

MARICOPA COUNTY SHERIFF'S OFFICE
Bureau of Internal Oversight
Audits and Inspections
BI2016-0144



Bureau of Internal Oversight
Incident Report Inspection Report
Date: 1/24/2017
Inspection #BI2016-0144



Paul Penzone, Sheriff

To: Lt. Morris #S1014
Division Commander
Bureau of Internal Oversight

From: Sgt. Reaulo S1678
Inspections Sergeant
Bureau of Internal Oversight

Subject: 4th Quarter Incident Report Inspection Summary,
BI2016-0144

Date: January 24, 2016
Report Period:
October – December,
2016

Background:

During the 4th quarter of 2016 the Court Monitors selected 270 Incident Reports (IR's) obtained from all patrol district(s)/division(s). Of the 270 reports a 20% sample (or 54) was randomly obtained for inspection. In addition to the 54 report sample the Court Monitors provided for inspection, 57 In Custody (IR's) as well as 9 Lack of Identity arrest reports and 1 Identity Theft report bringing the total number to 121 IR's inspected as reflected by this 2016 4th quarter report. The purpose for IR inspections is to determine compliance with office policies, federal and state laws; promote proper supervision, and support compliance with the Melendres Order. To achieve this, inspectors will utilize "FileBound" from the MCSO Records Division to view all IR's. The IR's will be uniformly inspected employing a matrix developed by the Bureau of Internal Oversight. The following procedures and Briefing Boards will be used in the matrix, which include but are not limited to EA-11, GF-4, CP-2, CP-8, GJ-35, GF-5, Briefing Board Number 14-12, Briefing Board Number 14-28 and Briefing Board Number 16-17:

Matrix Procedures:

- Review incident reports for supervisors signature and date signed
- Review incident reports for deputies' "turned in for review" signature and date
- Compare the date signed with the date the report was received to assure the report was memorialized within policy timelines
- Ensure the information contained within an incident report is consistent throughout
- Verify there is reasonable suspicion or probable cause for all investigative detentions, traffic and field contacts, searches, and asset seizure and forfeiture efforts
- Determine if there is probable cause for all arrests
- Verify the report contains the elements of a crime
- Verify the report was submitted prior to the end of the deputies shift
- Determine if boilerplate and/or conclusory language was used
- Evaluate whether the facts, circumstances, and conclusions were articulated to support reasonable suspicion or probable cause
- Determine if bias-based and/or racial profiling was employed
- Ensure all identity theft reports documented supervisor notification
- Ensure all lack of identification detention/arrest reports documented supervisor notification
- Ensure all immigration investigation reports document supervisor notification
- Determine if the use or non-use of body-worn cameras was documented in the report
- Each incident report inspected will be counted as one inspection

Criteria:

MELENDRES FEDERAL COURT ORDER

MCSO Policy EA-11.3 & .14 ARREST PROCEDURES:

3. **Bias-Free Detentions and Arrests:** Deputies are prohibited from using a person's race or ethnicity, to any degree, as a factor in establishing reasonable suspicion or probable cause to believe a person is committing, has committed, or is about to commit a crime, except as part of a reliable and specific suspect description.

- F. Deputies are required, before any questioning as to alienage or immigration status is initiated, or before any contact with ICE/CBP is initiated, to check with a supervisor to ensure that the circumstances justify such an action under Office policy and receive approval to proceed. Deputies must also document, in every such case:
 - 1. The reason or reasons for making the immigration-status inquiry or contacting ICE/CBP.
 - 2. The time supervisor approval was received.
 - 3. When ICE/CBP was contacted.
 - 4. The time it took to receive a response from ICE/CBP, if applicable.
 - 5. Whether the individual was then transferred to ICE/CBP custody.
- G. Deputies shall notify a supervisor before affecting 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.

14. Supervisor Responsibilities:

- A. Deputies shall submit documentation of all stops, investigatory detentions, and arrests to their supervisors by the end of the shift in which the action occurred. Absent exceptional circumstances, within 72 hours of receiving such documentation, supervisors shall independently review the reports. If the incident did not include an arrest or detention, the supervisor shall review the IR within seven calendar days, absent exigent circumstances.
- B. Supervisors shall review reports and forms for boilerplate or conclusory language, inconsistent information, lack of articulation of the legal basis for the action, or other indicia that the information in the reports or forms is not authentic or correct.

MCSO Policy CP-2.3, CODE OF CONDUCT:

3. **Conformance to Established Laws:** Employees shall obey all local ordinances as well as all federal and state laws. Violation of any established ordinance or law may result in disciplinary action being imposed, in addition to the possibility of criminal prosecution. Disciplinary action may be imposed regardless of the outcome of the court case.

MCSO Policy CP-8.1.A & .5, PREVENTING RACIAL AND OTHER BIASED-BASED PROFILING:

- 1. A. **Adherence to Federal Constitutional Law:** All investigative detentions, traffic and field contacts, searches, and asset seizure and forfeiture efforts, will be based on applicable standards of reasonable suspicion or probable cause as required by the Fourth Amendment to the United States Constitution.

5. **Supervisor Responsibility:** Office leadership and supervising deputies and detention officers shall unequivocally and consistently reinforce to subordinates that biased-based profiling is unacceptable. All personnel shall report violations of policy. Supervisors of all ranks shall be held accountable for identifying and responding to policy or procedure violations by personnel under their command and ensuring that personnel are held accountable for policy and procedure violations.

MCSO Policy GF-4.7.C, OFFICE REPORTS:

7. C Supervisors shall legibly sign or print their name, rank, and serial number to the report indicating that they have reviewed and approved the report.

MCSO Briefing Board Number 14-28, dated April 3, 2014:

When a supervisor memorializes his review, he shall sign the bottom of the report and date it, indicating the report contains all of the necessary elements of the legal basis for the action; or all of the elements of a reported crime.

MCSO Briefing Board Number 14-12, dated February 12, 2014:

2. Deputies shall notify and receive approval from a supervisor before initiating immigration related investigation and/or arrest; or any identity theft or lack of an identity document investigation and/or arrest.

3. Deputies must document in the *Incident Report (IR)*, in every such case, the reason for the immigration- status inquiry, investigation, and/or arrest; or the identity theft or lack of an identity document investigation and/or arrest; and the time supervisor approval was obtained.

MCSO Policy GJ-35.3.D, Body-Worn Cameras:

3. D The use of a body-worn camera shall be documented in all Incident Reports (IRs) and noted on all traffic receipts, if applicable. The reasons for any non-use or interruptions in the recording prior to the completion of an event shall also be documented in the IR and/or traffic receipt, if applicable.

MCSO Briefing Board Number 16-17, dated April 14, 2016:

3. B Deputies and supervisors shall place the body-worn camera in Event Mode during investigative or law enforcement activities that involve calls for service or interacting with members of the public, unless exigent circumstances make it unsafe or impossible for the deputy to do so; officer safety is the primary concern.

3.C(4) Additional deputies and supervisors arriving to a scene shall place their body-worn cameras in Event Mode immediately upon arrival, unless exigent circumstances make it unsafe or impossible to do so. If exigent circumstances prevent a deputy or supervisor from activating the body-worn camera immediately upon arriving to a scene, he shall do so as soon as the exigency subsides. Additional deputies and supervisors arriving to a scene shall continue to record until the completion of the event or until they have left the scene.

MCSO Policy GF-5.4.A & C, Incident Report Guidelines:

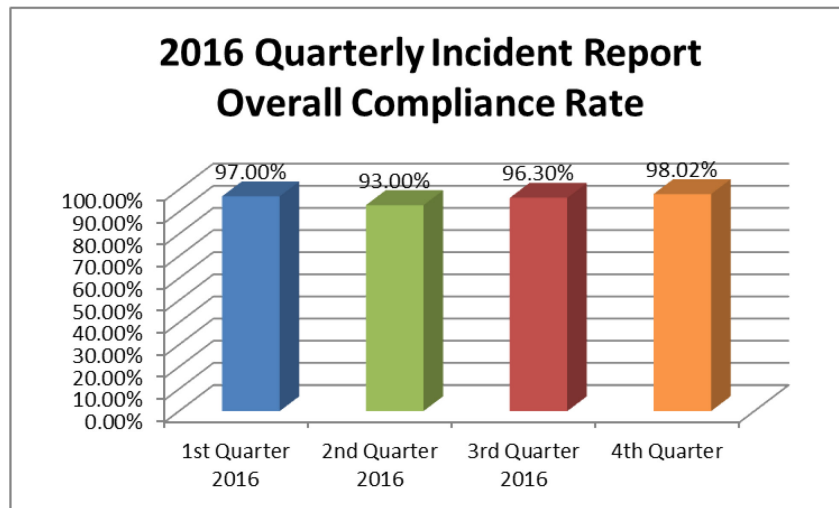
- A. Employees and reserve deputies shall complete and submit all IRs before the end of the shift.
- C. Supervisors shall review an IR within 72 hours of an arrest or detention of a person, absent exceptional circumstances. If the incident did not include an arrest or detention, the supervisor shall review the IR within seven calendar days, absent exceptional circumstances.

Conditions:

Of the 121 Court Monitor provided reports inspected the following has been concluded: 8 out of the 15 criteria inspected achieved 100% compliance. Out of the 121 reports 119 (or 98.35%) had supervisors compliance with memorializing their review of IR's and 116 (or 95.87%) of the total IR's, the reporting deputies had memorialized turning in their reports by the end of shift. 7 (or 77.78%) of the 9 Lack of Identity reports did have the necessary supervisor notification documented.

Out of the 121 reports inspected 102 (or 84.30%) documented the use or non-use of body-worn cameras. There were 19 deficiencies in documenting the use or non-use of body-worn cameras which constituted the largest deficiency identified during the inspection. Overall, 3 out of the 121 reports inspected had one or more deficiencies.

MCSO achieved a compliance rate of 98.02% in the IR Inspection for the 4th Quarter of 2016, as illustrated in the graph below.



Note: The overall compliance rate is an average of compliance scores from the inspection criteria shown below.

Inspection Criteria	Compliance Score
IR (Incident Report) submitted within by end of shift	95.87%
IR contained deputies signature and date signed	99.17%
IR contained supervisors signature and date signed	98.35%
Supervisory Review memorialized within policy timelines	98.35%
If applicable, probable cause existed for all arrests	100.00%
If applicable, the IR contained elements of a crime	100.00%
Information in the IR is consistent throughout	100.00%
Reasonable suspicion or probable cause existed for all investigative detentions, traffic and field contacts, searches, and asset seizure and forfeiture efforts	100.00%
The IR didn't contain boilerplate and/or conclusory language	100.00%
If applicable, the IR properly articulated and supported reasonable suspicion or probable cause?	100.00%
Determine if bias-based and/or racial profiling was employed	100.00%
All identity theft reports documented supervisor notification	95.87%
All lack of identification detention/arrest reports documented supervisor notification	98.35%
All immigration investigation reports documented supervisor notification	100.00%
If applicable, IR's document the use or non-use of body-worn cameras	84.30%

As documented above, the Audits and Inspection Unit conducted an Incident Report Inspection of a 20% random pull of all divisions IR's as well as a number of In Custody Reports, Identity Theft Investigation IR's and Lack of Identity investigation IR's for the quarter. All reports inspected were selected by the Court Monitor. An inspector reviewed those IR's and noted the deficiencies in the chart below.

The following table indicates those deputies and supervisors as having deficient IR's:

<u>Dist/Div:</u>	<u>Incident Report #</u>	<u>Sworn Employee Name:</u>	<u>Commander</u>	<u>Deficiency:</u>
District One	IR16027930	Deputy	Captain	IR lacked deputy signature & date, supervisor signature & date and documentation of Body Camera Use/Non-Use
District One	IR16027438	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District One	IR16028172	Deputy	Captain	IR lacked documentation of supervisor notificaton of a lack of identity arrest
District One	IR16031518	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District One	IR16030482	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District One	IR16031216	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District One	IR16032722	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District One	IR16034739	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use

<u>Dist/Div:</u>	<u>Incident Report #</u>	<u>Sworn Employee Name:</u>	<u>Commander</u>	<u>Deficiency:</u>
District Two	IR16027890	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District Two	IR16027935	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District Two	IR16029691	Deputy	Captain	IR was not turned in by end of shift
District Two	IR16031540	Deputy	Captain	IR was not turned in by end of shift
District Two	IR16031507	Deputy	Captain	IR was not turned in by end of shift
District Two	IR16032742	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District Two	IR16033942	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District Two	IR16034761	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District Two	IR16035387	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District Two	IR16-033937	Sergeant	Captain	IR was not memorialized by supervisor within 72 hours

<u>Dist/Div:</u>	<u>Incident Report #</u>	<u>Sworn Employee Name:</u>	<u>Commander</u>	<u>Deficiency:</u>
District Three	IR16027884	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District Three	IR16029531	Deputy	Captain	IR lacked date of supervisory review and lacked documentation of supervisor notification of a lack of identity arrest
District Three	IR16031552	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District Three	IR16031247	Deputy	Captain	IR lacked documentation of supervisor notificaton of a lack of identity arrest

<u>Dist/Div:</u>	<u>Incident Report #</u>	<u>Sworn Employee Name:</u>	<u>Commander</u>	<u>Deficiency:</u>
District Four	IR16035407	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use

Dist/Div:	Incident Report #	Sworn Employee Name:	Commander	Deficiency:
District Five, Lake Patrol	IR16031532	Deputy	Captain	IR was not turned in by end of shift and lacked documentation of Body Camera Use/Non-Use
District Five, Lake Patrol	IR16031512	Sergeant	Captain	IR lacked documentation of Body Camera Use/Non-Use
District Five, Lake Patrol	IR16032592	Sergeant	Captain	IR lacked documentation of Body Camera Use/Non-Use

Dist/Div:	Incident Report #	Sworn Employee Name:	Commander	Deficiency:
District Six	IR16027927	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District Six	IR16031514	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use
District Six	IR16033858	Deputy	Captain	IR lacked documentation of Body Camera Use/Non-Use

Dist/Div:	Incident Report #	Sworn Employee Name:	Commander	Deficiency:
Court Security	IR16-027899	Deputy	Captain	IR was not turned in by end of shift

A total of thirty (30) BIO Action Forms are required from the affected Districts addressing the deficiencies. Each deficient IR listed in the tables above will require the completion one BIO Action Form.

***Note one BIO form is acceptable per deputy for the same deficiencies.**

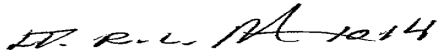
Please email the BIO Action Form to BIO@mcs.maricopa.gov within 30 days from the date in which this report is disseminated to the Office.

Recommendation:

It is recommended all incident reports involving arrest are reviewed by command staff daily; to ensure probable cause has been established. As well as, Command Staff providing additional, onsite counseling to those Supervisors and/or Deputies who were identified as deficient in this quarter's IR inspection. It is suggested the areas noted as deficient be targeted for improvement to increase overall compliance with directives and policy. Consequently, all onsite mentoring should be documented in Supervisory Notes.

Date Inspection Started: 11/22/2016
Date Completed: 01/24/2017
Timeframe Inspected: October – December, 2016
Assigned Inspector(s): Sergeant D. Reaulo #S1678

I have reviewed this inspection report.



Lieutenant Rick Morris
Division Commander
Audits and Inspections

1/24/2017

Date



Deputy Chief Bill Knight
Bureau Commander
Bureau of Internal Oversight

1/24/2017

Date