints.*

MCSO remains in Full and Effective Compliance with Paragraph 244.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 245.** Within two months of the entry of this Order, complaint forms will be made available, at a minimum, in English and Spanish. The MCSO will make reasonable efforts to ensure that complainants who speak other languages (including sign language) and have limited English proficiency can file complaints in their preferred language. The fact that a complainant does not speak,*

read, or write in English, or is deaf or hard of hearing, will not be grounds to decline to accept or investigate a complaint.

MCSO remains in Full and Effective Compliance with Paragraph 245.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 247.** Notwithstanding the above written communications, a complainant and/or his or her representative may contact the Professional Standards Bureau at any time to determine the status of his or her complaint. The Sheriff shall require the MCSO to update the complainant with the status of the investigation.*

MCSO remains in Full and Effective Compliance with Paragraph 247.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 248.** The Professional Standards Bureau will track, as a separate category of complaints, allegations of biased policing, including allegations that a deputy conducted an investigatory stop or arrest based on an individual's demographic category or used a slur based on an individual's actual or perceived race, ethnicity, nationality, or immigration status, sex, sexual orientation, or gender identity. The Professional Standards Bureau will require that complaints of biased policing are captured and tracked appropriately, even if the complainant does not so label the allegation.*

MCSO remains in Full and Effective Compliance with Paragraph 248.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 249.** The Professional Standards Bureau will track, as a separate category of complaints, allegations of unlawful investigatory stops, searches, seizures, or arrests.*

MCSO remains in Full and Effective Compliance with Paragraph 249.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

***Paragraph 260.** The MCSO shall produce an annual report on the testing program. This report shall include, at a minimum:*

- a. *a description of the testing program, including the testing methodology and the number of tests conducted broken down by type (i.e., in-person, telephonic, mail, and electronic);*
- b. *the number and proportion of tests in which employees responded inappropriately to a tester;*
- c. *the number and proportion of tests in which employees provided inaccurate information about the complaint process to a tester;*
- d. *the number and proportion of tests in which employees failed to promptly notify the Professional Standards Bureau of the civilian complaint;*
- e. *the number and proportion of tests in which employees failed to convey accurate information about the complaint to the Professional Standards Bureau;*
- f. *an evaluation of the civilian complaint intake based upon the results of the testing program; and*
- g. *a description of any steps to be taken to improve civilian complaint intake as a result of the testing program.*

MCSO is in both Phase 1 and Phase 2 compliance with Paragraph 260.

On 1-27-2020 AIU received final approval from the Monitors for the Compliant Intake Testing Annual Report Methodology. AIU published the 1st annual report during the first half of March 2020 that covered the months of December 2018 through June 2019. The annual report for July 2019 through June 2020 was published 9-14-2020. Finally, the annual report for July 2020 through June 2021 has been completed and was published in the third quarter of 2021.

Due to COVID-19, in-person complaint intake testing was suspended in early 2020; however, current conditions have allowed in-person testing to resume as of April 2021. In-person testing is currently underway.

In its 29th Quarterly Report, the Monitor noted that MCSO would explore making the annual report's findings available through HUB. Thus far, however, the annual report's findings and the actions needed to address those findings have not been agency wide issues. For example, AIU determined that the Comment Complaint form was difficult to find online. AIU worked with IT to make it easier to locate. In another example, AIU worked with a specific unit, Dispatch, to create a flowchart to assist dispatchers in correctly handling complaints.

The report is distributed to all commanders, shared in commanders' meetings, and shared in townhalls. Whether HUB is the best way to disseminate this information is unclear, but MCSO is open to further conversations on the issue.

Section 13: Community Outreach and Community Advisory Board

Paragraph 261. The Community Advisory Board may conduct or retain a consultant to conduct a study to identify barriers to the filing of civilian complaints against MCSO personnel.

Phase 1 and Phase 2 compliance are not applicable.

Paragraph 262. In addition to the administrative support provided for in the Supplemental Permanent Injunction, (Doc. 670 ¶ 117), the Community Advisory Board shall be provided with annual funding to support its activities, including but not limited to funds for appropriate research, outreach advertising and website maintenance, stipends for intern support, professional interpretation and translation, and out-of-pocket costs of the Community Advisory Board members for transportation related to their official responsibilities. The Community Advisory Board shall submit a proposed annual budget to the Monitor, not to exceed \$15,000, and upon approval of the annual budget, the County shall deposit that amount into an account established by the Community Advisory Board for that purpose. The Community Advisory Board shall be required to keep detailed records of expenditures which are subject to review.

Phase 1 and Phase 2 compliance are not applicable.

Section 14: Supervision and Staffing

The following is a listing of each Paragraph in Section 14, Supervision and Staffing, that MCSO is rated as “in compliance” or “not applicable” for both Phase 1 and Phase 2: 268.

Listed in detail are Paragraphs that are rated as “not in compliance” or “deferred” along with plans to correct any problems and responses to concerns. Paragraphs for which MCSO remains in “Full and Effective Compliance” are detailed below.

***Paragraph 264.** The Sheriff shall ensure that all patrol deputies shall be assigned to a primary, clearly identified, first-line supervisor.*

MCSO remains in Full and Effective Compliance with Paragraph 264.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone’s 29th Quarterly Report (Doc. 2703-1).

***Paragraph 265.** First-line patrol supervisors shall be responsible for closely and consistently supervising all deputies under their primary command.*

MCSO is in Phase 1 compliance with Paragraph 265. Based on the Monitor’s 29th Quarterly Report, MCSO is not in Phase 2 compliance.

According to the Monitor’s 28th Quarterly Report, MCSO must attain compliance standards with several requirements covered in other Paragraphs of the Court’s Order. The Paragraphs listed by the Monitor are: Paragraphs 83, 85, 89, 90, 91, 93, and 94. MCSO is in compliance with Paragraphs 83, 85, 89, 90, 91, and 93. In order to achieve Phase 2 compliance with Paragraph 265, MCSO must achieve compliance with Paragraph 94.

MCSO has been very close to achieving Phase 2 compliance with the requirements of Paragraph 94 for some time. In the last quarter, MCSO achieved a compliance rating of 92.74% for Paragraph 94. . MCSO continues to reinforce the necessity for quality and thoroughness in the supervisory reviews of arrests.

***Paragraph 266.** First-line patrol supervisors shall be assigned as primary supervisor to no more persons than it is possible to effectively supervise. The Sheriff should seek to establish staffing that permits a supervisor to oversee no more than eight deputies, but in no event should a supervisor be responsible for more than ten persons. If the Sheriff determines that assignment complexity, the geographic size of a district, the volume of calls for service, or other circumstances warrant an increase or decrease in the level of supervision for any unit, squad, or shift, it shall explain such reasons in writing, and, during the period that the MCSO is subject to the Monitor, shall provide the Monitor with such explanations. The Monitor shall provide an assessment to the Court as to whether the reduced or increased ratio is appropriate in the circumstances indicated.*

MCSO remains in Full and Effective Compliance with Paragraph 266.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 267. Supervisors shall be responsible for close and effective supervision of deputies under their command. Supervisors shall ensure that all deputies under their direct command comply with MCSO policy, federal, state and local law, and this Court's orders.

MCSO is in Phase 1 compliance with Paragraph 267. Based on the Monitor's 29th Quarterly Report, MCSO is not in Phase 2 compliance.

As previously stated in Paragraph 96, MCSO continues to stress the importance of this Paragraph's requirements through various methods, to include training for all supervisors/commanders and in communication with division commanders. MCSO BIO has been identifying and addressing these matters directly with involved patrol supervisors and commanders. MCSO is encouraged by the effectiveness of its internal review processes in BIO and is committed to continued improvement in the identification and appropriate resolution of these matters at the district/division level.

Section 15: Document Preservation and Production

The following is a listing of each Paragraph in Section 15, Document Preservation, that MCSO is rated as “in compliance,” “not applicable,” or “deferred” for both Phase 1 and Phase 2:, 271 and 272.

***Paragraph 269.** The Sheriff shall ensure that when the MCSO receives a document preservation document from a litigant, the MCSO shall promptly communicate that document preservation notice to all personnel who might possibly have responsive documents.*

MCSO is in Phase 1 compliance with Paragraph 269. Based on the Monitor’s 29th Quarterly Report, assessment of Phase 2 compliance has been deferred.

The Monitor’s 29th Quarterly Report noted that, because of a transition from legacy hardware, MCSO was in the process of indexing the files stored in the new storage array, Qumolo. Indexing is currently around 80% complete. MCSO is in the process of rerunning the searches related to preservation requests that occurred between August 2020 through February 2021 to ensure that everything was accounted for. That re-run is currently at 40% but has been put on hold to allow MSCO to focus on the indexing of files. MCSO anticipates that it will resume the re-run in early 2022.

Indexing is and has always been an on-going process. When new files are created or old files are updated, it takes time for the index to update and be searchable through Open Axes. As a result, Open Axes is and has always been a failsafe to ensure no documents are missed. Even if a document is not indexed and available to Open Axes, MCSO’s standard, manual document retention policy is sufficiently robust to ensure preservation requests are complied with. LLS provides document retention notices to relevant custodians even in the absence of an Open Axes search result, which ensures that all relevant documents are preserved regardless of whether Open Axes located it. As such, MCSO asserts that it remains in compliance with this Paragraph. The necessary protocols for document preservation are in place and they are working.

***Paragraph 270.** The Sheriff shall ensure that when the MCSO receives a request for documents in the course of litigation, it shall:*

- a. promptly communicate the document request to all personnel who might possibly be in possession of responsive documents;*
- b. ensure that all existing electronic files, including email files and data stored on networked drives, are sequestered and preserved through a centralized process; and*
- c. ensure that a thorough and adequate search for documents is conducted, and that each employee who might possibly be in possession of responsive documents conducts a thorough and adequate search of all relevant physical and electronic files.*

MCSO is in Phase 1 compliance with Paragraph 270. Based on the Monitor's 29th Quarterly Report, assessment of Phase 2 compliance has been deferred.

The Monitor has deferred assessing Phase 2 compliance of this Paragraph for the same reasons it has deferred assessment of Phase 2 compliance for Paragraph 269. For the reasons stated regarding Paragraph 269, MCSO asserts that assessment should not be deferred and that it is in compliance with Paragraph 270.

Section 16: Additional Training

Paragraph 273. Within two months of the entry of this Order, the Sheriff shall ensure that all employees are briefed and presented with the terms of the Order, along with relevant background information about the Court's May 13, 2016 Findings of Fact, (Doc. 1677), upon which this Order is based.

MCSO remains in Full and Effective Compliance with Paragraph 273.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Section 17: Complaints and Misconduct Investigations Relating to Members of the Plaintiff Class

The following is a listing of each Paragraph in Section 17, Complaints and Misconduct Investigations Relating to Members of the Plaintiff Class, that MCSO is rated as “in compliance” or “not applicable” for both Phase 1 and Phase 2: 280, 282, 283, 284, 285, 286, 288, 289, 291, and 293.

Listed in detail are Paragraphs that are rated as “not in compliance” or “deferred” along with plans to correct any problems and responses to concerns. Paragraphs for which MCSO remains in “Full and Effective Compliance” are detailed below.

***Paragraph 276.** The Monitor shall have the authority to direct and/or approve all aspects of the intake and investigation of Class Remedial Matters, the assignment of responsibility for such investigations including, if necessary, assignment to his own Monitor team or to other independent sources for investigation, the preliminary and final investigation of complaints and/or the determination of whether they should be criminally or administratively investigated, the determination of responsibility and the imposition of discipline on all matters, and any grievances filed in those matters.*

MCSO remains in Full and Effective Compliance with Paragraph 276.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone’s 29th Quarterly Report (Doc. 2703-1).

***Paragraph 278.** The Sheriff shall alert the Monitor in writing to all matters that could be considered Class Remedial Matters, and the Monitor has the authority to independently identify such matters. The Monitor shall provide an effective level of oversight to provide reasonable assurance that all Class Remedial Matters come to his attention.*

MCSO remains in Full and Effective Compliance with Paragraph 278.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone’s 29th Quarterly Report (Doc. 2703-1).

***Paragraph 279.** The Monitor shall have complete authority to conduct whatever review, research, and investigation he deems necessary to determine whether such matters qualify as Class Remedial Matters and whether the MCSO is dealing with such matters in a thorough, fair, consistent, and unbiased manner.*

MCSO remains in Full and Effective Compliance with Paragraph 279.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone’s 29th Quarterly Report (Doc. 2703-1).

Paragraph 281. *Subject to the authority of the Monitor, the Sheriff shall ensure that the MCSO receives and processes Class Remedial Matters consistent with: (1) the requirements of this Order and the previous orders of this Court, (2) MCSO policies promulgated pursuant to this Order, and the manner in which, pursuant to policy, the MCSO handles all other complaints and disciplinary matters. The Sheriff will direct that the Professional Standards Bureau and the members of his appointed command staff arrive at a disciplinary decision in each Class Remedial Matter.*

MCSO is in compliance with Phase 1. Based on the Monitor's 29th Quarterly Report, MCSO is not in compliance with Phase 2.

MCSO works closely with the Monitoring Team on CRMs. The Monitoring Team meets with PSB every two weeks to track the progress of CRMs being investigated, reviewed, and finalized, with each step of the process requiring approval by the Monitoring Team. MCSO acknowledges that DOJ has expressed concerns with the investigation of certain CRMs that the Monitoring Team has reviewed. PSB stands behind its investigations and will continue to work with the Monitoring Team as it completes its work on each CRM.

Paragraph 287. *Any persons receiving discipline for any Class Remedial Matters that have been approved by the Monitor shall maintain any right they may have under Arizona law or MCSO policy to appeal or grieve that decision with the following alterations:*

- a. *When minor discipline is imposed, a grievance may be filed with the Sheriff or his designee consistent with existing MCSO procedure. Nevertheless, the Sheriff or his designee shall immediately transmit the grievance to the Monitor who shall have authority to and shall decide the grievance. If, in resolving the grievance, the Monitor changes the disciplinary decision in any respect, he shall explain his decision in writing.*
- b. *Disciplined MCSO employee maintains his or her right to appeal serious discipline to the Maricopa County Law Enforcement Merit System Council to the extent the employee has such a right. The Council may exercise its normal supervisory authority over discipline imposed by the Monitor.*

MCSO remains in Full and Effective Compliance with Paragraph 287.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 292. *To make this assessment, the Monitor is to be given full access to all MCSO internal affairs investigations or matters that might have been the subject of an internal affairs investigation by the MCSO. In making and reporting his assessment, the Monitor shall take steps to comply with the rights of the principals under investigation in compliance with state law. While the Monitor can assess all internal affairs investigations conducted by the MCSO to evaluate their good faith compliance with this Order, the Monitor does not have authority to direct or participate in the investigations of or make any orders as to matters that do not qualify as Class Remedial Matters.*

MCSO remains in Full and Effective Compliance with Paragraph 292.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Paragraph 300. The following potential misconduct is not sufficiently related to the rights of the members of the Plaintiff class to justify any independent investigation:

- a. Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the Montgomery investigation. (Doc. 1677 at ¶ 385).*
- b. Uninvestigated untruthful statements made to the Court under oath by Chief Deputy Sheridan concerning the existence of the McKessy investigation. (Id. at ¶ 816).*
- c. Chief Deputy Sheridan's untruthful statements to Lieutenant Seagraves made during the course of an internal investigation of Detective Mackiewicz to the effect that an investigation into the overtime allegations against Detective Mackiewicz had already been completed. (Id. at ¶ 823).*
- d. Other uninvestigated acts of misconduct of Chief Deputy Sheridan, Captain Bailey, Sergeant Tennyson, Detective Zebro, Detective Mackiewicz, or others that occurred during the McKessy investigation. (Id. at ¶¶ 766–825).*

Phase 1 is not applicable. Phase 2 is deferred.

MCSO's independent investigator continues to investigate and evaluate the four subsections of this paragraph for misconduct. These allegations have been added to MCSO IA2015-0849.

Paragraph 337. Nevertheless, when discipline is imposed by the Independent Disciplinary Authority, the employee shall maintain his or her appeal rights following the imposition of administrative discipline as specified by Arizona law and MCSO policy with the following exceptions:

- a. When minor discipline is imposed, a grievance may be filed with the Sheriff or his designee consistent with existing MCSO procedure. Nevertheless, the Sheriff or his designee shall transmit the grievance to the Monitor who shall have authority to decide the grievance. If in resolving the grievance the Monitor changes the disciplinary decision in any respect, he shall explain his decision in writing.*
- b. A disciplined MCSO employee maintains his or her right to appeal serious discipline to the Maricopa County Law Enforcement Merit System Council to the extent the employee has such a right. The Council may exercise its normal supervisory authority over discipline imposed by the Independent Disciplinary Authority with one caveat. Arizona law allows the Council the discretion to vacate discipline if it finds that the MCSO did not make a good faith effort to investigate and impose the discipline within 180 days of learning of the misconduct. In the case of any of the disciplinary matters considered by the Independent Disciplinary Authority, the MCSO will not have made that effort. The delay, in fact, will have resulted from MCSO's bad faith effort to avoid the appropriate imposition of discipline on MCSO employees to the detriment of the members of the Plaintiff class. As such, the*

Council's determination to vacate discipline because it was not timely imposed would only serve to compound the harms imposed by the Defendants and to deprive the members of the Plaintiff class of the remedies to which they are entitled due to the constitutional violations they have suffered at the hands of the Defendants. As is more fully explained above, such a determination by the Council would constitute an undue impediment to the remedy that the Plaintiff class would have received for the constitutional violations inflicted by the MCSO if the MCSO had complied with its original obligations to this Court. In this rare instance, therefore, the Council may not explicitly or implicitly exercise its discretion to reduce discipline on the basis that the matter was not timely investigated or asserted by the MCSO. If the Plaintiff class believes the Council has done so, it may seek the reversal of such reduction with this Court pursuant to this Order.

MCSO remains in Full and Effective Compliance with Paragraph 337.

MCSO remains in Full and Effective Compliance with this Paragraph. For additional information, please see Sheriff Penzone's 29th Quarterly Report (Doc. 2703-1).

Section 18: Conclusion

This Report covers the third quarter of 2021 (July 1, 2021 – September 30, 2021) and highlights MCSO's compliance efforts and achievements during this specific rating period.

A significant achievement this quarter has been the ongoing TSMR pilot. The pilot's development was aided by weekly telephone conferences with the Monitor and Parties, and bi-weekly calls continue to refine the TSMR methodology, assess the intervention processes, and develop and implement training to equip supervisors for their role in the process. The pilot began in April of this year. MCSO is eager to evaluate the pilot program and make any needed adjustments, with the end goal being routine monthly implementation of reports and interventions.

In this report, MCSO asserted Full and Effective Compliance with 12 additional Paragraphs of the Court's Order. Should the Monitor agree with these assertions, MCSO will have achieved Full and Effective Compliance with a total of 103 Paragraphs. These compliance achievements demonstrate MCSO's consistency and dedication.

This has been a unique and challenging time for MCSO and the community. The COVID-19 pandemic has caused necessary and unavoidable changes, particularly in the areas of Training and Community Engagement.

The increasing backlog of administrative investigations, the timeline to complete administrative investigations, and PSB staffing continue to be a significant concern. PSB continues to work to address those concerns.

During this time of national health crisis, MCSO remains committed to providing essential professional law enforcement services, while adhering to CDC guidelines to help stem the spread of the Coronavirus. MCSO is dedicated to following the best police practices and gaining Full and Effective Compliance with the Court's Orders.