

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF ARIZONA

United States of America,

Plaintiff,

v.

Maricopa County, Arizona; and Joseph M.
Arpaio, in his official capacity as Sheriff of
Maricopa County, Arizona,

Defendants.

No. 2:12-cv-00981-ROS

**SETTLEMENT AGREEMENT
RESOLVING THE FOURTH
CLAIM OF THE UNITED
STATES' COMPLAINT AND
RELATED ALLEGATIONS**

The parties to this Settlement Agreement, the United States of America, Joseph M. Arpaio, Sheriff of Maricopa County, and Maricopa County (collectively the "Parties"), enter into this Agreement to resolve the Fourth Claim, and that portion of any other claim addressing discrimination in MCSO jails, set forth in the United States' Complaint in this action. The Parties agree that this Agreement is in the best interests of the people of Maricopa County and the United States.

I. BACKGROUND

1. The Maricopa County Sheriff's office ("MCSO") has established a formal language access program to benefit limited-English-proficient ("LEP") inmates. The

1 establishment of a formal Language Access Program signified MCSO's formal
2 acknowledgment of its duty to provide LEP inmates with reasonable and meaningful
3 access to programs and services in the Maricopa County jail system.

4 2. Over the last five years, the evolution of MCSO's Language Access
5 Program illustrates MCSO's continued efforts to further meaningful access for LEP
6 inmates to jail programs, services and opportunities. This evolution has entailed not only
7 improvements and enhancements to existing policies and programs, but also the creation
8 of new policies and operations plans to further the: (1) provision of language assistance
9 to LEP persons whom MCSO personnel encounter; (2) recognition and identification of
10 LEP individuals with whom MCSO personnel come into contact; (3) documentation of
11 each LEP inmate's language needs and the easy availability of such information to all jail
12 personnel; (4) assessment of the competency of jail personnel to provide language
13 assistance; (5) limitation of the use of other inmates to translate and interpret for LEP
14 inmates; (6) production and distribution of written translations in Spanish of Vital
15 Documents; (7) facilitation of oral language assistance for communications with LEP
16 inmates; (8) reasonable availability of inmate classes, programs, opportunities and other
17 services to LEP inmates; (9) bias-free treatment of inmates; (10) facilitation of the
18 communication of grievances by LEP inmates; (11) facilitation of effective
19 communication between LEP visitors and jail personnel; (12) availability of telephonic
20 interpretation services; (13) appropriate handling of complaints relating to language
21 access; and (14) provision of appropriate supervision and training relating to MCSO
22 personnel's language access responsibilities. This Agreement is intended to ensure that
23 MCSO maintains such language access policies and practices.

24 **II. DEFINITIONS**

25 The following terms and definitions shall apply to this Settlement Agreement:

26 3. "Agreement" means this Settlement Agreement.

27 4. "Defendants" means Joseph M. Arpaio, Sheriff of Maricopa County,
28 named in his official capacity; and Maricopa County.

1 5. “Detention Language Roster” means a database listing the bilingual or
2 multilingual language capabilities of detention officers who have volunteered to provide
3 periodic language interpretation and translation services.

4 6. “Direct ‘In-Language’ Communication” means monolingual
5 communication in a language other than English between a bilingual employee and a
6 limited English proficient (“LEP”, as defined in paragraph 12) person (e.g., Spanish to
7 Spanish).

8 7. “Effective Date of this Agreement” means the date on which this
9 Agreement becomes effective, which is the day it is signed by a representative of the
10 United States, a representative of Sheriff Arpaio, and a representative of Maricopa
11 County, provided that this Agreement does not become effective until each Party to this
12 action also signs the separate Settlement Agreement resolving all claims related to
13 worksite identity theft operations and claims relating to alleged retaliation as set forth in,
14 *inter alia*, the Second and Sixth Claims of the United States’ Complaint in this action.

15 8. “Full Assessment” means a written complete review and appraisal of the
16 Defendants’ compliance with the terms of this Agreement.

17 9. “Interpretation” means the act of listening to a communication in one
18 language (source language) and orally converting it into another language (target
19 language), while retaining essentially the same meaning.

20 10. “Language Access Plan” means MCSO’s DI-6 Policy regarding limited-
21 English-proficient inmates, or any future MCSO policy intended to ensure that MCSO
22 will provide continued, effective communication with inmates and the public who have
23 limited English language proficiency, as well as MCSO detention-related operations with
24 regard to LEP inmates. The purpose of MCSO’s Language Access Plan is to ensure
25 compliance with Title VI and all other applicable laws.

26 11. “Language Assistance” means the facilitation of communication with an
27 LEP individual using one of five designated methods, namely, interpretation, translation,
28 direct “in-language” communication, telephonic interpretation, or sight translation in

1 order to enable LEP individuals to communicate effectively with MCSO and to provide
2 LEP individuals with meaningful access to, and an equal opportunity to participate fully
3 in MCSO's services, activities, and other benefits and programs.

4 12. "LEP" means limited English proficient, and refers to a person who does
5 not speak English as his/her Primary Language and has a limited ability to read, write,
6 speak, or understand English. LEP individuals may be competent in certain types of
7 communication (e.g., speaking or understanding), but still be LEP for other purposes
8 (e.g., reading or writing). Similarly, LEP designations are context-specific: an individual
9 may possess sufficient English language skills to function in one setting, but these skills
10 may be insufficient in other situations.

11 13. "MCSO" means the Maricopa County Sheriff's Office.

12 14. "MCSO Bilingual Staff" means bilingual MCSO employees with primary
13 duties unrelated to interpretation but who have reasonably been determined to be
14 proficient in English and other language(s), and are authorized to both interpret for others
15 and engage in direct "in-language" communication.

16 15. "Primary Language" means the language in which the individual most
17 effectively communicates.

18 16. "Qualified Interpreters/Translator" means a bilingual MCSO employee or
19 non-employee contractor who has demonstrated his or her competence to interpret or
20 translate through a MCSO approved assessment and/or whose employer is on the State of
21 Arizona list of approved contractors.

22 17. "Sight translation" means the oral rendering of written text or a document
23 into spoken language by an interpreter while retaining essentially the same meaning
24 based on a visual review of the original text or document.

25 18. "Telephonic Interpretation Services" means real-time language service that
26 enables speakers of different languages to communicate by telephone with the assistance
27 of a network of operators or bilingual individuals via the available MCSO telephone
28

1 system. Telephone interpreters may or may not have the qualifications of a professional
2 interpreter or one procured through a contract for in-person interpretation service.

3 19. "Title VI" means Title VI of the Civil Rights Act of 1964, as amended.

4 20. "Translation" means the replacement of written text from one language
5 (source language) with a written text in another language (target language) while
6 retaining essentially the same meaning.

7 21. "United States" means the United States of America as represented by the
8 United States Department of Justice's Civil Rights Division and its agents, employees,
9 and consultants.

10 22. "Vital Documents" means written documents that are essential to providing
11 meaningful access to programs and services to all jail inmates offered by MCSO. Such
12 written materials include the following: (1) Inmate Rules and Regulations; (2)
13 Announcements of Classes and Programs; (3) Any additional rules and notices posted in
14 the MCSO Jails; (4) Inmate Request Forms ("Tank Orders"); (5) Inmate Medical Request
15 Forms ("Medical Tank Orders"); (6) Inmate Grievance Form; (7) Institutional Grievance
16 Appeal Form; (8) External Grievance Appeal Form; (9) Inmate Legal Services Request
17 Form; (10) Disciplinary Appeal Form; (11) Visitation Form; and (12) Canteen and
18 Commissary Forms. Whether additional documents are "vital" may depend upon the
19 importance of the program, information, encounter, or service involved.

20 23. "Vital Announcements" means announcements made in MCSO jails that
21 are essential to providing meaningful access to programs and services and basic safety to
22 all jail inmates offered by MCSO, including, at a minimum, announcements indicating
23 the following: "Medical Nurse", "Male or Female in the House", "Chow in the House",
24 "Lockdown", "Programs", or "Recreation."

25 **III. COMMITMENTS**

26 **A. Language Assistance**

27 24. MCSO jail personnel shall provide reasonable, effective, free, and timely
28 language assistance to LEP individuals whom they encounter, including LEP inmates and

1 members of the public, regardless of whether the LEP person requests language services
2 in the jail setting concerning jail related matters. MCSO detention personnel assigned to
3 the visitation area of each facility shall take all reasonable steps to assist LEP members of
4 the public requesting to visit an inmate or requesting jail-related information regarding
5 jail-related matters, including utilizing bilingual and multilingual detention personnel and
6 telephonic language interpretation services. MCSO will require the Sheriff's Information
7 Management Services (SIMS) to utilize bilingual and multilingual personnel, as well as
8 the telephonic language interpretation services, to assist members of the public who are
9 LEP individuals when providing information on the public jail information telephone line
10 or in the Bonds and Fines Lobby at the 4th Avenue Jail.

11 25. MCSO shall continue to maintain a written language access policy
12 consistent with Title VI and this Agreement.

13 26. MCSO shall continue to maintain designated personnel to handle all
14 language access needs and oversee compliance with the MCSO language access policy
15 and plan. The responsibilities of such personnel shall include, but need not be limited to,
16 the following:

- 17 a. addressing all interpretation and translation needs raised by supervisors
18 from MCSO jail units and departments;
- 19 b. providing input regarding the selection and performance of interpretation
20 and translation companies;
- 21 c. establishing and enforcing assessment and quality control standards for
22 bilingual jail personnel who will interpret for LEP persons;
- 23 d. identifying, and working with appropriate officials to obtain within
24 reasonable cost parameters the technology and apparatus reasonably
25 necessary to effectively execute the Language Access Plan;
- 26 e. monitoring the demographics of jail population in Maricopa County jail
27 facilities to ensure sufficient language capacity as prescribed by DOJ
28 guidelines;

- 1 f. maintaining and updating training curricula and conduct training, in
2 conjunction with MCSO training personnel;
3 g. maintaining and updating logging, data entry, record keeping, and
4 identification systems as discussed in the Language Access Plan and herein;
5 and
6 h. maintaining complaint processes to address complaints related to language
7 services in the jail setting concerning jail-related matters.

8 27. MCSO shall continue to maintain a high-level supervisor who is
9 responsible for the oversight of personnel with language access responsibilities. MCSO
10 shall maintain a reporting structure whereby such personnel report to a MCSO
11 Headquarters LEP Coordinator, through the established chain of command, responsible to
12 report to the Chief of Custody.

13 28. MCSO shall continue to require that the LEP Coordinator or other MCSO
14 personnel primarily responsible for implementation of MCSO's language access policies
15 generate an annual report of any language-access-related complaints submitted to MCSO
16 by an LEP inmate or visitor of an LEP inmate, and steps taken to resolve any such
17 complaints. The report shall be provided to the Chief of Custody and to the United States
18 for the duration of this Agreement.

19 B. Identification of LEP Individuals

20 29. MCSO shall continue to require jail personnel to make reasonable efforts to
21 determine during the inmate intake process whether any incoming inmates are LEP and
22 to record that LEP status so that other jail personnel having subsequent contact with the
23 inmate can readily identify the inmate's LEP status. MCSO also shall adopt reasonable
24 procedures to ensure that any inmates whose limited English proficiency is not noticed
25 during intake may subsequently be identified by jail personnel as LEP and their LEP
26 status recorded so that other jail personnel having subsequent contact with the inmate can
27 readily identify the inmate's LEP status.

28

1 30. In determining LEP status of an inmate, MCSO shall continue to ensure
2 that MCSO personnel use means reasonably calculated to determine LEP status. The
3 methods to determine LEP status may include one or more of the following:

- 4 a. Self-identification by the LEP individual (i.e., if the individual is able to
5 communicate the language that he or she speaks);
- 6 b. Language identification posters, which invite LEP persons to identify their
7 Primary Language. These posters shall be placed at all MCSO intake
8 facilities, in the 4th Avenue Holding Tanks next to the Language Access
9 Policy, in the Holding Tanks at each of the housing facilities, in the Self-
10 Surrender facility, in all visitation waiting areas, and at visitation counters.
11 The information from such posters may also be available through a
12 telephonic interpretation service;
- 13 c. Verification of language by MCSO bilingual jail personnel; and
- 14 d. Through use of a telephonic interpretation service.

15 31. If an inmate has been identified as LEP by an arresting agency, MCSO jail
16 personnel at Central Intake will utilize its independent procedures to determine whether
17 an inmate is LEP and the inmate's Primary Language is accurately identified.

18 C. Documenting Language Needs

19 32. MCSO shall continue to enter each individual's Primary Language in the
20 Jail Management System ("JMS") database under the Primary Language field. In the
21 event that a language code is unavailable for a particular language in JMS, MCSO will
22 take appropriate measures to record the Primary Language of the LEP inmate in JMS in
23 such a way that other jail personnel having subsequent contact with the inmate can
24 readily identify the inmate's LEP status.

25 33. MCSO shall continue to ensure that all jail personnel have access to the
26 daily inmate rosters for those inmates with whom they may interact (housing rosters,
27 transportation rosters, etc), and that each inmate's Primary Language appears on such
28 rosters.

1 34. MCSO shall continue to require jail intake personnel to record each LEP
2 inmate's Primary Language on his or her booking/door facility card.

3 D. Assessment of Jail Personnel Competency to Perform Language Assistance

4 35. MCSO shall continue to ensure that jail personnel who self-identify as
5 bilingual and agree to serve as interpreters and/or translators demonstrate proficiency in
6 and ability to communicate information accurately in the languages in which they will be
7 interpreting or translating.

8 36. MCSO shall continue to maintain a list of bilingual jail personnel who may
9 be available to help other jail personnel communicate with LEP inmates. The list shall be
10 accessible throughout its facilities and include the name of the individual detention
11 officer and the facilities to which the individual detention officer is assigned. MCSO
12 shall continue to keep the list updated to account for personnel changes and transfers.

13 E. Use of Inmates to Translate or Interpret

14 37. MCSO's Language Access Plan shall make clear that reliance on inmates to
15 translate or interpret for fellow LEP inmates is generally not appropriate and should only
16 be an option in unforeseeable emergency circumstances or if the topic of communication
17 is not sensitive, confidential, important, or technical in nature and the inmate is
18 competent in the skill of interpreting. MCSO's Language Access Plan also shall make
19 clear that special care must be taken to ensure that family, legal guardians, caretakers,
20 fellow inmates, and other informal interpreters are appropriate in light of the
21 circumstances and subject matter of the communication. MCSO personnel shall refrain
22 from encouraging inmates to use other inmates as translators.

23 F. Written Translations

24 38. The LEP Coordinator and/or other MCSO personnel primarily responsible
25 for implementation of MCSO's language access policies shall be responsible for:

- 26 a. identifying Vital Documents;
27 b. identifying and determining languages into which Vital Documents should
28 be translated;

- 1 c. procuring qualified translators to accomplish translation of Vital
- 2 Documents;
- 3 d. monitoring quality of translated documents;
- 4 e. enforcing protocols for accurate translation of documents;
- 5 f. reviewing complaints related to quality of translations;

6 39. MCSO shall ensure that each jail facility maintains an appropriate supply of
7 documents that have been translated into languages other than English, considering the
8 LEP inmate population at each facility.

9 40. MCSO shall use MCSO bilingual jail personnel or qualified contract
10 translators for the translation of Vital Documents into Spanish or any other language
11 rising to the level of five percent (5%) of the overall inmate population in the Maricopa
12 County jails. MCSO shall ensure that the LEP Coordinator and/or other MCSO personnel
13 primarily responsible for implementation of MCSO's language access policies documents
14 the names of the forms that have been translated (including the version that was
15 translated), translators' names, date of translation, and language of translation.

16 41. MCSO shall continue to translate all Vital Documents into Spanish.

17 42. Any time a Vital Document is updated, MCSO shall issue that document
18 simultaneously in English and Spanish.

19 43. MCSO shall ensure that Vital Documents are available to LEP inmates in
20 their Primary Language, if the Primary Language rises to the level of five percent (5%) of
21 MCSO's overall inmate population.

22 44. MCSO shall instruct jail personnel that forms, requests, or any other
23 document may be submitted by an inmate in the inmate's designated language. MCSO
24 shall require its jail personnel to accept forms and Vital Documents in the language in
25 which they are submitted.

26 45. MCSO shall handle and process all Vital Documents submitted by inmates
27 in Spanish in a reasonably expedient manner and timeframe.

28 G. Oral language assistance for inmates

1 46. MCSO shall ensure by December 31, 2015, that all vital announcements in
2 MCSO facilities are made in both English and Spanish.

3 47. MCSO shall ensure that transportation detention officers and deputies have
4 radio or telephonic access to MCSO bilingual personnel and/or a telephonic interpretation
5 service while at MCSO jail facilities.

6 48. MCSO shall maintain its Language Access Plan and procedures to facilitate
7 oral language and other language assistance. MCSO shall take reasonable steps to ensure
8 that personnel are available to communicate effectively with LEP inmates at all times.

9 H. Contacts of a Medical Nature

10 49. For any contacts with LEP individuals of a medical nature, MCSO shall
11 take reasonable steps to ensure that Correctional Health Services staff are informed of
12 language assistance needs to facilitate such staff's communication with the LEP
13 individual.

14 I. Inmate Classes, Programs, Work Opportunities and Other Services

15 50. MCSO shall take reasonable steps to ensure that inmate classes, services,
16 and programs are reasonably available to LEP inmates. MCSO shall keep a record of all
17 scheduled classes, services, and programs, and the language in which they were
18 conducted, by having the housing officer document the event in the online journal system
19 and by keeping attendance lists from all scheduled classes, services, and programs. A
20 copy of attendance lists at non-English language offerings shall be available to the LEP
21 Coordinator and/or other MCSO personnel primarily responsible for implementation of
22 MCSO's language access policies upon request. MCSO shall take reasonable steps to
23 ensure that an inmate's LEP status will not hinder the inmate from benefiting from
24 classes or programs that can reduce the inmate's length of stay or improve conditions of
25 the inmate's confinement.

26 51. MCSO shall take reasonable steps to ensure that work opportunities,
27 particularly those that may be associated with benefits such as additional food, clothing,
28 or recreation, are made reasonably available to LEP inmates.

1 J. Bias-Free Treatment of Inmates

2 52. MCSO shall continue to ensure that all MCSO jail personnel, including
3 MCSO jail personnel hired after the initial implementation of this Agreement, receive
4 training on the MCSO Code of Conduct (CP-2) and Employee Disciplinary Procedures
5 (GC-17), including clear guidance that MCSO policy prohibits employees from
6 demeaning inmates or acting disparagingly against any inmate regardless of age,
7 nationality, religious beliefs, race, gender, culture, sexual orientation, veteran status,
8 ancestry, or disability, as currently provided in paragraph 4.D. of MCSO's Code of
9 conduct (CP-2) .

10 K. Grievances

11 53. MCSO shall continue to accept grievances and grievance appeals in any
12 language, and ensure that they are addressed in a reasonably timely manner, regardless of
13 the language in which the grievance was submitted in accordance with rules and
14 procedures applicable to all other grievances and grievance appeals. MCSO shall conduct
15 grievance hearings with LEP inmates using a MCSO bilingual officer, a qualified
16 contract interpreter, or a telephonic language interpretation service. MCSO shall
17 document the type of language assistance provided on all grievance-related reports, and
18 make this documentation available to the LEP Coordinator and/or other MCSO personnel
19 primarily responsible for implementation of MCSO's language access policies, upon
20 request.

21 L. Disciplinary Action

22 54. MCSO shall prohibit the practice of imposing pod restrictions and inmate
23 disciplinary measures solely because of a language access issue.

24 55. MCSO shall ensure that jail personnel use a MCSO bilingual officer or
25 telephonic interpretation for communications relating to disciplinary action regarding an
26 LEP inmate. MCSO shall ensure that the method of language assistance provided is
27 documented on all related reports.

28

1 M. Visitors

2 56. MCSO shall provide all Spanish-speaking LEP visitors with language-
3 appropriate visitation forms. MCSO shall ensure that jail personnel use a MCSO
4 bilingual officer to translate non-English language information on a visitation request
5 form.

6 57. MCSO shall ensure that such translation occurs within a reasonable amount
7 of time. MCSO will also ensure that no LEP visitor will be turned away from visitation
8 solely due to a language issue.

9 58. MCSO shall follow its Language Access Plan regarding the use of
10 telephonic interpretation services for visitors who speak a language for which no
11 language-appropriate forms and/or timely translation services are available on-site, and
12 will permit the LEP visitor to orally convey the written information to the telephonic
13 interpreter, who shall, in turn, interpret the visitor's statements to MCSO personnel.

14 59. MCSO shall continue to post language identification posters in visitation
15 waiting areas.

16 60. MCSO shall translate into Spanish the portions of its website that provide
17 information relevant to family, friends, and visitors of inmates.

18 N. Telephonic Interpretation Services

19 61. MCSO shall continue to equip housing units, as well as other MCSO jail
20 units and departments that interact with inmates, arrestees, and/or the public, with
21 communication technology reasonably necessary to obtain timely telephonic
22 interpretation assistance.

23 62. MCSO shall continue to maintain procedures to permit personnel to timely
24 access telephonic interpretation assistance.

25 63. MCSO shall continue to provide training to MCSO jail personnel on
26 accessing telephonic interpretation services and provide MCSO jail personnel with a
27 telephonic language interpretation access card pursuant to MCSO policy.

28

1 64. MCSO shall continue to ensure that interactions interpreted through use of
2 telephonic interpretation are accorded the same degree of confidentiality as in-person
3 interactions. As such, MCSO will ensure that communications of a confidential nature
4 that are normally conducted outside the presence of other inmates or jail personnel, when
5 conducted telephonically, shall involve the same degree of privacy (via dual handsets, a
6 private room, or other methods).

7 O. Complaint Procedures

8 65. MCSO shall continue to maintain a grievance policy for inmate complaints
9 and describe the complaint process in the Inmate Rules and Regulations. Complaints
10 regarding language access concerning jail related issues shall be made available to the
11 LEP Coordinator and/or other MCSO personnel primarily responsible for implementation
12 of MCSO's language access policies.

13 66. The LEP Coordinator and/or other MCSO personnel primarily responsible
14 for implementation of MCSO's language access policies shall share language access
15 complaints concerning jail related issues with the supervisors who oversee any personnel
16 implicated by such complaints.

17 P. Training

18 67. MCSO shall continue to ensure that MCSO jail personnel receive
19 reasonable and adequate training on the MCSO Language Access Plan, Title VI of the
20 Civil Rights Act of 1964, and cultural sensitivity and the provision of bias-free detention
21 services. MCSO shall ensure that all new detention officers shall receive this training as
22 part of their Academy Training. MCSO personnel shall require jail personnel to receive
23 reasonable Language Access Plan training annually.

24 Q. Other General Provisions

25 68. Any provision in this Agreement requiring translation, interpretation, or
26 other language assistance in Spanish does not relieve MCSO of any obligation under
27 Title VI or any other applicable law to provide translation, interpretation, or other
28 language assistance in other languages. This Agreement does not relieve MCSO of any

1 obligation it may have under Title VI to ensure meaningful access to programs or
2 activities by LEP individuals.

3 R. Assessing Compliance

4 69. MCSO shall timely grant reasonable requests by the United States for
5 information necessary to confirm and assess Defendants' compliance with this
6 Agreement. Such information may include access to documents, data, records, and
7 facilities, and interviews with MCSO personnel and inmates. MCSO shall compile
8 quarterly reports during the one year period following the effective date of this
9 Agreement which will include: (1) telephonic language interpretation usage reports; (2)
10 LEP inmate related formal grievances; (3) LEP jail related written complaints received
11 from the public; (4) JMS Language Code by Facility Reports; (5) LEP inmate monthly
12 interview forms; and (6) detention officer monthly LEP interview forms. These quarterly
13 reports will be available to the United States upon request. In addition, upon reasonable
14 notice and the delivery of a desired itinerary from the DOJ, MCSO will grant the United
15 States reasonable access to Maricopa County jail facilities for a maximum of two visits in
16 connection with the DOJ's Full Assessments.

17 70. The United States shall have the opportunity to make two Full Assessments
18 of the Defendants' compliance with this Agreement. The United States shall have the
19 opportunity to complete the first Full Assessment within 210 days of the Effective Date
20 of this Agreement, unless otherwise agreed by the Parties. The United States shall have
21 the opportunity to complete its second Full Assessment of Defendants' compliance with
22 this Agreement within 155 days after completing the first Full Assessment, unless
23 otherwise agreed by the Parties.

24 71. In resolving any motion or action to enforce any provision of this
25 Agreement, evidence of a Defendant's conduct, practices, or procedures prior to the
26 Effective Date of this Agreement may be probative, but shall not be determinative on the
27 question of whether the Defendant is in compliance with this Agreement.

28

1 **IV. SCOPE, IMPLEMENTATION AND ENFORCEMENT**

2 72. On the Effective Date of this Agreement or the business day following, the
3 United States shall file in this case a notice informing the Court that the parties to this
4 case have stipulated under Rule 15(a)(2) to amend the Complaint to remove the United
5 States' Fourth Claim and that portion of any other claim addressing discrimination in
6 MCSO jails, that the Complaint is thereby so amended and any such claims will not be
7 further prosecuted in this action.

8 73. The United States shall notify Defendants if it determines that a Defendant
9 is not in compliance with the Agreement in any respect. Any notification of alleged non-
10 compliance shall be in writing and will identify the specific non-compliance and the
11 factual basis for any alleged non-compliance. The Parties shall first attempt to resolve
12 any dispute informally by notification and conferral. If the Parties are unable to agree on
13 a resolution of the dispute concerning the Defendant's compliance within 60 days after
14 initial conferral, the United States may, without further notice to Defendants, seek
15 enforcement of this Agreement with the United States District Court for the District of
16 Arizona (the "Court"), through any appropriate form of relief. Any motion or action to
17 enforce this Agreement shall be brought within one year of the occurrence of any alleged
18 violations.

19 74. The Parties shall notify each other of any court or administrative challenge
20 to this Agreement. In the event any provision of this Agreement is challenged in any
21 local or state court, removal to a federal court shall be sought by the Parties and transfer
22 of venue to the United States District of Arizona will be sought.

23 75. Either Defendant may withhold from the United States any documents or
24 data protected by the attorney-client privilege or the work product doctrine. Should a
25 Defendant decline to provide the United States access to documents or data based on
26 attorney-client privilege and/or the work product doctrine, the Defendant shall inform the
27 United States that it is withholding documents or data on this basis and shall provide the
28 United States with a log describing the documents or data.

1 76. The Parties may make use of protective orders or agreements to ensure the
2 confidentiality of any non-public information as appropriate and necessary. Other than as
3 expressly provided herein, this Agreement shall not be deemed a waiver of any privilege
4 or right a Defendant may assert, including the attorney-client communication privilege,
5 attorney work product protections, and any other privilege, right, or protection recognized
6 at common law or created by statute, rule or regulation, against any other person or entity
7 with respect to the disclosure of any document.

8 **V. ENTIRE AGREEMENT, SEVERABILITY, COSTS**

9 77. This Agreement constitutes the entire agreement between the Parties with
10 regard to the Fourth Claim of the Complaint in this action, and it supersedes any and all
11 prior representations and agreements, whether oral or written, between the Parties with
12 regard to that claim. No such prior representations or agreements may be offered or
13 considered to vary the terms of this Agreement, or to determine the meaning of any of its
14 provisions.

15 78. In the event that any provision in this Agreement is declared invalid for any
16 reason by a court of competent jurisdiction, said finding shall not affect the remaining
17 provisions of this Agreement.

18 79. Each party shall bear its own costs, fees, and expenses associated with the
19 litigation concerning this action, United States v. Maricopa County, et al., No. 2:12-cv-
20 981 (D. Ariz).

21 SIGNATURES OF THE PARTIES:
22
23

24 _____
25 Joseph M. Arpaio
26 Maricopa County Sheriff

_____ Steve Chucri
Chairman, Maricopa County
Board of Supervisors

27 _____
28 Mark Kappelhoff, Deputy Assistant Attorney General
U.S. Department of Justice, Civil Rights Division