

MARICOPA COUNTY SHERIFF'S OFFICE

Bureau of Internal Oversight

Audits and Inspections Unit



County Attorney/Justice Court Turndowns September 2018

BI2018-0110

The Audits and Inspections Unit (AIU) of the Sheriff's Office Bureau of Internal Oversight (BIO) will conduct monthly County Attorney/Justice Court Disposition Inspections.

The purpose of this inspection is to determine if cases turned down for prosecution by a prosecutorial agency or cases involving the dismissal of charges were due to an "irreversible error" by the investigator, as well as determining adherence to policy and law by Office personnel.

Irreversible errors may include but are not limited to the following: violations of an individual's civil rights, the incorrect charge or classification of crimes being charged, the untimely submittal of charge(s) resulting in exceeding the statute of limitations, or a case lacking a thorough and/or proper investigation. Additionally, any error or combination of errors occurring as a result of actions, or lack of due diligence on behalf of Office personnel which once committed cannot be reversed and potentially factoring into or resulting in a case being turned down or charge(s) dismissed, will result in the determination that the case involved an "irreversible error".

The inspection will also identify any other perceived deficiencies which may fall outside the scope of the inspection, such as issues not deemed as irreversible errors but that the Inspector perceives to be a potential violation of policy, law, or industry best practices/standards.

Perceived deficiencies determined by the Inspector that are outside of scope of the inspection will not affect the overall compliance rate of the inspection; however, will still result in the issuance of a BIO Action Form for the deficiency to be addressed by the employee's chain of command through the BIO Action Form process. In an instance that the noted deficiency has previously been addressed and documented by a supervisor, the corrective action taken shall be documented through the BIO Action Form process for tracking Inspection Report compliance.

Inspectors will utilize the "IAPro" program software to generate turndown dispositions entered into IAPro by the Early Intervention Unit (EIU) each month from the Superior Court and dismissals from the Justice Courts within the specific month to be inspected. The terms "turndown" and "dismissals" are generic nomenclature (from the courts) and refer to a variety of court dispositions. No bias shall be implied or inferred as to the reason of the court disposition based on these generic terms.

These entries will be uniformly inspected by primarily utilizing the Records Division "FileBound" data base and a matrix developed by the AIU. Each complainant disposition inspected will be counted as one inspection. The following procedures, which are outlined in GF-5 and ED-3, will be used in the matrix.

Matrix Procedures:

- Determine if there were any “irreversible errors”
- Note other potential violations of policy, law, or best practices
- Note what district/division from which the disposition originated
- Note the County Attorney disposition reason/type
- Note the Sheriff’s Office method of charging (In-Custody/Booking, Citation, or Long-form)

Criteria:

MCSO Policy EA-11, *Arrest Procedures*

MCSO Policy CP-2, *Code of Conduct*

Briefing Board # 17-17; Policy change to GF-5, *Incident Report Guidelines*

MCSO Policy GF-5, *Incident Report Guidelines*

Melendres Order, Paragraph 75

MCSO Policy ED-3, *Review of Cases Declined for Prosecution*

MCSO Policy ED-3, *Review of Cases Declined for Prosecution*, provides a mechanism for command level review of the same cases involved in this inspection to identify/address minor issues and/or additional training issues/concerns that are outside the scope of this inspection.

Conditions:

All County Attorney Turndown dispositions from the Maricopa County Superior Court for the month of September 2018 available in IAPro (70 cases) were reviewed.

There were approximately 138 criminal cases with charge(s) dismissed from the Maricopa County Justice Courts available in IAPro for that month. A random selection of 20 of these cases were also selected for review. A total of **(90 cases)** were reviewed for this inspection.

The primary focus of this inspection is on the identification of “irreversible errors.” During the inspection of the Superior Court and Justice Court turndowns, there was **1** irreversible error noted. This resulted in a **99%** compliance rate for September 2018.

There were **(16)** other perceived deficiencies that are outside the scope of “irreversible error” and will not be calculated into the compliance rate for this inspection.

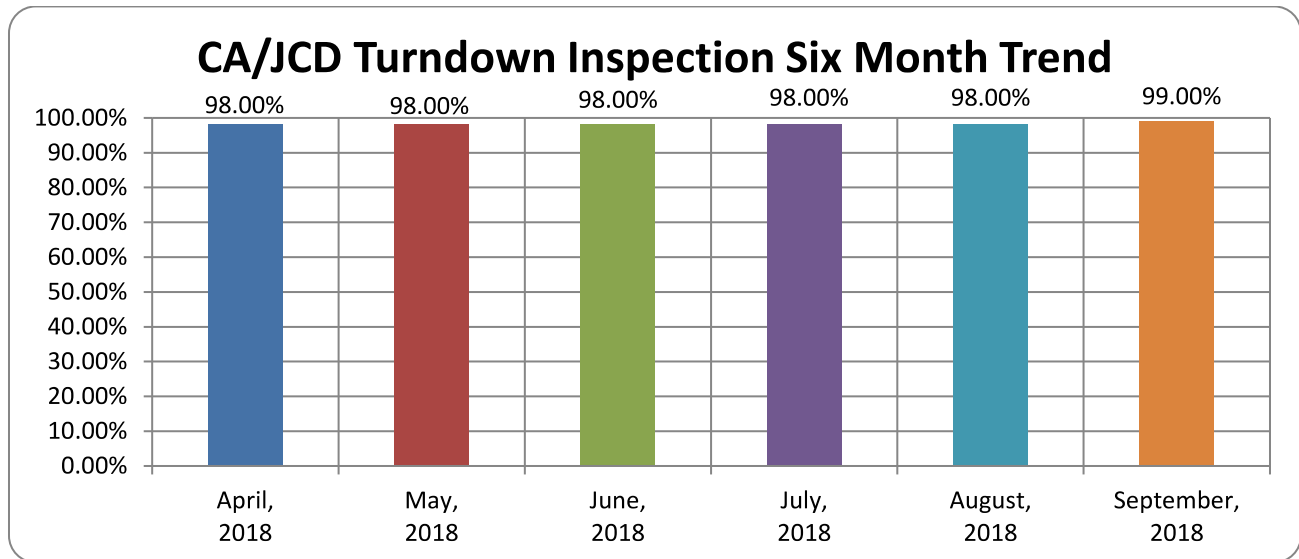
IR	C.A Allegation	Booking	Citation	Submittal
IR17034216	MCAOTN - 6113 - No reasonable likelihood of conviction MCAOTN - 6106 - This case should be used as an aid to prosecution of other case(s)	No	No	Yes
IR17021206	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR17037011	MCAOTN - 6160 - Pre-file TASC - Successful completion MCAOTN - 6104 - This case should be submitted to city prosecutor	No	No	Yes
IR18008298	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18020752	MCAOTN - 6101 - Limited resources/offense does not warrant prosecution/extradition MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18013529	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR1802250	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18010153	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18021479	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18025876	MCAOTN - 6104 - This case should be submitted to city prosecutor	Yes	No	Yes
IR18022953	MCAOTN - 6114 - No crime committed	No	No	Yes
IR18012299	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18009551	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18008364	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18025481	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18012788	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18014654	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR17006426	MCAOTN - 6160 - Pre-file TASC - Successful completion	No	No	Yes
IR18025225	MCAOTN - 6109 - Self Defense/Mutual Combat	No	No	Yes

IR18012664	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR13000898	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18012930	MCAOTN - 6113 - No reasonable likelihood of conviction	No	Yes	Yes
IR18019673	MCAOTN - 6158 - To city prosecutor in accordance with office policy delegating C6F offense for local level prosecution	Yes	Yes	Yes
IR18025186	MCAOTN - 6151 - Inadequate evidence of Intent	Yes	No	Yes
IR17027662	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18010791	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18007452	MCAOTN - 6113 - No reasonable likelihood of conviction	No	Yes	Yes
IR18011161	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR17006299	MCAOTN - 6000 - Submitted in Error	No	Yes	Yes
IR16025395	MCAOTN - 6157 - Old case/stale	No	No	Yes
IR18007344	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR17022192	MCAOTN - 6104 - This case should be submitted to city prosecutor	No	No	Yes
IR18021403	MCAOTN - 6105 - This case should be referred to other criminal prosecuting agency	Yes	No	Yes
IR17022828	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18021277	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18010006	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18013556	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR17026542	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	Yes	No
IR18016337	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR14019698	MCAOTN - 6157 - Old case/stale	No	No	Yes

IR17028706	MCAOTN - 6106 - This case should be used as an aid to prosecution of other case(s)	No	No	Yes
IR18021019	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18010531	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18015230	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18025791	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18016853	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18012195	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18022810	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18022204	MCAOTN - 6107 - Civil Matter, Not criminal	No	No	Yes
IR17015269	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18021617	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	Yes	Yes
IR17037972	MCAOTN - 6106 - This case should be used as an aid to prosecution of other case(s)	Yes	No	No
IR18021252	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18007636	MCAOTN - 6114 - No crime committed	No	No	Yes
IR18013886	MCAOTN - 6108 - Defendant is a Juvenile	No	No	Yes
IR18010440	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18001317	MCAOTN - 6109 - Self Defense/Mutual Combat	No	No	Yes
IR17007307	MCAOTN - 6113 - No reasonable likelihood of conviction	No	Yes	Yes
IR18027374	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	Yes	Yes
IR18007048	MCAOTN - 6106 - This case should be used as an aid to prosecution of other case(s)	No	No	Yes
IR18000086	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes

IR17030669	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	Yes	Yes
IR17013891	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18028340	MCAOTN - 6109 - Self Defense/Mutual Combat MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	Yes
IR18015111	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR18021601	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR16024706	MCAOTN - 6157 - Old case/stale	No	Yes	No
IR18028227	MCAOTN - 6113 - No reasonable likelihood of conviction	Yes	No	No
IR18022620	MCAOTN - 6113 - No reasonable likelihood of conviction	No	No	Yes
IR17018957	MCAOTN - 6157 - Old case/stale	No	No	Yes

IR#	JCD Allegation	Booking	Citation	Submittal
IR18006723	JCD - Dismissed on motion of court or defendant?	No	Yes	No
IR17013594	JCD - Dismissed on motion/request of prosecutor?	Yes	No	No
IR18018164	JCD - Dismissed on motion/request of prosecutor?	No	Yes	No
IR18008708	JCD - Dismissed on motion/request of prosecutor?	Yes	Yes	No
IR18016870	JCD - Dismissed on motion/request of prosecutor?	No	Yes	No
IR17038733	JCD - Dismissed on motion/request of prosecutor?	Yes	Yes	No
IR18017503	JCD - Dismissed on motion/request of prosecutor?	Yes	Yes	No
IR18020368	JCD - Dismissed on motion/request of prosecutor?	No	Yes	No
IR18022397	JCD - Dismissed on motion/request of prosecutor?	Yes	Yes	No
IR18024531	JCD - Dismissed on motion of court or defendant?	No	Yes	No
IR18023960	JCD - Dismissed on motion/request of prosecutor?	Yes	Yes	No
IR18013306	JCD - Dismissed on motion/request of prosecutor?	No	Yes	No
IR18017066	JCD - Dismissed on motion of court or defendant?	No	Yes	No
IR18018720	JCD - Dismissed on motion of court or defendant?	No	Yes	No
IR18016635	JCD - Dismissed on motion/request of prosecutor?	Yes	No	Yes
IR18020325	JCD - Dismissed on motion/request of prosecutor?	Yes	No	Yes
IR18016316	JCD - Dismissed on motion/request of prosecutor?	No	Yes	No
IR18027390	JCD - Dismissed on motion/request of prosecutor?	No	Yes	No
IR18013328	JCD - Dismissed on motion of court or defendant?	No	Yes	No
IR18021788	JCD - Dismissed on motion/request of prosecutor?	No	Yes	No

Overall Compliance Rate for CA/JCD Turndown Inspections**Compliance Deficiency**

District/Division	Case Agent	Serial #	Date of Event	IR# or MC#	Current Supervisor	Current Commander
5044-District IV	Redacted	Redacted	9.23.18	Redacted	Redacted	Redacted
Deficiency						
<ol style="list-style-type: none"> The report lacks articulation for (S1) (S2) Burglary second degree charges listed on booking record. Inconsistent information- Report states the son (S1) "was arrested for burglary" (no information in the report to support a burglary arrest). Then in the next sentence states he (S1) notified he was arrested for "Criminal Trespass." Form Four/PC statement (S2) states; "I arrested Carrie for Burglary in the 2 nd. degree per Robin requesting to aid in prosecution for Trespassing." Form four and submittal for (S1) (S2) list charges for Criminal Trespass first degree, however, Arrest Record/ Booking charges are for Burglary. Report contains the following conclusory statement; "Any reasonable person who has only known an individual for an hour and half would believe it is suspicious to enter and exit a residence from a side bedroom window after being told they are allowed to be there. If a person is allowed at a residence, a reasonable person would enter and exit through the front door." Entering and exiting through a side window does provide reasonable suspicion to investigate a possible crime of burglary and/or criminal trespass but is not prima facie evidence to charge/book subjects. 						

Non-Compliance Deficiencies**District I:**

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5041-District I	Redacted	Redacted	6.19.18	Redacted	Redacted	Redacted
Deficiency						
<p>1. The report lacks articulation of probable cause in charging the suspect with Criminal Trespassing. The IR indicates the deputy was not certain if the subject had previously been trespassed or warned about trespassing and was going to act on good faith that this did occur. The deputy further notates in the IR that the victim thought deputies had warned the suspect. The deputy states in his report that BWC footage from previous deputies would need to be reviewed to determine this, however there was no information within the report or in a supplemental report as to whether this was conducted to support the charge of Criminal Trespassing.</p>						

District II:

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5042-District II	Redacted	Redacted	9.15.18	Redacted	Redacted	Redacted
Deficiency						
<p>1. The deputy cited and released the suspect for a DV offense and suspect signed citation.</p> <p>2. The deputy notes in the IR that the suspect was "long-formed and released" (No long form submittal, Form 4, or DV supplemental checklists attached to the IR). Citing and releasing the suspect was not appropriate per Policy EA-11.8. B.2.H. Per MCSO policy EA-8, if the decision is made not to arrest the person, an IR shall be completed, and a County Attorney submittal form may be used to submit cases to MCAO.</p> <p>3. The suspect later advises the deputy that she wanted to press charges for an assault (committed by other party during original incident) and deputy states in an information only supplemental report that he advised her the investigation and the report had been completed and that it would be up to the County Attorney to "submit charges" for her claim of being assaulted.</p>						
District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5042-District II	Redacted	Redacted	7.02.18	Redacted	Redacted	Redacted
Deficiency						
<p>1. The IR does not articulate the culpable mental state of "knowingly" for the listed crime by the suspect in regard to charging. Furthermore, the victim (V1) did not wish to aid in prosecution; however, the registered owner of the vehicle (V2), did wish to aid.</p> <p>2. Deputy did not have the Stolen Vehicle affidavit signed by victim. Additionally, the deputy listed the victim who did not wish to aid in prosecution on the form. The Affidavit should have been signed by V2 who was listed as willing to aid.</p>						

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5042-District II	Redacted	Redacted	8.24.18	Redacted	Redacted	Redacted
Deficiency						
1. No Property Receipt provided for recovered weapon in which suspect (S3) admitted weapon recovered was his.						
District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5042-District II	Redacted	Redacted	4.18.18	Redacted	Redacted	Redacted
Deficiency						
1. Original report and supplemental report authored by original case agent does not articulate probable cause for listed felony charges; ARS 13-2903a "Riot", ARS 13-1003 "Conspiracy" and ARS 13-1204a.10 "Aggravated Assault" for suspect, Bryan Sanchez. Victim did not want to aid in prosecution against this suspect. Victim notes in his employee report that it appeared this suspect was "involved" but after reviewing the video, was unsure of "what his complete involvement was". Detective follow-up interview/supplement on 8/9/18 with these suspect notes, "After reviewing the video surveillance and interviewing Bryan, I do not see any charges I can submit to (MCAO)."						
2. Original report list suspect as one of the suspects then began "attacking" the victim. This statement appears to conflict with victim's account and detective supplemental report.						
District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5042-District II	Redacted	Redacted	7.18.18	Redacted	Redacted	Redacted
Deficiency						
1. Deputy documents placing the suspect in custody for assaulting his brother and notes that he transported him to the District Two substation. Deputy then lists that he conducted a recorded interview but there is no information in the IR that suspect was advised of his Miranda Warning and there is no Juvenile Miranda form attached.						

District III:

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5043-District III	Redacted	Redacted	3.16.18	Redacted	Redacted	Redacted
Deficiency						
<ol style="list-style-type: none"> 1. The report lacks articulation for the legal basis for the action for charging custodial interference. The alleged suspect's actions noted within IR do not appear to violate ARS. MCAO notice states, "No crime committed". 2. Information within the IR and within the Form IV do not appear to be consistent as one states the suspect left the property when asked to leave and one indicates the suspect's actions prohibited the father from obtaining the children. 						
District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5043-District III	Redacted	Redacted	9.24.18	Redacted	Redacted	Redacted
Deficiency						
<ol style="list-style-type: none"> 1. The IR of the incident appears to lack details of information learned during the interview of the suspect regarding the admission of breaking items in the house. The conclusion statement on charging in the report notes the suspect; "admitted to breaking" items in the house; however there no details in the report that support the suspect's admission to doing this. As this supports the element of the criminal damage charge; more information should be provided. 						
District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5043-District III	Redacted	Redacted	5.05.18	Redacted	Redacted	Redacted
Deficiency						
<ol style="list-style-type: none"> 1. The case agent cited and released the suspect for a DV offense and the suspect signed citation. The case agent also submitted long-form charges to MCAO. Citing and releasing the suspect is not appropriate per EA-11.8. B.2.H. Per MCSO policy EA-8; "If the decision is made not to arrest the person, an IR shall be completed and a county attorney submittal form...may be used to submit cases to MCAO". 						
District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5043-District III	Redacted	Redacted	3.27.18	Redacted	Redacted	Redacted
Deficiency						
<ol style="list-style-type: none"> 1. Deputy failed to impound vehicle pursuant to ARS28-3511 and MCSO Policy. Driver was cited, and vehicle was towed, but no impound. 						

District IV:

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5044-District IV	Redacted	Redacted	6.08.18	Redacted	Redacted	Redacted
Deficiency						
1. Property Receipt "signature not obtained" not marked and signature block left blank.						

Lake Patrol:

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current (Acting) Commander
5046-Lake Division	Redacted	Redacted	12.27.17	Redacted	Redacted	Redacted
Deficiency						
1. VSCF lists no contact for both female passengers; however, the IR by the deputy indicates that he attempted to speak to the two female passengers, one of which answered his questions. <ul style="list-style-type: none"> Inspector Observation, not a deficiency to address in BIO Action Form- Deputy states in IR after several P.B.T attempts; "she purposefully did not blow into the portable breath tester as instructed." This could be construed as a conclusory statement and best practice would be to note; "suspect failed to provide a sufficient sample or simply, did not provide a breath sample as instructed." 						
District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current (Acting) Commander
5046-Lake Division	Redacted	Redacted	6.14.18	Redacted	Redacted	Redacted
Deficiency						
1. No property receipt provided for the pipe or Driver's license. 2. Seizure of driver's license is not notated in the narrative of the report per GE-3.9. B.1.b. Seizure box on citation not checked. 3. Driver's license impounded for destruction, however policy states it should be impounded as evidence.						

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current (Acting) Commander
5046-Lake Division	Redacted	Redacted	6.24.18	Redacted	Redacted	Redacted
Deficiency						
1. Legal basis for the action is not articulated in the report. Deputy cited the subject for ARS5-350A (Personal Floatation Device Required). In her narrative, she states that the subject was wearing a PFD but it wasn't zipped up; noting that it was secured by buckles. The ARS states, "shall not operate a watercraft unless each person is wearing a wearable personal floatation device that is approved by the US Coast Guard."						

District VI:

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5056-Patrol District VI Queen Creek	Redacted	Redacted	5.08.18	Redacted	Redacted	Redacted
Deficiency						
1. Property Receipt; "signature not obtained" not marked and signature block blank.						

District VII:

District/Division	Case Agent	Serial #	Date of Event	IR#	Current Supervisor	Current Commander
5045-District VII	Redacted	Redacted	3.07.18	Redacted	Redacted	Redacted
Deficiency						
1. Vehicle not towed per ARS 28-3511 and MCSO policy.						

A total of **(17)** BIO Action Forms are requested from the affected divisions for the perceived deficiencies listed.

The form shall be completed utilizing Blue Team.

Date Inspection Started: October 8th, 2018
Date Completed: October 31st, 2018
Time frame Inspected: September 1st to September 31st, 2018

Assigned Inspector: Sergeant Travis Glenn S1626
Assigned Inspector: Sergeant Robert Levy S1881

I have reviewed this inspection report.

Lt. Larry Kratzer S1520
Lt. Larry Kratzer S1520
Bureau of Internal Oversight

11/13/2018
Date