

# **Kern County Monitors**

## **First Annual Report**



**January 2022**

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# I. INTRODUCTION

This is the first annual report issued by the Kern County Monitors. It provides the Monitoring Team's (MT) observations on the progress made by Kern County and the Kern County Sheriff's Office (KCSO) in meeting the requirements of their [Stipulated Judgment \(SJ\)](#) with the California Department of Justice (DOJ).<sup>1</sup> KCSO, Kern County, and DOJ together are referred to as the Parties. This report focuses on work undertaken from February 2021 through January 2022.

Given that this is the first year of the SJ, KCSO and the MT have devoted significant time to creating a structure for the monitoring processes, developing working relationships, establishing the Compliance Unit (CU), and undertaking other foundational work required to advance the SJ objectives. The MT has endeavored to familiarize our team members with Kern County; the unique features and challenges associated with providing law enforcement services in this region; and developing an effective working relationship with KCSO, Kern County Counsel, DOJ staff, the Communitywide Advisory Council (CAC), and the wider community. This relationship building was not without challenges due to the COVID-19 pandemic. The MT conducted one in-person site visit during the year, but most of the work was conducted virtually. We appreciate the flexibility and support from KCSO, DOJ, and the community to make meetings and relationship building successful.

In the course of our work, the MT met with many members of KCSO, including Sheriff Donny Youngblood and Undersheriff Doug Jauch. Both the Sheriff and Undersheriff have expressed their commitment to the SJ and have made themselves available to the Monitors; participated in meetings; and perhaps most importantly assigned high-level, experienced staff to the compliance team. The CU was assembled to lead KCSO's efforts to achieve SJ compliance and includes representatives from several KCSO units, including Professional Standards, Training, and Human Resources. Led by Compliance Coordinator Erik Levig, who was recently promoted from Commander to Chief Deputy, each member of the CU has shown a high level of commitment to the SJ and is actively engaged in the discussions and work that are underway. The MT appreciates that well-suited personnel have been assigned responsibility for each section of the SJ; this facilitates productive meetings and workflow. Without exception, the CU has made staff available to the MT and community when requested. Further, the MT is pleased to note that the CU regularly provides materials on time and follows up on action items.

The MT has also met with several representatives of Kern County, especially regarding human resources and language access, and we acknowledge their insights and cooperation. In particular, we appreciate the knowledge, experience, and commitment that Pawan Gill, the County's Director of Diversity, Equity and Inclusion, has brought to the work.

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<sup>1</sup> <https://kcsomonitoring.info/>

Consisting of a group of highly dedicated community members, the CAC was formed in October 2020 and has several SJ-mandated duties, including reviewing KCSO policies and serving as a facilitator of communication, information sharing, and collaboration between KCSO and the community. The MT has been impressed by the CAC's thoughtfulness, commitment, and dedication. They are well organized and meet routinely—sometimes weekly—to tackle issues related to policy review and staffing needs, and they work diligently with KCSO to improve community engagement strategies. In the upcoming months, the CAC and KCSO are launching efforts to improve communication between KCSO and the community, including a "Bridging the Gap" forum and other activities described in the Community Policing section of this report.

We are particularly appreciative of the CU's demonstrated commitment to engaging with the CAC. KCSO and the CAC have nurtured an evolving and strong foundation for trust over the last year. There is a demonstrated ability to engage in honest dialogue, work through differences, and deal with difficult issues in a constructive manner.

In the following sections, we discuss work done to date by KCSO, the County, and the MT, the Monitors' assessment of KCSO's progress during this initial year, and next steps to be undertaken. Note that these steps may evolve once compliance metrics and assessment methodologies are negotiated with the Parties. While the MT and KCSO initiated work on every section of the SJ, the focus has been on Community Policing, Language Access, Use of Force, and Personnel Complaint Review, with particular attention being devoted to Recruitment, Hiring, and Promotions because, without dramatic improvements in that area, KCSO will be challenged in all other areas of the SJ. KCSO is currently facing a staffing crisis that has been exacerbated by the pandemic, retirements, and other departures. KCSO's ability to reach compliance with certain SJ provisions will rely on having adequate staffing, so recruitment, hiring, and promotional issues are important. For example, the behavioral health section requires that staff receive a 40-hour crisis intervention team (CIT) training and trained staff are available on every shift. Another example the MT has noted is that KCSO has indicated that supervisors are not always readily available to respond to and conduct independent reviews of all use of force (UOF) incidents due a lack of sufficient supervisors and the distances that have to be covered. Additionally, staffing shortages make it difficult for KCSO to remove personnel from their normal duties to complete necessary training because mandatory sworn positions must be staffed at all times. Long term solutions will require improvements in the hiring and retention of quality staff, as required by the SJ, as well as increased and thoughtful budgeting.

This report summarizes the work done by the MT and KCSO this year. Because this is the kickoff year, we did not expect KCSO to achieve compliance with most provisions at this early stage; this report provides our assessment of progress, but not compliance. We do however have expectations that KCSO and the County should be able to display significant progress on compliance in year two.

The ability to bring about successful outcomes is directly related to the level of trust and confidence the Parties have in each other, and that trust can only be developed through ongoing communication and great continuous effort by all stakeholders. A key objective of the SJ is to promote practices that ultimately lead to engaging the community as a willing and valued partner in the coproduction of public safety, and that goal is definitely achievable in Kern County.

## **The Stipulated Judgment**

The SJ was established between the California Attorney General, KCSO, and Kern County and filed with the Kern County Superior Court in December 2020.

The agreement stemmed from findings from a California DOJ's pattern and practices investigation of KCSO, which alleged misconduct. While denying the allegations, KCSO and the County agreed to undertake reforms intended to ensure that they protect individuals' statutory and constitutional rights, treat individuals with dignity and respect, and promote public safety in a manner that is fiscally responsible and responsive to community priorities. The SJ specifically identifies eight key areas of reforms and objectives: Use of Force; Stops, Seizures, and Searches; Responding to and Interacting With People With Behavioral Health Disabilities or in Crisis; Management and Supervisory Oversight; Language Access; Recruitment, Hiring, and Promotions; Community Policing; and Personnel Complaint Review.

The SJ also stipulates that a professional monitor be selected to track and assess KCSO and the County's progress in implementing and achieving compliance with the SJ and report on the status of implementation to the Parties (DOJ, KCSO, and the County) and the Court. The Monitors and their team of subject matter experts also work with the Parties to address obstacles to achieving compliance and provide technical assistance when requested. This annual report is provided by the Monitors pursuant to SJ paragraph 185.

KCSO provides law enforcement services in the unincorporated areas of Kern County and via contracts with some cities within Kern County. This includes some unincorporated areas in the Bakersfield metropolitan area that are not under Bakersfield Police Department jurisdiction. KCSO headquarters are located in Bakersfield, with thirteen substations serving outlying areas. The SJ also applies to KCSO activities at the County Central Receiving facility located in downtown Bakersfield and at the Lerdo Detention complex also in Bakersfield.

## **The Monitoring Team**

The appointed Monitors, Dr. Angie Wolf and Joseph Brann, have brought together an experienced and motivated team with credentials and skills uniquely suited to the SJ work. In place since February 2021, the two Monitors and seven team members have extensive expertise and experience in monitoring and evaluation work in policing and corrections.

Several of the MT members have served in law enforcement. Some have served in leadership positions in law enforcement or corrections agencies that were being monitored under a settlement agreement or consent decree and are therefore familiar with the unique challenges that large organizations face in those circumstances. Other members are attorneys with extensive experience working with the state or federal justice departments, with law enforcement agencies, and with communities involved in legal actions or otherwise organized to seek improvements in the governmental services provided in their area. The MT includes highly experienced governmental auditors who will conduct professional audits using the standard of due professional care. The MT members also have expertise in dealing with the diverse issues addressed in the SJ, such as those related to UOF, training, data collection and analysis, survey methods, and the complexities of community engagement. In addition to having experienced researchers on the MT, the Monitors partner with experts in survey research and criminal justice-related statistical analysis from leading universities when undertaking these activities.

## **Kern County Monitoring Website**

The Monitors have created a website that allows Kern County community members to learn more about the SJ, the backgrounds of MT members, and the monitoring activities; be alerted to upcoming events and meetings; access documents related to the SJ and the monitoring work (which will eventually include annual reports, each Community Survey report, MT audits, and MT data analyses); follow links to KCSO's homepage and other relevant websites; and, importantly, submit questions and comments directly to the MT.

The website's URL is <https://kcsomonitoring.info/>

# **II. WORK TO DATE**

## **A. USE OF FORCE**

The circumstances leading up to the UOF, along with the type and amount of force used, require close examinations from the Monitors, KCSO, and the broader community. Increased public awareness, real-time social media broadcasting, body-worn cameras, and the omnipresence of cell phones with recording capacity have in many ways helped law enforcement and community relationships, mainly by increasing transparency. These technologies can also assist KCSO management with their responsibility to objectively evaluate UOF incidents; to identify employees who may require additional training, closer

attention by supervisors or management, and/or discipline; and to identify agency-wide policy, training, or supervision needs.

The first numbered paragraph of the SJ requires KCSO to continue revising its UOF policies and practices to reflect its commitment to “upholding the rights secured or protected by the Constitution . . . [a]nd federal and state laws, protecting human life and the dignity of every individual, and maintaining public safety.” Paragraphs 1–39 describe SJ-mandated policies and priorities regarding using and reporting force, including but not limited to the following.

- Revising policies and training to reflect the current legal requirements regarding use of force that reflect a commitment to upholding the rights of individuals and include concepts such as the sanctity of life, necessity, proportionality, and de-escalation.
- Ensuring that deadly force is only used in situations authorized under California law (Penal Code § 835a).
- A requirement to define an imminent threat justifying the lethal use of force.
- A requirement that deputies undertake appropriate efforts to utilize de-escalation tactics such as repositioning and tactical communications skills, staff switching, and modulating the tone being employed to resolve tense and evolving incidents without using force.
- A requirement that deputies appropriately provide verbal warnings to individuals before using force, whether lethal or non-lethal, and require deputies to document whether the individual had an opportunity to comply after the warning was issued.
- A requirement that deputies appropriately employ less-lethal options before using deadly force.
- Affirm the requirement that any force used is proportional to the law enforcement objective being sought.
- Prohibit the use of carotid restraints or other similar techniques which cut off blood or oxygen to the subject’s head.
- A requirement that deputies intervene in the event they witness excessive force by another deputy and promptly report such incidents to a supervisor.
- A requirement that UOF investigations be thoroughly conducted and reviewed by an independent supervisor.
- A requirement that UOF investigations be competently reviewed by management.
- A commitment to hold supervisors accountable for not detecting, adequately addressing, or responding to UOF incidents.
- A modification of canine deployment so canines are deployed in a manner consistent with "find and bark" approaches rather than "find and bite" approaches.
- Maintaining and enhancing the KCSO canine certification program.
- A mandate for supervisory evaluations of all canine deployments for compliance with policy, the SJ, and state and federal law.
- A requirement that canine deployments will be included as an element in KCSO’s Early Warning System (to identify risk management issues and potentially problematic trends).

The remaining 19 paragraphs in the Use of Force section require KCSO to enhance deputies' UOF and canine apprehension training; ensure UOFs are investigated thoroughly and fairly; and regularly review UOF data to track, review, and address any potentially problematic trends. The focus of work thus far has been on policies, but the MT has laid the groundwork and started work in all of these subject areas.

## **1. GROUNDWORK AND PRELIMINARY REVIEWS**

During this reporting period, the MT reviewed multiple policies and investigative reports, held a series of meetings and discussions with KCSO, and helped facilitate the CAC's engagement in policy revisions. The meetings included comprehensive and productive discussions with the MT, KCSO executives, managers and subject matter experts, and DOJ. To ensure continued productivity, the MT and Parties remained in close communication in between the meetings. These activities laid the groundwork for subsequent assessments and audits that will be conducted and for feedback and technical assistance that will assist in KCSO's ongoing efforts to bring its policies and procedures into compliance. The MT's assessment of compliance will begin after KCSO formally submits their updated or new policies for review.

In early 2021, KCSO provided the MT with initial drafts of revisions to its UOF policies as well as numerous UOF reports and documentation of canine apprehensions. The MT reviewed these materials to gain insight regarding how KCSO currently documents, supervises, investigates, and adjudicates UOF and canine apprehensions by KCSO deputies. It is crucial at the early stages of monitoring that the MT and the Parties establish a mutual understanding of all relevant procedures.

In May 2021, the MT and KCSO had an onsite kickoff meeting to outline the work of several SJ sections, including the UOF provisions. At that meeting, the MT discussed the UOF policies with KCSO and spent a substantial amount of time engaged in efforts to clarify the procedures by which KCSO responds to investigations of incidents involving deputy UOFs and canine apprehensions to ensure that the Parties and MT share a clear understanding of current practices.

These early activities and meetings allowed the MT to develop a process map—a comprehensive description of how KCSO documents, investigates, and adjudicates UOF incidents. Systems governing complex issues like those dealing with UOF (or public complaints) are often addressed in not one but myriad documents. Those documents may include such things as the agency's policy manual, various directives, training materials, and written procedures and forms. To some extent, the processes can also be reliant upon institutional knowledge. Therefore, it is important to establish a mutual understanding among the Parties and MT of the process, with sufficient attention to the details to ensure that everyone considers the same factors and views the process in a consistent manner. This process map will especially help our collective efforts to determine whether the elements we are examining comply with the SJ requirements.

The Parties and MT must have a shared understanding of the SJ's specific requirements in order to establish clear objectives for KCSO and standards by which the MT will assess compliance. To that end, the MT, DOJ, and KCSO managers met virtually for a day in November 2021 to discuss and clarify the requirements for each of the SJ's UOF paragraphs. Previous discussions about policies and procedures



informed this discussion. This process led to clarifying and gaining agreement around many, but not all, of the SJ's requirements.

Among the unresolved items, KCSO views the terms "reviews" and "investigates" synonymously as they relate to UOF and canine apprehensions, but this is not consistent with standard law enforcement agency practices, nor is it a view shared by the Monitors or DOJ. KCSO's current policy and practice allows for deputies who were directly involved in UOF incidents, including canine apprehensions, to also conduct the on-scene interviews and investigations when a field supervisor is not available, and that is something the MT has found occurs on a regular basis. This is an untenable conflict of interest. We realize that this conflict is currently somewhat beyond KCSO's control due to significant supervisory staffing deployment shortages. However, it is incumbent on KCSO and County officials to ensure that supervisory positions be sufficiently staffed to eliminate this practice, as it calls into question the objectivity and authenticity of KCSO UOF investigations. Until the County and KCSO are able to address these staffing issues, the MT and DOJ will work with KCSO to have a plan to make progress in this area. Additional discussions will take place in the next reporting period so the Parties can reach consensus on these remaining issues regarding all of the SJ's terms, conditions, and requirements.

## **2. KCSO POLICY REVISIONS**

We want to acknowledge that KCSO, on their own initiative, began the process of developing comprehensive revisions to its UOF and canine policies before the SJ was agreed upon and before the Monitoring Team was selected. As indicated above, these initial drafts were shared with the MT and DOJ. These drafts are still in development and were not submitted to the MT for the purpose of assessing compliance or lack of compliance at this early stage. Writing new departmental policy and even revising existing policy is always a complicated process. In this case, it requires input from the CAC, DOJ, KCSO executives, and the MT. DOJ and County Counsel will play a substantial role in developing the policies to ensure they meet the objectives in the SJ. KCSO has also indicated they plan to share draft policies with the community at large via their website and at a community meeting. A CAC member who is an ACLU representative also has provided some well-researched and helpful feedback in this regard. Note that after preliminary approval by the MT and DOJ, the policies will have to be reviewed by the unions representing KCSO deputies and managers. The process requires adequate time for discussion and consideration of revisions to these policies before it can be determined they are in compliance with the SJ. However, the MT's initial review of the draft policies has shown promising signs of progress, and it appears that substantial improvements have been made compared with previous policies. In the next reporting period, we anticipate that these drafts should be at the stage where they will be formally submitted for assessment as to whether they meet compliance requirements.

### 3. CAC FEEDBACK

As mentioned above and discussed more thoroughly in the Community Policing section of this report, KCSO is partnering with the CAC in the refinement of several SJ-related policies. Pursuant to SJ paragraph 10, the CAC Policy Committee has begun reviewing KCSO's UOF and canine policies with KCSO representatives and providing them with feedback. The CAC has drafted the following recommendations for KCSO's development of its UOF policy. The CAC is consulting with other community members on these preliminary recommendations and will submit formal recommendations after receiving that input.

#### CAC's Preliminary Recommendations Regarding KCSO's Use of Force Policy

- The UOF against vulnerable populations, including children; elderly or pregnant people; and those with physical disabilities, behavioral health issues, mental impairment, or language barriers can damage community trust and should be used only as a last resort, after exhausting all other reasonable means.
- UOF policies should define and emphasize rapport building with noncompliant individuals by using de-escalation techniques involving nonthreatening tactics such as body language, maintaining distance, regulating cadence, obtaining or supplying information, or involving relevant partnering agencies. UOF-related policies should clearly describe the principles and practices of de-escalation, including a duty to use crisis intervention training and mental health support when feasible.
- The principles established by the US Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989), constitute the legal foundation for the UOF by peace officers. The Supreme Court held that the UOF must be objectively reasonable under the totality of the circumstances known to the peace officer at the time. When employing deadly force, we [CAC] recommend the use of deadly force be prohibited if an objective deputy would believe the person does not pose an imminent threat of death or serious bodily injury to themselves, the deputy, or to another person. Deputies shall continually evaluate evolving situations to appraise the continued need for force.
- It is recommended that each evaluation of UOF occurrences should include whether the deputy exhausted all other alternatives before resorting to force. KCSO should collect data regarding the totality of circumstances along with Racial and Identity Profiling Act (RIPA) data for single UOF incidents. KCSO should monitor and analyze all UOF incidents, establishing an early intervention program to identify deputies who may be at greater risk of using excessive force. KCSO should collaborate with the CAC and the community in analyzing UOF data for relevant trends and mitigate circumstances to decrease incidents of excessive force.
- KCSO is advised to place significant priority on deputy health and wellness. By increasing psychological support, deputies will be better equipped mentally, physically, and emotionally to formulate superior outcomes when confronted with high-stress situations.
- The CAC has recommended that KCSO achieve compliance with the SJ as well as state law by ensuring it continues to update UOF policies and training.

#### **4. NEXT STEPS FOR KCSO**

We recognize and appreciate KCSO's diligent efforts thus far, but much work remains to be done, as would be expected at this point in the SJ. Progress toward compliance with the SJ provisions regarding the use, investigation, and adjudication of force and canine apprehensions will be achieved through the following activities.

- KCSO will develop a strategic plan to meaningfully engage community stakeholders in the development of UOF policies (SJ paragraph 10).
- KCSO, with input from the CAC and other community stakeholders, will revise its UOF and canine-related policies and procedures to reflect SJ paragraphs 1–26, 28, and 29–39. Policies will be submitted to MT and DOJ for compliance assessment.
- Working with the MT, KCSO will review its canine-related data collection and maintenance processes for alignment with the SJ and reviews by MT and DOJ (SJ paragraph 27).
- Once the policies and procedures have been revised and approved, KCSO will develop or revise training (including refresher training, SJ paragraph 152) on updated policies and provide this to all affected personnel, including deputies and those responsible for investigating and adjudicating the UOF and canine apprehensions. KCSO will continue to consult with the MT and DOJ on the development of these training materials. At the end of that process, the training materials will be formally submitted to the MT and DOJ for compliance assessment.
- KCSO will conduct the analyses required in SJ paragraphs 55 and 56 and discuss findings and implications for policy and training with the MT and DOJ.
- KCSO will document the results of the above analyses in a public report (SJ paragraphs 58–59).
- KCSO will continue to cooperate and assist with the MT's various information requests, reviews, and audits and with the development of compliance metrics.

#### **5. NEXT STEPS FOR THE MT**

In addition to working with the Parties to determine compliance metrics, the MT will place particular focus on the items listed below.

- The MT, DOJ, and KCSO will develop a shared understanding of the requirements of the SJ provisions, including resolving any outstanding questions, and collaboratively determine compliance metrics.
- The MT will provide consultation and technical assistance, as needed, to KCSO, DOJ, and the CAC in the development of UOF and canine apprehensions policies.
- The MT will provide consultation and technical assistance, as needed, to KCSO and the CAC in the development of training and for the documentation requirements related to UOF and canine apprehension policies.
- The MT and DOJ will review submitted policies, related training curricula, and plans for their delivery; and will provide feedback to KCSO regarding any changes needed prior to implementation.

- Once approved and implemented, the MT will verify that the required training is consistently provided to appropriate personnel.
- The MT will provide consultation and feedback on KCSO analysis and findings related to SJ paragraphs 55 and 56.
- The MT will conduct a review of UOF cases to assess the thoroughness of KCSO's training program for supervisors and managers who investigate the UOF and canine apprehensions (SJ paragraphs 40–48).
- The MT will conduct regular and periodic spot inspections and reviews of UOF incidents, canine apprehension investigations, and any related management reviews and adjudication processes.
- The MT will participate in ride-alongs with canine sergeants and managers.
- With the policies and training in place, the MT will conduct audits assessing whether compliance with the SJ's provisions has been achieved in practice. This will be accomplished through carefully designed audits and spot inspections to assess UOF incidents, including canine apprehensions, and examine the thoroughness and quality of the investigations and adjudication processes undertaken by KCSO executive management. The MT will provide audit reports detailing all methodologies, findings, and the compliance status for each provision audited. For provisions found to be out of compliance, the MT will provide guidance on how KCSO can further revise any policies, training, or procedures to reach compliance in future audits.

## **B. STOPS, SEIZURES, AND SEARCHES**

The first sentences of paragraph 60 of the SJ summarizes the overall goal of this section.

*KCSO will reiterate, train, and emphasize that all investigatory stops, seizures, and searches are conducted in accordance with the rights, privileges, and immunities secured or protected by the Constitution or laws of the State of California and the United States. KCSO will reiterate, train, emphasize and continue to ensure that investigatory stops and searches are part of an effective overall crime prevention strategy, do not contribute to counter-productive divisiveness or tension between KCSO and the community, and are adequately documented for tracking and supervision purposes.*

This section details specific data to be collected, policy requirements and training that must be approved by the MT and DOJ, and the reviews supervisors are required to conduct to ensure SJ accountability and compliance when conducting investigatory stops, detentions, and searches.

The MT has had several productive meetings with KCSO personnel regarding their current stop-related policies, trainings, data collection and analysis, supervisory review procedures, and related procedures such as language access and body-worn cameras. The meetings also included a review of the relevant SJ provisions and an introductory discussion of compliance metrics. With impressive expedience, the KCSO team responded to a recent MT document request by providing documentation and samples of several types of information that form the backbone of supervisor and management stop reviews; these will serve as the basis for the MT's process review. The information provided included: policies related to stops and bias-free policing, stop-related training materials, sample citation and arrest reports,

samples of the types of trend analyses, and KCSO data analysts' mapping of crime and calls for service that stations use to guide deputies' field work.

A primary purpose of these meetings and reviews was to develop a mutually agreed-upon understanding (the process map described in the UOF section) of the current processes by which KCSO documents their law enforcement activities and how that information is reviewed and used by supervisors and managers to identify any issues, including undertaking necessary corrective actions; meetings also began the process of identifying areas where current activities do not align with SJ requirements. While the Monitors have conducted no formal compliance assessments yet, the groundwork for those activities is in place. When initiated, the Stops, Seizures, and Searches provisions will be assessed through a variety of means, including audits of stop documentation; observations and ride-alongs; stop data statistical analysis; and public feedback through the CAC, community meetings, and the community survey.

## **1. POLICIES AND TRAINING**

KCSO has received initial input from the CAC regarding their views and expectations surrounding community policing and bias-free policing policies, pursuant to SJ paragraph 117. KCSO personnel have indicated they believe some SJ requirements are already included in current policy. In the next reporting period, the MT will review the relevant KCSO policies and the product of their consultation with the CAC for the purpose of assessing the degree to which they sufficiently and appropriately address their intended SJ subject matter and to determine whether further policy development might be required.

KCSO deputies receive training in a variety of ways, including during the Academy, in continuing training every other year, or in the various classes and simulations deputies occasionally participate in. KCSO has indicated that their existing training addresses some SJ requirements, such as stops being conducted only when reasonable suspicion is established and the procedural justice-related requirements of paragraphs 62 and 64. As mentioned, KCSO has begun providing curricula for their existing trainings for initial MT review. Whether SJ elements are already adequately addressed will be determined by the MT once they are formally submitted for compliance review. The initial review underway currently is limited to ascertaining what subject matter is addressed, the extent to which it addresses SJ requirements, and whether there are any significant gaps that may require substantial new training development. Another training tool KCSO employs is the use of training bulletins to inform deputies of minor changes in policies or of issues that managers want to emphasize and ensure deputy awareness of based on recent trends or incidents. In some cases, these bulletins can be used in lieu of more extensive changes to training. However, for efficiency, the MT stressed that policy reviews and modifications should be taken on first, with any necessary training revisions being made following completion and required approval of the policy by the MT and DOJ to ensure alignment of policy and training.

Following final approval by the MT and DOJ, and once the policies and trainings have been approved and implemented, the MT's attention will focus on assessing whether all appropriate personnel understand their responsibilities and are carrying out their respective duties in a manner that is consistent with the objectives and provided training.

## 2. KCSO DATA COLLECTION AND ANALYSIS

KCSO has informed the MT that the primary source of stop data to support internal analyses and reviews will likely be based on the same data that KCSO submits to the state, as required by the RIPA statutes. The MT finds that the data required by the state is extensive and generally appropriate for SJ-related purposes; however, in the next reporting period, the MT will work with KCSO to assess whether KCSO must collect any additional data to meet SJ requirements and, if so, how they can begin collecting and using that information.

The MT met with training and data systems personnel several times over the past year to get a complete picture of the many data systems used to record, track, and analyze data and other required documentation regarding KCSO activities. The pure number of data systems and the fact that many of them are antiquated and/or do not have the capacity to link to one another makes some of the SJ-envisioned analytics and early warning capabilities exceedingly difficult to institute. The MT supports KCSO's ongoing efforts to address this challenge and to explore solutions that would lead to new, more unified system capabilities or the adoption of other solutions by which myriad data storage systems can be accessed in a timely and more user-friendly manner. We are also encouraged by KCSO's reports that they are in conversations with one of their major data processing vendors with the goal of increasing KCSO's internal capacity to analyze the RIPA data.

Based on this understanding of the limitations in the existing systems and the samples of data and documentation recently provided by KCSO, during the next reporting period, the MT will work with KCSO to compare the data management and supervisory review processes required by the SJ to identify gaps in data collection, analysis, and review and to explore needed enhancements that will enable KCSO to meet SJ requirements and improve law enforcement services in the County. In addition to supervisory review of individual deputy performance, several SJ provisions require managers to conduct broader analyses of stop data for the purpose of identifying potential problems (see SJ paragraphs 55–58, 68, 80, and 82).

The MT submitted many information and meeting requests in the early stages of the monitoring work and appreciates KCSO's efforts, responsiveness, and cooperative spirit. This spirit was exemplified when, in the process of preparing a RIPA data sample to submit to the MT, KCSO personnel quickly realized that they were not in possession of the state's data codes, which are needed to interpret the raw RIPA data. Rather than let this obstacle lead to unnecessary delays, they immediately made efforts to retrieve those codes through multiple channels. They also quickly informed the MT of the issue. This type of effort and transparency represent a promising beginning to the positive working relationship that is essential between the Parties and MT and that will help promote steady progress toward compliance.

In December 2021, KCSO announced a new position of departmental analyst in their Compliance and Standards Division; however, they have yet to fill that position. This new position will assist with providing important information and data analysis as required throughout different SJ provisions. Due to staffing issues and budget considerations, funding the new open position meant they had to eliminate a position in the Body Worn Camera (BWC) auditing unit. The new analyst position is a promising step, but the MT encourages efforts be made to fill these important, SJ-related functions.

Additionally, KCSO added a “transparency” tab to their website as an additional way to provide information to the community, though it did not include much content at the time this report was written. The MT encourages KCSO to use this new feature and to promote it to the public.

### 3. KCSO SUPERVISORY REVIEW

Discussions on the supervisory review of stop information identified possible documentation gaps in certain stages of the process. KCSO has expressed an openness to exploring and, if need be, correcting those issues. The MT will work with them in the next reporting period to do so. Some SJ requirements regarding supervisory review are also required by the state in relation to RIPA data submissions. To the extent that these reviews are redundant and conducted with the same standards intended by the SJ, they should be sufficient for achieving compliance; however, it may be necessary to augment the RIPA data collection and reviews to some extent to meet SJ compliance. For instance, SJ paragraph 77 requires supervisors to complete a weekly review of at least one daily log of each deputy’s stops, but KCSO has indicated that supervisors already review *every* stop that is filed with the state to meet RIPA requirements. The MT will assess whether the RIPA review includes all cases and points of information required by paragraph 77.

The MT was encouraged by KCSO’s early efforts and progress in establishing the BWC auditing unit, primarily consisting of non-sworn personnel under the direction of a sergeant. Following a large-scale roll-out in October and November 2021, all patrol deputies are now equipped with cameras.<sup>2</sup> KCSO has reported that the audit team reviews an average of 150 randomly selected videos per week. This review has several purposes, including assessing whether any stops that required a RIPA report were indeed completed and filed (SJ paragraph 66) and whether all observed UOFs were reported (SJ paragraphs 18 and 29). The team also alerts their supervising sergeant to possible indicators of policy violations or misconduct that may require further inquiry. The MT is impressed that this regular auditing of body-worn camera footage is already occurring. There is potential for this existing mechanism to be augmented to meet several other SJ-related supervisory and management review goals, such as ensuring that deputies consistently follow the mandates of paragraphs 61, 62, 65, 69, 71, and 73 as well as for MT audits. As the monitoring work continues and as SJ-compliant policies, training, and supervisory review processes are established, the MT will review the processes used, the team’s training, and the scope of their reviews and determine whether and how the team’s mission might be expanded to address some areas in Community Policing and Language Access in addition to Stops.

KCSO provided a description of the manner with which supervisors and managers provide guidance and instructions to deputies regarding expectations of their priorities, strategies, and tactics in the field. These processes are understandably more structured at the main station, referred to as Metro, than at the substations. At the main station, roll calls are held at the start of each shift, where deputies can receive hot spot and other crime analysis documentation and instructions in a generally uniform manner. At substations, the number of deputies on each shift can be quite small, organized roll call

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<sup>2</sup> KCSO indicated that most deputies seem to support body-worn cameras, with deputies reporting appreciation that the recordings provide evidence that they are conducting themselves appropriately in the field and that the footage can be used to address questions that arise. KCSO managers also indicated that knowing deputies’ activities are being recorded via body-worn cameras appears to reduce the inclination of passersby to record scenes with their own recording devices.

sessions are less common, and the methods by which information is shared are less formalized. In the next reporting period, the MT will continue its inquiry into how supervisors and managers ensure that deputies in the field receive clear, consistent, and thoughtful instructions and how that information and evidence of its impact are documented and reviewed (see SJ paragraphs 60 and 96).

#### **4. NEXT STEPS FOR KCSO**

The key activities and objectives for KCSO to address regarding stops, seizures, and searches, primarily in the next reporting period, include the following.

- KCSO will develop and implement policies in consultation with the Monitor and CAC to ensure that (1) deputies conduct and document stops, searches, and seizures in accordance with the SJ and the law, and (2) supervisors review and evaluate data associated with investigatory stops and searches. Community members apart from the CAC will also have the opportunity to provide input on the policies. (SJ paragraphs 60–75).
- Following finalization and approval of policies, KCSO will develop or revise the associated training curriculum in consultation with the Monitor. Among other steps, this will include KCSO reviewing its current training related to investigatory stops, searches, and seizures for alignment with the SJ and identifying areas requiring enhancement or new policy development (SJ paragraph 75).
- KCSO will develop and implement policies in consultation with the Monitor and CAC to ensure that deputies document and that supervisors review and evaluate data associated with investigatory stops and searches.
- KCSO will revise or develop accountability and supervision practices to ensure that unlawful stops, searches, and seizures are identified and addressed (SJ paragraphs 76–82).
- Working with the MT, KCSO will identify and develop plans to address any gaps in current data collection and stop documentation practices. Among other steps, this will include assessing the extent to which the RIPA-related data collection and supervisory review address SJ requirements, as well as reviewing current BWC auditing processes for possible augmentation to meet other SJ-required supervisor and managerial review and oversight functions (SJ paragraphs 27, 66, 68, 80, 76–82).
- KCSO will continue to pursue data system solutions and to enhance its capacity to access and analyze data and use the findings to inform practice and meet SJ requirements (SJ paragraphs 55–58, 68, 80, 82). Working with the MT, KCSO will expand their regular data analysis and documentation review to identify and develop responses to potential issues.
- KCSO will continue to cooperate with and assist in the MT's various data and document requests, inquiries, and reviews and with compliance metrics development.

#### **5. NEXT STEPS FOR THE MT**

In addition to working with the Parties to determine compliance metrics, the MT will place particular focus on the following.



- Working with KCSO, the MT will continue development of a process map for shared understanding of current processes for stop documentation and data collection, supervisory review, tracking trends, guiding deputy priorities and tactics in the field, training, and supervisor and manager use of data to inform practice.
- Working with KCSO and DOJ, the MT will schedule and plan virtual and in-person site visits.
- The MT will provide consultation and technical assistance regarding consolidation and modernization of data systems, especially with regard to early warning system capabilities and access/extraction of data and documents for purposes of SJ-related supervisory and managerial review and data analysis.
- The MT will evaluate KCSO's internal reviews of their data collection and analysis processes and provide feedback as needed, with the goal of identifying areas requiring further development or enhancement to meet SJ requirements.
- The MT and DOJ will review submitted policies and training curricula and provide feedback to KCSO regarding any changes needed prior to implementation.
- Once approved and implemented, the MT will verify that the required training is consistently provided to appropriate personnel.
- The MT will provide consultation and technical assistance as needed for KCSO managers to expand their use of data and other documentation to identify and respond to potential issues.
- The MT will provide consultative support and technical assistance to the new KCSO departmental analyst position.

### **Supervisory and Managerial Use of Data to Inform Practice**

When a deputy stops and detains someone, however briefly, the facts and circumstances leading to that stop and detention and any subsequent action must be rigorously documented and available for later review to assess the deputy's decision making, the legality of the deputy's actions, compliance with KCSO policy, and the SJ's terms and conditions. If any adjustment through supervisory guidance or retraining is called for, data from future stops would then be used to measure the impact of any of these corrective measures. Furthermore, it is critical for KCSO to use the aggregate data collected as a means to inform and guide the evolution of its crime prevention strategies, to assess the need for revisions to policies or training, to understand where law enforcement resources should be allocated, and to assess whether disparities exist in enforcement. In short, data, crime prevention strategies, and other information must be used to inform and drive management decisions within KCSO and assist with the formulation and delivery of fair and equitable law enforcement services in Kern County. These reviews also must be conducted in full recognition of the fact that stops and calls for service are by far the most common point of contact for deputies and community members and thus are, in many ways, the linchpin of the community-KCSO relationship, serving as a primary source of information that influences the public's perceptions of the agency.

A key focus of the monitoring activity for this section of the SJ is on the various types of data collected by deputies regarding each stop or call for service and on the textual reports that document their daily operations and which they are required to file. Deputies record extensive information on nearly every interaction with the public, including each stop or call for service; each search, detention, citation, or arrest during those contacts; and the disposition of each call or stop. Documentation of even brief stops usually includes short narratives describing what occurred and the deputy's reason or justification for their actions. More involved contacts, such as those that include searches or that lead to arrest, require more detailed written reports. It is essential that all the data and documentation are accurate, thorough, and reliable; collectively, they serve as the foundation for most audits, analyses, and reviews conducted by KCSO supervisors and managers and by the MT.

Once data entry and other forms of documentation are submitted by deputies, they are stored in various data systems for later access by supervisors and managers, sometimes with assistance from data specialists. The information accessed may be related to individual stops, such as reviewing a particular arrest report filed by a deputy. Reviews may also be of aggregate data describing multiple stops and/or calls for service organized by any number of factors, such as time period, location or neighborhood, individual deputy or KCSO unit (e.g., Traffic Enforcement), type of criminal behavior, or type of outcome (e.g., searches, citations, arrests).

Supervisors and managers review the information, making assessments ranging from evaluations of individual performance to unit or shift performance, to identifying trends or patterns that become evident, to examining the efficacy of policing strategies. The next step and the goal of these reviews is to take corrective action to ameliorate any undesirable issues identified. The actions taken may be of several different types or combinations thereof. At the level of the individual employee, corrective action might involve additional supervision or training, or investigations into potential misconduct. At the aggregate level, it could include making adjustments to policing strategies and tactics. In addition, corrective action may include clearer guidance on areas such as enforcement tactics employed in high-crime (i.e., hot spot) locations, increasing surveillance of highly vulnerable locations, or improving the use of non-enforcement strategies (e.g., community policing and problem-solving efforts to engage community members in identifying underlying causes and taking appropriate preventive measures). These are part of what are referred to as crime prevention strategies (SJ paragraph 60).

Importantly, at both the individual and aggregate level, diligent managerial attention and a desire to ensure application of critical thinking skills will help ensure any unintended impacts of current practices, such as a disparate impact on certain demographic groups or results contributing "to counter-productive divisiveness or tension between KCSO and the community" (SJ paragraph 60) are avoided. This can best be accomplished by conducting ongoing assessments of the efficacy of enforcement practices to ensure they are achieving the intended law enforcement objectives of reducing criminal behavior without unduly undermining community trust in and cooperation with law enforcement. Should such impacts be identified, it is incumbent upon managers to develop corrective action plans and document the impact of those interventions.

## **C. RESPONDING TO AND INTERACTING WITH PEOPLE WITH BEHAVIORAL HEALTH DISABILITIES OR IN CRISIS**

Broadly speaking, the section of the SJ addressing interaction with those with behavioral health disabilities (paragraphs 83–94) requires that KCSO respond to mental health calls appropriately and, whenever possible, with specially trained clinicians or staff. This requires that KCSO maintain a robust CIT first-responder model, with adequate staffing and ongoing training provided. It also requires revisions of dispatch protocols and several policies, including UOF, with the goal of prioritizing use of Kern County’s Mobile Evaluation Team (MET) service providers as well as CIT-trained deputies to respond to mental health crises. Additionally, the SJ requires that KCSO use a variety of data sources to evaluate the effectiveness of its CIT model and use these data to help inform their crisis intervention program as they bring it into SJ compliance and to identify any policy, training, or implementation issues that may arise.

In this reporting period, the MT developed an assessment instrument aimed at gaining a mutual understanding with KCSO of the MET and CIT programs, how these programs are staffed, and when and how training is administered. The MT conducted interviews with KCSO, the Crisis Intervention Coordinator, and the County’s MET coordinator to better understand their roles and expectations regarding the SJ and service provision to the Kern County public and to understand the processes of service provision. The MT reviewed the SJ with the CU and identified additional items needing further discussion, such as areas of the SJ requiring clarification, during an upcoming virtual site visit with DOJ. The MT also requested and received a number of training schedules and curricula, which will be evaluated by the MT and DOJ in the next reporting period.

### **1. CRISIS INTERVENTION COORDINATOR**

SJ paragraph 92 requires that, within 180 days of the SJ effective date, KCSO designate a sworn employee at the rank of sergeant or above to serve as the Crisis Intervention Coordinator to better facilitate communication between KCSO and the members of the behavioral health community and increase the effectiveness of KCSO’s crisis intervention program. The MT is pleased to report that KCSO has filled this position with an experienced commander, with additional training support coming from a lieutenant in the training division. This sends a strong message that KCSO recognizes this section as a priority. MT will assess the program to determine whether the coordinator is empowered to fulfil the duties envisioned by the SJ and that the intended results are being achieved.

### **2. ELEMENTS OF KERN COUNTY AND KCSO CRISIS INTERVENTION PROGRAM**

As described in more detail below, much of KCSO’s program for responding to individuals with behavioral or mental health impairments or in crisis precedes the SJ. The core elements of the current program are CIT and MET, which were first established in 1998. The SJ requires that the program’s capacity be expanded and that policies and processes be strengthened to increase its effectiveness.

## **a. CIT**

Kern County's CIT program is largely based upon a national model strategy now known as the Memphis Model, where multiple agencies work together to fill service gaps. The Memphis Model was designed to provide law enforcement personnel with crisis intervention training and better skills for helping people experiencing symptoms related to a mental health disability or emotional crises. CIT programs have evolved over time and are now designed to incorporate and rely upon community-based solutions to public mental health crises that include law enforcement but do not rely on law enforcement exclusively. CIT is an innovative, collaborative approach that focuses on addressing the needs of people with mental health or substance abuse issues safely and effectively by linking them to appropriate services and diverting them from the justice system whenever appropriate. The primary goal of CIT is to improve safety and reduce injuries to officers, individuals with mental health challenges, family members, and other persons present during law enforcement contacts. Safer outcomes are also achieved by reducing the number of such contacts and, when possible, avoiding justice system involvement altogether. That can best be accomplished by developing partnerships between law enforcement and mental health service providers such as Kern Behavioral Health and Recovery Services (the County's mental health department), other government agencies, and community organizations that can identify how to connect individuals with services aimed at addressing the root cause(s) of law enforcement contact and determining whether more suitable resources can be engaged. The CIT is guided by the Collaborative/Steering Committee, which meets quarterly.

Training is critical to the CIT model. Kern Behavioral Health and Recovery Services (BHRS) provide a 40-hour CIT training to KCSO several times a year. CIT-trained deputies perform all the regular duties of KCSO deputies and, when available, are prioritized as the primary responder to be dispatched to situations involving individuals in mental health crisis. SJ paragraph 84 requires that CIT-trained deputies are deployed during every shift, seven days a week, which may require that additional deputies receive the training. The MT will monitor and observe the CIT trainings, verify any training data provided by KCSO, and assess whether enough CIT-trained staff are available on each shift across the County. To date, KCSO has reported that 50% of patrol deputies have received a 40-hour CIT training, 95% of Detention deputies have received an eight-hour CIT training, and 40% of dispatchers have received a 16-hour CIT training. The MT applauds KCSO for its stated intention to provide CIT training to all KCSO staff as it is invaluable and vital to operations.

## **b. MET**

As part of the development of the Memphis Model, KCSO and Kern County engaged in a sequential intercept mapping workshop to determine where and how law enforcement and mental health staff interact in the County. In addition to the CIT, this information led to the development of the MET program. MET receives about 4,000 calls throughout the County each fiscal year. Approximately 70% of the calls end in voluntary treatment plans, linking people to services that provide face-to-face connections with the patient, either in person or virtually, and a coordinated transfer of the patient's care to receive continued treatment and services. The other 30% result in involuntary holds. MET workers can access electronic health records in the field and determine whether an individual may already be receiving treatment.

MET workers are County mental health workers, not law enforcement, with extensive specialized training. There are currently 11 MET recovery specialists who have case management responsibilities and who are dispatched by law enforcement when a mental health crisis is identified in the community. The goals of the MET are to increase access to appropriate, needed services and decrease the over-reliance on law enforcement systems to respond to mental health crises. MET also aims to help people regain meaningful life in the community following their treatment programs, provides crisis intervention training to KCSO, and provides training for how to deal with involuntary psychiatric hospitalizations.

The same issues and challenges that KCSO deputies face in trying to provide services to a county the geographic size of Kern have a profound impact on MET as well. To address the challenges that MET faces because they sometimes have no choice but to leave more remote deputies waiting for long periods of time, Kern County received grant money through the Mental Health Wellness Act of 2013 to establish the Virtual MET Program and pay for iPads and Zoom licenses. As a result, many situations are now addressed and resolved more quickly and without having to remove the person from their home or community. SJ paragraph 84 requires that this program be continued.

### **3. STAFFING**

The SJ's behavioral and mental health section is heavily reliant on adequate staffing of CIT-trained staff and MET worker availability. However, note that KCSO does not control MET staffing. Kern County has stated its intention to add six more MET staff over the next two fiscal years, with four dedicated solely to answering calls from KCSO. Even with these additions, MET may likely remain understaffed, which increases the importance of the CIT training to be provided for KCSO deputies. KCSO is currently outlining a strategy to ensure that CIT-trained deputies are available "as often as feasible" (SJ paragraph 84) and that KCSO meets their stated goal of providing CIT for all patrol deputies (SJ paragraph 89).

In addition to making itself available, actively participating in discussions, and laying the groundwork for increasing the number of deputies who receive CIT training, KCSO has proposed updates to the commendation policy (SJ paragraph 94), which allows KCSO to provide a special commendation letter, issued by KCSO, that recognizes employees with exceptional skill in employing their CIT training in the field. The monitor and DOJ will review this policy in advance of the upcoming site visit.

### **4. NEXT STEPS FOR KCSO AND THE COUNTY**

- KCSO will review and revise, as needed, appropriate policies to emphasize and prioritize the dispatch of deputies trained to handle mental and behavioral health crises, to use de-escalation techniques, and the preference for using the County-based MET team to handle these incidents (SJ paragraph 83). The CAC and community members will have the opportunity to provide input on the policies. Policies will be submitted to the MT and DOJ for compliance assessment.

- KCSO will review and enhance, as needed, its training curriculum to ensure the SJ requirements are appropriately addressed in the training, including the identification of individuals with suspected mental or behavioral health disability or crisis (SJ paragraphs 85–86) and understanding and appropriate use of the CIT model (SJ paragraphs 87–88). Training will be submitted to the MT and DOJ for compliance assessment.
- Working with the County, KCSO will develop a protocol by which KCSO will regularly assess the effectiveness of its mental health-related policies (SJ paragraph 93). This will necessarily include:
  - » The collection and analysis of data, including, for instance, the number of deputies and newly promoted supervisors who receive CIT trainings and refreshers (SJ paragraphs 89–90);
  - » Their availability and deployment on every shift; the number and nature of mental health-related calls for services received; and the consistency with which deputies, call takers, and dispatch operators identify individuals with behavioral health disability or who are in crisis (SJ paragraph 85); and
  - » Qualitative assessments of the various processes supporting the crisis intervention program, such as the dispatch of MET and CIT-trained deputies.
- KCSO and the County will continue to cooperate and assist with the MT's various data and document requests and reviews and with the development of compliance metrics.

## **5. NEXT STEPS FOR THE MT**

A priority in the coming year will be to negotiate and finalize compliance metrics with DOJ, KCSO, and MT so that there is a clear understanding of the compliance goals and the MT's methods for assessing compliance. Other focus areas will include the following.

- MT will provide consultation and technical assistance, as needed, to KCSO in its review and development of policies and training.
- The MT and DOJ will review submitted policies and training curriculum and provide feedback to KCSO regarding any changes needed prior to implementation.
- The MT and DOJ will review the commendation policy for compliance and assist in developing protocols that KCSO will use to select commendation recipients (SJ paragraph 94).
- MT will provide consultation and technical assistance, as needed, to KCSO in its development of a protocol for KCSO to conduct regular assessments on the effectiveness of its mental health-related policies.
- The MT will observe the CIT trainings, verify all appropriate personnel receive training, and assess whether enough CIT-trained staff are available on each shift across the County.
- The MT will review a selection of calls for service to evaluate whether behavioral or mental health crises are appropriately identified and responded to for any concerning patterns.
- The MT will conduct document and observational (in-person interviews, ride-alongs) reviews of the County and KCSO's various mental health-related processes and service provisions.

## D. MANAGEMENT AND SUPERVISORY OVERSIGHT

The Management and Supervisory Oversight section of the SJ serves to reinforce the responsibility that KCSO's managers and supervisors have to ensure that organizational values are understood and honored by all employees and that KCSO's policing strategies and tactics are consistent with the best practices in the profession. The provisions contained here have impact and bearing on every other section and are among the most important in the SJ. Together with the oversight requirements embedded in each section, they are intended to ensure that managers and supervisors are conscious of and execute their duty to provide effective leadership and that they are personally and collectively accountable for ensuring SJ-compliant and constitutional policing practices are consistently provided to the public by KCSO personnel. The activities and tasks to be undertaken in this area are designed and intended to directly support and contribute to the realization of the desired outcomes throughout the SJ.

The paramount objectives, which appear in SJ paragraphs 95–98, include the following requirements of KCSO's leaders.

- The responsibility for developing and implementing policies, guidelines, and training to ensure managers and supervisors are held accountable for providing appropriate supervisory oversight and conducting objective investigations of UOFs.
- Ensuring managers and supervisors are held accountable for meeting agency standards and expectations.
- Engaging with, listening to, and incorporating community feedback.
- Developing and continuously evaluating KCSO policing strategies and tactics to assess their efficacy.
- Promoting effective and constitutional police practices and stressing the importance of and the expectation that de-escalation techniques be used whenever feasible during conflict situations.
- Working with the Monitors to develop guidelines and performance metrics that will be used to evaluate the effectiveness of the supervision being provided.
- Ensuring that all SJ-related policies, performance metrics, and guidelines incorporate continuous improvement processes such as reviews and audits to enable the agency to assess the ongoing effectiveness and the sustainability of those reforms.

KCSO's ability to fully carry out these objectives and achieve the desired results is obviously dependent upon having adequate accountability systems in place and to having sufficient management and supervisory staff to carry out the tasks involved. The action steps to carry out the requirements of this section are largely addressed and embedded in the other sections of the SJ; each one has elements of supervisory and managerial oversight.

As will be evident from the narratives and discussions contained in other sections of this report, KCSO and the MT have been continuously engaged in discussions and examination of managerial and supervisory practices related to every section of the SJ. In most of these areas, the work to date has been largely focused on the preliminary but very critical initial stage that requires the development and/or refinement of associated policies and guidelines for each topical area.

The MT has also noted and is impressed by the extent to which KCSO has been actively engaged with the CAC, obtaining community input on policies ranging from those dealing with the UOF and Complaints to Community Policing and Language Access issues. This willingness to constructively engage with the community and to seek out and incorporate input on organizational policies and strategies bodes well for the development of a stronger and more productive relationship as this process continues.

KCSO and the community are still at the beginning of this process. Following development and approval of the initial policies and guidelines that are required, training must then be provided to support those enhancements, including training of supervisors and managers to ensure they are well-versed in and capable of carrying out their responsibility to provide effective guidance and oversight of their own staff. As noted in the requirements described above, once the training in all areas of the SJ has been developed and provided, the focus will shift to ongoing monitoring and evaluations to assess whether compliance requirements are being met and sustained. If so, the final step in this process will be to ensure that KCSO is capable of carrying out those responsibilities indefinitely and without further engagement from the MT.

The MT understands and remains mindful of the many complexities encountered when a large organization undertakes broad policy changes, as well as the challenges of implementing such changes. The Monitors also appreciate the budgetary and staffing limitations that KCSO leadership must contend with. Throughout the work to date, the MT has found the Parties to be strongly committed to ensuring that the SJ's requirements will not be weakened or overlooked because of these considerations. Based on the ongoing collaboration among the Parties and the level of community support and engagement, the MT believes the SJ objectives can be achieved in a timely manner.

## **E. LANGUAGE ACCESS**

Pursuant to the Language Access section of the SJ, KCSO must “. . . effectively communicate with and provide timely and meaningful access to police services to all members of the Kern County community, regardless of their limited ability to speak, read, write, or understand English” (SJ paragraph 99).



Over the past year, the MT participated in multiple meetings and conversations with the CAC, KCSO, and Kern County Human Resources Division (HR) regarding language access issues. KCSO, Kern County, and the CAC have been making progress toward compliance with this SJ section, which consists of four main components: (1) creation of a language access policy in meaningful collaboration with the CAC; (2) training in the language access policy for all KCSO deputies, communication supervisors, call-takers, and dispatchers; (3) designation of a language access coordinator; and (4) development and implementation of a language access audit protocol.<sup>3</sup>

## **1. THE IMPORTANCE OF LANGUAGE TO BUILDING COMMUNITY RELATIONSHIPS**

Language access is a critical and urgent component of the SJ and is a key element of providing constitutional and bias-free policing. It is essential that KCSO personnel and members of the public understand one another and have clear and productive communications regarding often complicated and emotional law enforcement-related issues. There are many common circumstances where lack of suitable language access becomes an obstacle to providing appropriate services. When a person dials 911, the dispatcher who receives the phone call needs to be able to understand the situation being described. Some searches cannot be legally conducted if the individual does not knowingly provide consent. Some situations may escalate due to language barriers: if, for example, an individual fails to comply with a deputy's instructions because they do not understand, their actions may be misconstrued as willful non-compliance, which can lead to deeper legal consequences and may even lead to otherwise avoidable UOF.

The ability to communicate with all community members is essential for community policing and building community trust, particularly in immigrant communities, which are typically among the most marginalized and which are emphasized in the SJ (SJ paragraph 120).

## **2. KCSO'S CURRENT LANGUAGE ACCESS PROTOCOL**

During this reporting period, the MT developed a detailed understanding of KCSO's current approach to language access issues. Some Kern County government departments have language policies, but there is no uniform countywide policy in place. KCSO does not currently have a language access policy. CAC members have expressed the importance of KCSO having a language access policy to ensure all County residents are treated with equal justice and respect. KCSO and County HR have expressed the same sentiment and are working with the CAC to move the work forward. Further discussion is required to determine whether KCSO will need a language access policy that is separate from the rest of the

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<sup>3</sup> Other SJ sections also contain paragraphs with language-related requirements, including: paragraph 16 (canine handlers must issue clear warnings in Spanish and English if the suspect is reasonably believed to be a Spanish-speaking limited English proficient [LEP] individual); paragraph 123 (KCSO must seek the assistance of CAC and community advocates to disseminate information such as complaints, forms, and brochures in English and Spanish); paragraph 130 (KCSO must provide informational language in appropriate non-English language and/or appropriate translation services to file a complaint about a KCSO deputy or employee); and paragraph 133 (KCSO will make its complaint brochure explaining complaint procedures available in Spanish or any other language that the County must provide to voters during an election). These paragraphs will be discussed in each of the relevant sections.

County. Their unique role in providing law enforcement services and type of interactions with community members differs greatly from those of other County departments with the general public.

Presently, KCSO uses Voiance and LanguageLine Solutions, third-party interpretation providers, to assist with field, station, and detention facility translation services. As an example, these services enable a deputy in the field to call for assistance to facilitate communication between themselves and a person with limited English proficiency (LEP).<sup>4</sup> However, this will not resolve all challenges that are encountered, such as when the deputy is unable to discern the language with which a person needs interpretation assistance. Issues may also arise if the person with LEP speaks an Indigenous language that is not commonly provided by the general interpretation service. There are, however, some specialized companies that can provide these services, which the County and KCSO should explore.

Through meetings and conversations with KCSO staff, the MT learned that deputies will sometimes ask a family member (including minors) or a friend to interpret for them if the service providers or online services are not available, not sufficiently helpful, or impractical. While the MT acknowledges that deputies patrolling large geographic areas may not have other viable options at their disposal and are doing the best that they can, this raises potential concerns as civilians at the scene do not tend to be professional interpreters and may not properly interpret something of legal or material significance, which could lead to undesired consequences. Certainly, is it not always necessary or even possible to have a certified or official translator in interactions that take place between deputies and LEP individuals. In many cases, it is reasonable and appropriate to have a family member or another person assist in providing basic information. However, different considerations must be taken into account to adequately address LEP issues in some unique environments, including in detention centers, at the station, or in the field. Community members shared their impression that existing language access is not always sufficient and were pleased to know that the SJ includes a requirement for an official language access policy to address these issues.

Like KCSO, other County departments use a variety of services to meet their language access needs, including LanguageLine Solutions and Voiance; some departments do not have formal processes in this area. County HR has indicated that the ideal to approach language access properly would be a mix of Voiance, LanguageLine Solutions, independent contractors, and certified staff. In January 2022, County HR began collecting reports from all County departments, including KCSO, that catalog the language services they use. Ultimately, they hope this will help them determine what is and is not working with language access services in the County and the quality of experiences with the different providers. Further, this will help them determine what vital documents are translated and identify potential gaps in the system. This analysis will also identify what data are—and should be—collected and tracked regarding language services and what languages are being requested in the field.

One of the most significant and encouraging actions during this reporting period was Kern County hiring its first ever Director of Diversity, Equity, and Inclusion (DEI). One of the director's responsibilities is to serve as the SJ-mandated language access coordinator, who will coordinate with KCSO and review KCSO's language access policy for compliance with applicable federal and California law. The director is

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<sup>4</sup> A person with limited English proficiency does not speak English as their primary language and has limited to no ability to speak, read, write, or understand English.

also as an active member of the CAC Policy Committee, which allows her to receive immediate feedback from community representatives and exchange thoughts and ideas in real time. However, it has become increasingly difficult for the director to attend the meetings due to her many other responsibilities in the new position. The work needed to draft and implement a sound, comprehensive plan will be time-consuming and resource intensive. Although the director has already attended an eight-hour Peace Officer's Standards and Training (POST) class on language access and has reached out to other jurisdictions to learn about their policies, the MT believes the director will require additional staff and/or assistance to help with this significant endeavor. The CAC has assisted by providing feedback and contributing in different ways, such as sharing personal experiences as individuals who speak English as a second language, providing legal expertise regarding language access, and past situations where language has been an issue with County departments (including KCSO). Nonetheless, the director should be provided with more help from the County to fully implement the policy and develop and implement proper training.

## **6. COMMUNITY PARTNERSHIPS AND TRAINING**

To date, there has been a positive interchange between the DEI director, KCSO, and the CAC in beginning to create an inclusive, substantive, community-responsive language access policy that complies with the SJ and state law. A formalized language access policy will benefit KCSO and the public it serves by clearly stating how KCSO will be guided to (1) interact with LEP community members during stops, calls for service, and other interactions; (2) assist with programming and services for those who are housed in the jails; (3) improve education and outreach efforts to promote greater awareness of services and forms typically required by the general public, such as what documents (e.g., reports, educational material, legal information, complaint materials) should be translated and what interpreters should be available for community engagement events;<sup>5</sup> and (4) identify which spoken languages are most frequently encountered in Kern County and ensure legal compliance regarding what government documents must be translated and where and when interpretive services must be available. Pursuant to the SJ, all KCSO deputies, communications supervisors, call-takers, and dispatchers will need to be trained on this policy after it has been officially approved. This will help ensure that language barriers will be appropriately addressed through the various points of contact that an LEP individual may have when contacting KCSO.

Whenever a deputy is unable to communicate with an individual in detention centers (including the jails and downtown), a supervisor completes an in-person assessment and, as needed, uses LanguageLine Solutions to determine the language and get translation. However, this process is not standardized. During a meeting with the Parties, the idea was raised to add language(s) spoken as a screening question in the booking process to keep track of which detainees may have language needs and make that information available to others who will interact with them to help reduce the likelihood of continuing to encounter language barriers. KCSO and the County shared they are amenable to that idea. Also, the detention center at Lerdo offers programs to incarcerated persons, such as substance

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<sup>5</sup> Translating is converting written messages from one language to another; interpreting is converting spoken messages from one language to another.

abuse, anger management, and domestic violence classes.<sup>6</sup> Although classes are optional, detained persons are eligible to receive one day off their County sentence for every three days of class attendance, but no more than five days off their sentence in a month. Those who are LEP need to be afforded equal access to these important opportunities. KCSO keeps data on program participants and any accommodations made, such as appropriate language access.

The CAC is able to provide expertise in this area, as one of the Policy Committee members is a language access expert from a non-profit organization in Kern County. The CAC started looking at the language access issue in depth toward the end of 2021 and have expressed a strong interest in working with County and KCSO staff on this matter. Some examples of community feedback already provided to KCSO and the County by the CAC included noting the wide diversity of cultures and languages spoken throughout Kern County, including but not limited to English, Spanish, Punjabi, Indigenous languages from Latin America, Tagalog, Korean, Arabic, Vietnamese, and Ilocano. Some members also expressed an interest in including African American Vernacular English (AAVE) to this list of languages; they decided as a group to review this issue in greater detail in 2022. The Parties and the Monitors will need to consider legal requirements and CAC input when determining which languages will be included when requiring translations of important KCSO literature and which languages must be included in interpretation services.

KCSO has also reached out to other community-based organizations outside of the CAC to capture additional perspectives. The MT has stressed that further outreach of this sort ought to be conducted to obtain broad community input, which will require a thoughtful process and sufficient time to ensure proper and consistent outreach.

As will be discussed in more detail in the Community Policing section below, the DEI director and assigned KCSO representatives, including commanders and lieutenants, participate as members of the CAC's Policy Committee. It is this committee's purpose to represent community members and provide their personal feedback—while also helping ensure that other community stakeholders have platforms to provide their input—as KCSO engages in the development of required policies under the SJ. As a committee, they have decided to prioritize the UOF and language access policies.<sup>7</sup>

The CAC received training on the legal requirements of a language access policy from the California Rural Legal Assistance (CRLA). This training included important concepts that KCSO and County HR agreed would be important to incorporate into their policy and associated trainings. Training covered federal and state regulations related to language access mandates for law enforcement, including Title VI,<sup>8</sup> relevant California Government Code sections, and guidance for recipients of governmental funding. The training was comprehensive in nature, ranging from legal requirements to providing guidance on best practices when working with diverse populations. Examples of further information and

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<sup>6</sup> English as a second language (ESL) classes are available through the Bakersfield Adult School; however, they have recently been postponed due to bilingual teachers retiring.

<sup>7</sup> Collectively, SJ paragraphs 10, 99, and 117 require KCSO to engage constructively with the CAC and community stakeholders in the development of the following policies: UOF; community policing strategy and policies; bias-free policing; language access; and civilian complaints.

<sup>8</sup> Title VI of the Civil Rights Act of 1964, 42 USC 2000d et seq.

issues covered included: (1) meaningful access to accurate, timely, and effective communication at no cost to individuals with LEP; (2) the importance of recruiting multilingual staff; (3) contracting with multiple language service providers to meet community needs; (4) training staff; and (5) conducting outreach to notify the public of its new policy. The training served as a starting point for development of a language access policy, beginning with dialogue about what “language” and “access” mean legally and how they are understood by the community. More outreach must be conducted throughout the County as it relates to language access needs.

The CAC member who provided the CAC with the language access training represents a local nonprofit organization that provides legal services. KCSO is now engaged in discussions with that organization to develop a training class for KCSO staff on language access mandates and best practices. County HR and KCSO have expressed interest in incorporating this training into their language access plan and training. They will also need to investigate what other trainings or elements of trainings may be required. As with the language access policy, County HR is also considering the possibility that the unique role of KCSO deputies and the unique requirements of the SJ may require separate training for KCSO versus other County personnel.

One of the training elements that was noted by KCSO and County HR was that a best practice to incorporate into any language access policy is to ensure that interpreter staff are compensated fairly for their work and that their workload is reduced without consequences based on the time spent interpreting. Staff are currently paid \$25 per pay period for having either written or verbal fluency, and \$50 per pay period if they are proficient in both. Based on employee feedback and data from other agencies, this appears not to be a sufficient incentive for staff to get certified, as some deputies have reported that the present incentives are not worth the extra work and time needed to be an interpreter. The Monitors support KCSO’s efforts in raising this issue of adequate compensation to a level that is at least comparable to that of other law enforcement agencies dealing with similar needs. The number of certified bilingual staff can be found in Table 1. KCSO, County HR, and the CAC agree that the number of staff certified to provide translation is currently inadequate based on service demands from the public. While the MT understands the County’s staffing issues, KCSO should strive to hire more staff with the necessary language skills and provide sufficient compensation to ensure those skills are used in a consistent manner that will meet community needs. It is the MT’s understanding that KCSO does not currently require translation or interpreter training; this is another possible component to consider adding to the language access policy and training.

<b>TABLE 1</b>		
<b>KCSO CERTIFIED BILINGUAL PERSONNEL</b>		
	<b>WRITTEN AND VERBAL</b>	<b>VERBAL ONLY</b>
Civilian	15	20
Detention	15	21
Field	10	15

## **7. KCSO ANNUAL AUDIT**

SJ paragraph 100 requires KCSO, in consultation with the MT, DOJ, and DEI director, to conduct annual audits to track how KCSO manages language access services, whether these services align with community needs, and how these services compare with other similar entities. A priority for KCSO in the next reporting period should be to develop the audit protocol and to begin to conduct the first audit. The sooner the audit begins and data are available, the more current and detailed information will be available to inform the language access policy. Other factors the MT would expect to be considered in the audit include: public service and/or personnel complaints regarding language access, interviews with stakeholders including KCSO personnel and community groups representing non-English speaking persons, resources available for community members to engage or communicate with KCSO, and detailed data on use of the language access services by KCSO personnel. As required by the SJ, KCSO will need to report the results of the annual audit to the public on its agency website (SJ paragraph 100).

## **8. NEXT STEPS FOR KCSO AND THE COUNTY**

- KCSO will continue to work with the CAC to develop a language access policy to govern access services for individuals who have limited ability to speak, read, write, or understand English (SJ paragraph 99).
- In consultation with the MT, DOJ, and DEI director, KCSO will develop the SJ-required audit protocol and begin the first audit (SJ paragraph 100).
- KCSO and the County will continue to cooperate and assist with the MT's various data and document requests, inquiries, and reviews and with the development of compliance metrics.

## **9. NEXT STEPS FOR THE MT**

As with other SJ sections, a priority in the coming year will be to negotiate and finalize compliance metrics with DOJ, KCSO, and the MT so that there is a clear understanding of the compliance goals and the MT's compliance assessment methods. Other areas of focus will include the following.

- The MT and DOJ will review submitted policies, trainings, and any draft audit plans provided by KCSO and continue to provide recommendations and technical assistance as needed and requested for any of these subject areas.
- The MT will also continue to attend CAC general meetings and committee meetings; the MT will attend community events to the extent possible.
- The MT will conduct ride-alongs with KCSO staff to learn firsthand how they interact with the public throughout their workday and assess whether new mandated policies, such as language access, might serve both KCSO and community needs.
- The MT will continue to make site visits to observe relevant training, engagements involving LEP persons and interview community stakeholders, including KCSO personnel and community groups representing LEP persons.

## F. RECRUITMENT, HIRING, AND PROMOTIONS

One of the overall SJ's goals is to ensure that KCSO attracts, hires, and promotes qualified candidates who reflect community diversity, embrace constitutional policing practices, are committed to community policing principles and problem-solving practices, and will treat individuals with dignity and respect as they carry out their sworn duties to promote public safety and protect the community (see SJ Introduction and paragraphs 101, 106, and 110).

Beginning in the spring of 2021, the MT engaged in a series of meetings with staff from KCSO and County HR, which are jointly responsible for KCSO's recruitment, hiring, and promotional practices. Initially, these meetings focused on developing a clear and agreed-upon understanding of the strategies, processes, and practices currently employed to recruit, hire, and promote KCSO employees. The purpose of these discussions was to provide the MT with important insights into agency practices while helping to ensure that KCSO and County HR recognize the various factors that have had a bearing on the failure to sufficiently attract, hire, promote, and retain a workforce that more closely reflects the County's demographic diversity. During these discussions, the MT has provided technical assistance to encourage and support the development of remedies that will bring about the improvements required by the SJ. In addition to striving for improvements in diversity in terms of various demographics, including race/ethnicity and gender, the SJ requires improvements in recruiting, hiring, and promoting candidates who display a commitment to community policing, have a problem-solving orientation, and who meet high standards of conduct and effectiveness (see SJ paragraphs 103, 106, 110, and 113).

The SJ requires KCSO and County HR to develop both a recruitment plan and a promotion policy and plan. While the mandated plans were not submitted to the Monitor within the timelines identified by the SJ or by mutually agreed-upon extended deadlines, progress is being made.<sup>9</sup> Given the serious staffing shortages and the complexity of the tasks involved, the MT, KCSO, and County HR recognized the need for placing a higher priority on the recruiting and hiring aspects of the SJ during the first year of oversight, with work on the promotion plan to follow.

In this section, the MT sets forth its evaluation of the progress that has been made to date and identifies the remaining work that KCSO and the County must complete to meet the SJ's requirements related to Recruitment, Hiring, and Promotions.

### 1. RELATIONSHIP BETWEEN KCSO AND COUNTY HR

While KCSO and County HR each have certain distinct responsibilities associated with these processes, it is critical that they work cooperatively to function in a manner that achieves the outcomes required by the SJ. However, from the outset of the series of meetings involving the Parties, it became clear to the MT that shortcomings in the working relationship between KCSO and County HR have been a significant impediment to progress. Unless that relationship is sufficiently improved, it will be exceedingly difficult for KCSO and the County to comply with the SJ requirements and achieve the

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<sup>9</sup> A draft recruitment plan was submitted for the MT's review during the final production of this report.

outcomes sought. While repairing this relationship is still a work in progress, the MT acknowledges that improvement has been made.

The County's hiring of a DEI director has been pivotal. The new director brings valuable skills and experience that are helping with the development of an overall strategy, furtherance of the relationship, and execution on many of the requirements of the SJ. However, the Monitors believe more resources and attention will be required to carry out these tasks within the coming year.

## **2. DATA COLLECTION AND ANALYSIS**

An overarching challenge in this process involves obtaining accurate, reliable, timely, and sufficiently detailed data and information surrounding the personnel practices of KCSO and County HR to consistently monitor, assess, and adjust as needed. Discussions with KCSO and County HR have shown that not all relevant data are being collected or tracked and, historically, little analysis of available data has been conducted. The lack of adequate and relevant data in this area has served as a significant impediment to bringing about a better understanding of the deficiencies that need to be addressed. Simply stated, such information is essential to bringing about needed refinements in their personnel systems or achieving better outcomes, but these data are not being fully captured or analyzed. Importantly, the Parties have yet to "determine whether any step in the hiring process may result in a disparate impact based on a demographic category" (SJ paragraph 105). The key to accomplishing this involves having accurate and timely data that are sufficient to identify any such disparate impact,<sup>10</sup> and also to inform the development or refinement of any actions that should be taken to remedy such impact. Lack of progress thus far appears largely to be attributable to the failure to identify, obtain, and analyze the required data. Such data can inform KCSO and County HR of the extent to which and why some applicants are not following through in participating in the entire hiring processes or why certain groups have been less successful in competing for these positions. More broadly, data collection and meaningful analysis will serve to improve understanding of their overall applicant pool and to identify impediments to KCSO and County HR's ability to recruit, hire, and retain a qualified and diverse workforce. Undertaking such analyses can serve to inform management as to what steps may be necessary to bring about improvements at each stage of these processes as required by the SJ.

KCSO provided the following baseline figures on the race and ethnicity of their 1,075 employees, including sworn deputies and non-sworn civilian personnel: American Indian 1.0% (n=11), Asian 1.3% (14), Black 2.2% (24), Filipino 0.9% (10), Hispanic 45.0% (484), White 48.1% (517), and other 1.4% (15). To be useful, these data need to be further disaggregated by several crucial factors (including sworn and civilian positions, job category, and rank) and has to be compared to general County population data for the community that KCSO serves.

County HR has helped to identify some of the gaps in the data collection process and is working with KCSO to bring about improvements in data collection and analysis. However, considerable effort needs

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<sup>10</sup> Examples of data include such things as race/ethnicity, gender, and where in the process an applicant fails or exits in the process.



to be invested by both entities, beginning with agreements regarding the nature and sources of the data and information required to remedy this deficiency.

### **3. RECRUITMENT**

Any hiring process begins with an effort to attract and recruit desirable qualified applicants. To hire and retain a workforce that demographically reflects the Kern County community, KCSO and the County must attract a sufficient pool of qualified applicants from underrepresented populations.

#### **a. Overall Recruitment Strategy**

With the assistance of the MT, KCSO and County HR have been reviewing and evaluating their traditional recruitment methods. That review revealed an inadequate and antiquated recruitment strategy which is rooted in practices that, although they may have been more effective decades ago when dealing with a far different labor market and community expectations that were less demanding, are no longer as useful or effective in attracting either the number or quality of applicants needed to meet the organization's needs and the community's current expectations. Times have changed and organizational strategies must do the same

Historically, KCSO and County HR have primarily relied on County job postings, occasional job fairs, and some outreach efforts to the local high schools and postsecondary education institutions. These attempts have been mostly ineffectual as has been evidenced by the significant reduction in the number of candidates hired through their recruitment efforts over the past few years. A more robust, contemporary, and strategic outreach effort is required for compliance with the SJ. KCSO and County HR have embarked on revitalizing and broadening their outreach efforts with greater focus on appealing to candidates from underrepresented communities and who meet SJ-defined standards for community- and problem-oriented policing. The MT has been informed of recent outreach to local high schools, community colleges, and California State University, Bakersfield. However, KCSO and the County should expand their outreach activities beyond Kern County and even the Central Valley. In today's increasingly competitive market, where the hiring challenges are so evident, these endeavors must be expanded and more thoughtfully targeted. The MT acknowledges that KCSO and the CAC intend to appear jointly at job fairs to broaden the scope and audience of KCSO's outreach to underrepresented communities. This is a positive development; however, the MT encourages the entities to not make the same mistake of only investing energy in those strategies that have proven to be ineffective and which have offered little return on the investments made. It is imperative, for instance, that recruitment efforts are not limited to geographic boundaries or heavily reliant on resource intensive in-person recruiting activities that are not sustainable.

## **b. Articulating Expectations**

To entice interest from applicants who possess the outlook, skill sets, and emotional maturity KCSO requires, and to ensure compliance with the SJ and California Penal Code § 13651,<sup>11</sup> it is essential that the recruitment plan clearly articulate those expectations and include screening processes that allow HR to identify these factors in prospective employees. The MT has emphasized that, when developing their recruitment strategy and plan, KCSO must clearly articulate what characteristics and attributes constitute an ideal candidate profile. While KCSO has indicated that it is working on identifying these attributes, it has yet to complete this important step.

## **c. Website**

There was consensus among the participants in County HR discussions that KCSO's website is inadequate and antiquated, especially compared with other law enforcement agencies across the state. Particular attention should be devoted to updating the agency's outdated brand and image if it is going to be effective in appealing to a broader pool of applicants. KCSO has expressed its commitment to revamping its website as part of its brand modernization efforts. A dynamic digital presence is critical to increasing the agency's chances of drawing candidates from underrepresented communities, and progress will likely be stymied unless KCSO addresses its dated brand in a comprehensive manner.

## **d. Recruitment Budget**

KCSO and County HR operate with a limited recruitment budget, which has proven to be another key factor in the organization's inability to attract sufficient qualified candidates for sworn positions. Without a much stronger commitment of resources, it will be difficult if not impossible to compete with other better-funded agencies that have already repositioned themselves and are continuously rethinking what must be done to captivate suitable candidates. County HR and KCSO are competing with many other law enforcement agencies for the same talent. Greater resources need to be devoted to advertising, marketing, and continuous outreach efforts to entice qualified and diverse applicants. KCSO needs to make a compelling case as to why it is or should be the law enforcement agency of choice. This effort will require a carefully developed plan and sufficient resources to implement it fully and consistently over the next several years.

## **4. HIRING**

Although KCSO and the County are jointly responsible for recruitment and hiring, the County bears primary responsibility for managing the initial steps in the hiring process that ultimately leads to the applicant certification and placement on the County civil service hiring list. While hiring processes can

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<sup>11</sup> Effective January 1, 2021, California Penal Code § 13651 requires law enforcement agencies to review job descriptions of officers and make changes that emphasize community-based policing, familiarization between law enforcement and community residents, and collaborative problem solving while de-emphasizing the job's paramilitary aspects.

slightly differ from agency to agency, a standard law enforcement officer hiring process typically includes the following steps.

- Initial application
- Written exam
- Oral interview<sup>12</sup>
- Physical agility test<sup>13</sup>
- Personal history statement and background process
- Psychological assessment
- Pre-employment medical exam
- Final interview

Applications for employment are electronically filed with the County for review. The County first makes a determination as to whether the applicant meets the minimum qualifications for the position. The County has found that an unduly large number of applicants are rejected at this early stage because their submissions often fail to establish that they meet the minimum qualifications. However, information that would help identify possible reasons the applicant fell short is not being tracked. This County should collect this information to help identify possible improvements to the outreach activities, improvements to the online application process, and better ways to work with applicants who may lack a full understanding of what the agency is seeking. A goal of these reviews should be to ensure that eligible candidates are not inadvertently turned away or discouraged from pursuing employment. This again underscores the importance of ensuring that the County works with KCSO to achieve the agreed-upon SJ goals regarding hiring, recruitment, and retention.

#### **a. Written Examinations**

The written examination that is part of the pre-certification application process has a significant failure rate. To their credit, both KCSO and County staff have reached out to literacy programs in search of possible solutions. They should continue to pursue this issue, including determining whether data analysis points to any causative factors, such as literacy, readability, or other considerations, as well as determining whether the written examination potentially has a disparate impact on any underrepresented group. Again, ongoing tracking and analysis of the results at this stage of the process would assist in this. Greater thought should be given to factors that may be contributing to that result and whether reasonable steps can be taken to achieve better outcomes.

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<sup>12</sup> Eliminated from KCSO's process in 2021.

<sup>13</sup> Eliminated from KCSO's process in 2022.

## **b. Interviews and Physical Agility Tests**

Until recently, oral interviews of the applicants were included as one stage of the pre-certification hiring process. Those interviews were temporarily abandoned in 2021 for public health and safety reasons related to the pandemic. The MT was recently informed that County HR has now permanently discontinued the interview as they believed that step was ineffective in disqualifying any candidates. The MT believes that such discontinuance may be shortsighted. The elimination of this interview deprives KCSO of an ideal—and early—opportunity to evaluate the traits and skills sought by KCSO and the SJ, such as those associated with community policing, problem solving, and law enforcement’s responsibility to protect constitutional rights for all people. The MT therefore urges KCSO and County HR to reconsider their decision to discontinue the pre-certification hiring interviews.

The MT recommends the interview be reinstated but with revisions to better meet SJ requirements. In discussions about the mechanics, substance, and value of the oral interviews, the MT expressed concerns about the selection of interview panelists (i.e., subject matter experts) and how interview questions were crafted. Some of those concerns related to the lack of clear and specific written guidance governing the selection and training of interview panelists. Great care should be given to ensuring that the individuals selected to conduct these interviews are provided with training surrounding the key factors being assessed in the interviews and the importance of eliminating any possible element of bias, implicit or otherwise, from this process. Additionally, the MT learned that not until the day of the interview did staff and panelists routinely craft the questions to be posed or identify model or desirable responses from the applicants. Any tests and questions used in the application process should always be validated for job relevance and reliability. Further, the interviews were not designed to evaluate the unique features associated with KCSO’s mission and goals, especially regarding an emphasis on the importance of community policing and problem solving.

In 2022, KCSO and County HR opted to eliminate the pre-employment physical agility test as a part of the applicant screening process. This was done based on the view that POST already requires successful completion of the physical agility testing requirement prior to graduation from the Academy. KCSO felt that their own physical agility testing element was too resource intensive, with reportedly high failure rates, and that the subsequent Academy training and conditioning should help ensure that graduates are physically qualified by the end of their Academy. The MT understands the desire to find ways to expedite the hiring process and believes this change could possibly enable them to make conditional employment offers to applicants at an earlier point and give them an advantage over other agencies in the current highly competitive job market. However, we encourage careful attention to overall outcomes in addition to the immediate hiring objectives. Such changes can sometimes help in meeting immediate needs, but they can also have unintended future consequences on job performance, maintenance of staffing levels, and risk management considerations (e.g., workers compensation and early retirements). By monitoring both immediate needs and long-term effects, the agency will be in a better position to identify any adverse trends that might surface and take appropriate corrective actions, if required.

### **c. Background Check and Psychological Exams**

KCSO and County HR have also discussed and explored with the MT the processes that are in place for background checks and psychological exams. There are little available data on the specific reasons applicants have failed their background checks historically or whether subsequent job experiences reflect a need to question the psychological screening's quality and thoroughness. Tracking such information would assist KCSO in its disparate impact analysis in relation to background checks and in identifying any evidence or pattern of inconsistent application of potentially disqualifying criteria.

With respect to psychological examinations, the practices in place reflect minimal direct interaction by KCSO with the psychologists to whom applicants are referred. Psychologists are routinely only provided with a summary of background findings for the applicant. That document may or may not provide the psychologist with all relevant and useful information to base an opinion as to whether the applicant is suitable for hire. Following the completion of the examinations, the psychologist sends a brief letter to KCSO that only indicates whether the applicant is suitable for hire. There is not sufficient information provided to discern whether the hiring authority should be devoting further attention to the screening processes or whether areas of concern might lead to a finding that the candidate could be considered marginally qualified. The MT urges KCSO to give further attention to the psychological examination process and evaluate whether it is meeting contemporary expectations for the screening of law enforcement applicants. At a minimum, KCSO should provide their examining psychologists with an orientation regarding preferred candidates' unique traits, skills, and expectations and why this is important to the candidates' ability to meet organizational and community expectations. This will help further KCSO's specific goals and mission and aid in carrying out the letter and spirit of the SJ.<sup>14</sup>

### **d. Post-Certification**

Once an applicant passes all steps of the pre-certification application process, KCSO is then able to make a conditional offer of employment. The accepted applicant must satisfy all California POST Commission requirements for being hired as a sworn member of the agency. For an entry-level applicant, this would then require their attendance at the Academy, where the candidate must successfully complete the Academy training and pass a series of tests mandated by POST. KCSO should continuously evaluate whether any of their screening and testing phases, either at the pre- or post-employment stage, result in disparate impact on members of any underrepresented group. Doing so will also assist the agency in determining what actions it could take to mitigate excessive failure rates at any point in the post-certification hiring stages, regardless of whether any group is experiencing

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<sup>14</sup> As of January 1, 2022, California Government Code § 1031(f) requires the absence of any "emotional, or mental condition, including bias against race or ethnicity, gender, nationality, religion, disability, or sexual orientation, that might adversely affect the exercise of powers of a peace officer." An update to the California POST Psychological Screening Manual was issued in January 2022 and, among various important updates, includes extensive new information on the assessment of bias (California Commission on Peace Officer Standards and Training. (2022). *Peace officer psychological screening manual* [pp. 102–106]. [https://post.ca.gov/portals/0/post\\_docs/publications/psychological-screening-manual/Peace\\_Officer\\_Psychological\\_Screening\\_Manual.pdf](https://post.ca.gov/portals/0/post_docs/publications/psychological-screening-manual/Peace_Officer_Psychological_Screening_Manual.pdf)).

disparate impact. Because of the severity of staffing shortages that KCSO continues to experience, it can ill afford to lose suitable candidates at any stage of the process.

## **5. RETENTION**

The SJ requires that the recruitment and hiring plan include “clear goals, objectives, and action steps for attracting and retaining a quality workforce that reflects the diversity of the Kern County community” (SJ paragraph 102). Given KCSO’s great difficulty in recruiting and hiring a sufficient number of employees who reflect the County’s diversity, there is a risk that any success in this endeavor could be short-lived if KCSO is not also successful in their efforts to retain those employees. Neither KCSO nor County HR have been attentive to the importance of obtaining and analyzing information and data regarding employees’ reasons for separation. The MT was repeatedly told that the primary reason for early departures (i.e., non-service retirements) was due to inadequate compensation and benefits. While monetary compensation and benefits are important factors in retaining employees, employees also leave for many other reasons. No data were presented to the MT to support the anecdotal information and observation of either the increase in early departures or low pay as a predominant factor. The MT has requested this information from KCSO and County HR and has stressed that this type of information needs to be routinely captured and analyzed, accompanied when possible by identified contributing factors that KCSO and County HR may be able to address.

In particular, the data and information gleaned from exit interviews can be invaluable in determining why employees are leaving or what the organization might need to do to enhance their ability to retain qualified employees. However, neither KCSO nor County HR routinely conduct exit interviews. KCSO and County HR should immediately explore proven best practice options and establish a new model that facilitates the regular collection of feedback and garners a high participation rate.

## **6. PROMOTIONS**

The SJ requires KCSO to develop and submit a policy and plan for promotions that is designed “to ensure promotional decisions are made without favoritism or unlawful discrimination; increase transparency and deputy awareness about the promotion process and promotions decisions, including, but not limited to, identifying criteria for promotions; and incorporate enhanced strategies for promoting qualified applicants who reflect a broad cross section of the Kern County community” (SJ paragraph 111). The SJ requires KCSO to consider the following factors in promotion decisions: effective use of community and problem-oriented policing strategies; the number and circumstances of UOFs; a deputy’s service as a field training officer or sergeant; disciplinary record; problem-solving skills; interpersonal skills; supervisory skills sufficient to ensure compliance with KCSO policy and SJ requirements; and support for departmental integrity (SJ paragraph 110).

In this first year that monitoring and technical assistance has been provided, the primary emphasis and attention has appropriately been focused on the SJ’s recruitment and hiring plan requirements. This is due to the severity of the immediate staffing needs and the pressing challenges faced on that front. Accordingly, the work on the development of the promotion policy and plan is not as advanced as the recruiting and hiring work, although it is expected to be completed in 2022.

## **7. EMPLOYEE SURVEYS**

In the fall of 2021, the County conducted a survey of all their employees to obtain feedback in areas of psychological safety, culture, training and development, trust and leadership, and other topics related to organizational health. The results of the survey were not yet available to KCSO or the MT at the time this report was written. Generally speaking, the MT strongly encourages KCSO to embrace the opportunity to acquire the type of beneficial information from its employees on their views regarding the state of the agency that such a survey can provide. Such feedback affords both KCSO and the County an important opportunity to reflect on and engage in self-examination of present conditions and employee perspectives, can be indispensable in addressing morale and retention weaknesses, and can help inform and refine future recruitment strategies. KCSO and the County should make concerted efforts to achieve a high level of participation from KCSO employees in future surveys to comply with SJ paragraphs 125b and 126.

## **8. NEXT STEPS FOR KCSO AND THE COUNTY**

The key steps required for SJ compliance (with the responsible agency in parentheses) include the following.

- Implement the technology, systems, and process improvements necessary to ensure that proper data collection and analyses become standard business practices and support the vision, mission, and values of the agency (KCSO and County HR).
- Update ideal candidate profiles and job descriptions to reflect organizational values and compliance with Penal Code § 13651. Recruitment and hiring materials also must be modified accordingly (KCSO and County HR).
- Establish a new digital presence that reflects a contemporary vision for KCSO and supports the SJ's goals. Redesigned recruitment pages on the agency's website must provide transparency about each stage of the hiring process and provide resources that help capture a potential candidate's interest and maximize chances for success (KCSO and County HR).
- Establish an exit interview practice where feedback is regularly sought, assessed, and used in ways that can strengthen the organization's culture and its ability to attract and retain a competent and diverse workforce (KCSO and County HR).
- Develop and implement a recruitment plan that must be approved by the MT and DOJ prior to implementation (County HR; SJ paragraphs 102–104).
- Develop and implement a promotion policy and plan that must be approved by the MT and DOJ prior to implementation (KCSO; SJ paragraphs 109–111).
- Provide annual public reports on promotional activities and outcomes (KCSO; SJ paragraph 112).
- Identify and publish the eligibility criteria and knowledge, skills, and abilities required of all supervisory positions (KCSO and County HR; SJ paragraph 115).
- Develop strategies to increase transparency and awareness related to the promotions processes involved for the ranks (KCSO and County HR; SJ paragraph 116).
- Conduct baseline and subsequent annual surveys of a representative sample of law enforcement personnel (KCSO and County HR; SJ paragraphs 125b and 126).

- Continue to improve the relationship between KCSO and County HR so that clarity and agreement are achieved surrounding roles and expectations and so that productive collaboration and timely processing of the respective HR responsibilities in each agency become the norms.
- KCSO will continue to cooperate and assist with the MT's various data and document requests, inquiries, and reviews and with the development of compliance metrics.

## 9. NEXT STEPS FOR THE MT

In addition to working with the Parties to develop suitable compliance metrics, key activities for the MT will include the following.

- The MT will offer consultation and provide technical assistance where needed. The MT will review and provide feedback on the data and information provided by KCSO and County HR in response to MT inquiries for sufficient data to assess the status and impact of their recruitment, hiring, and promotion activities.
- The MT will review, provide feedback on, and assess compliance of the materials and products that KCSO and County HR are required to develop in the form of a recruitment plan, a promotion policy and plan, and annual public reports on promotional activities and outcomes.
- MT will continue to provide consultation and technical assistance on the required strategies and any associated documents and processes to be employed, such as website development, recruitment outreach, interviews, agility tests, etc.

## G. COMMUNITY POLICING

Community policing is a philosophy that promotes organizational strategies that support the systemic use of partnerships and problem-solving techniques to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime. This principle is composed of three key components: community partnerships, organizational transformation, and problem solving.<sup>15</sup>

The SJ incorporates principles of each of these three components; community engagement is explicitly required throughout the SJ and directly addressed in this section. The overall purpose of this section is the critical need for KCSO to have meaningful engagement with the community. Meaningful engagement includes: (1) public involvement in identifying issues of concern; (2) the public having a role or influence in development of appropriate strategies to address those concerns that are not uniquely enforcement based; and (3) in addition to KCSO's own evaluation, the public being engaged in the evaluation of results to ensure that objectives are viewed through the lens of both law enforcement and community expectations. SJ paragraph 117 offers an overview.

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<sup>15</sup> Community Oriented Policing Services. (2014). *Community policing defined*. <https://cops.usdoj.gov/RIC/Publications/cops-p157-pub.pdf>



*KCSO agrees to enhance, promote, and strengthen partnerships within the community, to engage constructively with the community to ensure collaborate problem-solving and bias-free policing, and to increase transparency and community confidence in KCSO.*

The provisions in this section can be generally categorized as Increased Community Engagement; Policy Development, Implementation, and Training; Public Reports and Information; and Community Survey. As will be discussed in this section, KCSO has taken steps forward on some of the provisions, especially paragraphs 10, 117, 118, and 119.

## **1. INCREASED COMMUNITY ENGAGEMENT**

### **a. The Communitywide Advisory Council<sup>16</sup>**

Multiple SJ provisions are related to the CAC, including its structure; role; and KCSO's required community engagement activities, to which the CAC is expected to contribute and participate in achieving the desired outcomes. The CAC will play an essential role in helping KCSO reach compliance with the SJ and in helping create a relationship between the community and KCSO wherein trust can be sustained; enhanced; and, for some in the community, earned for the first time. The CAC's general mandate is best described in SJ paragraph 59: ". . . meet with Sheriff's Office staff at least quarterly to provide input into policy and procedure, provide insight into the community's concerns, and educate the community about their Sheriff's Office." The current CAC members are all residents of Kern County who are serving as volunteers; for many, this is on top of their full-time jobs. Most members did not have much, if any, experience collaborating with law enforcement, especially about such important topics as the ones included in the SJ. Some members were unsure about how they would be able to work with KCSO and were concerned about whether KCSO would truly value and incorporate their feedback and opinions or simply "check the box" on meeting with the CAC because it is mandatory. However, during this reporting period, relationships have been built and difficult topics have been raised and continue to be discussed in a respectful, inquisitive, and collaborative manner. In general, KCSO appears to be embracing the SJ as an opportunity to improve upon their engagement with the community and work more closely with those they serve. During this last year, KCSO, CAC, and the MT have been dedicated to relationship building, developing the CAC's structure, setting goals, and beginning the foundational work toward compliance. In a letter dated January 2022 sent to KCSO staff assigned to participate in the CAC, the compliance coordinator provided a general history of the CAC and its role in the SJ as well as guidance, expectations, and offers of support. It is encouraging for the MT to see that the compliance coordinator, who holds an executive rank within KCSO, is actively engaged with the CAC. This sends a clear message that community engagement and the CAC are critical to KCSO's successful compliance with the SJ. Additionally, the commander shared his belief that relationships with community stakeholders and organizations have already improved and that, even if conversations are sometimes difficult, the exchange of insights and help to generate new ideas on how KCSO conducts business have been fruitful.

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<sup>16</sup> The SJ refers to this group of community members as the "Community Advisory Panel (CAP or Panel)," but the group has decided to call itself the KCSO Communitywide Advisory Council (CAC).

The CAC was established in October 2020 and describes itself as “a group of concerned Kern County residents working to improve the relationship between the community and the Kern County Sheriff’s Office (KCSO).” Their stated mission is to bridge the gap between the County’s diverse communities and KCSO. The CAC’s stated vision is to “strengthen communication, generate mutual trust, and promote understanding for a more cohesive and safer Kern County” in alignment with the SJ.

The CAC has created an organizational structure that includes three co-chairs and several committees that focus on different parts of the SJ associated with community engagement and feedback. As of January 2022, the CAC is composed of approximately 30 members from different areas throughout the County and represents a variety of stakeholders and interest groups with varying degrees of participation. The committees are (1) Community Policing/Employment and Engagement,<sup>17</sup> (2) Policy, and (3) Communications. Each committee has five to eight members, including two co-chairs and two to three KCSO personnel assigned by the KCSO compliance coordinator.

The main functions of the CAC are to provide community input into organizational policies, procedures, and strategy; provide insight into the community’s concerns; and educate the community about KCSO (see SJ paragraphs 59, 99, and 117). The CAC is working toward meeting the SJ goals to serve as facilitators of greater transparency regarding KCSO’s policies and practices; however, more work will need to be done by its members to serve as conduits between KCSO and the public. Despite the ongoing COVID-19 pandemic, the CAC has been skilled at adapting to the new social realities created by the pandemic and have made their monthly meetings open, allowing the public to join in person or via Zoom. Other CAC meetings include committee working meetings that occur once or twice a month and are not open to the public; both KCSO and County representatives participate in these meetings as committee members.

## **b. Community Stakeholders Outside of the CAC**

Paragraph 59 of the SJ requires KCSO to engage intentionally and strategically with the community.

*KCSO will continue to work with its Community Advisory Panel (CAP or Panel). The Panel should continue to engage in a good faith effort to have representatives from various, diverse stakeholder groups, including, but not limited to, the Kern County Public Defender’s Office, California Rural Legal Assistance (CRLA), the American Civil Liberties Union (ACLU), United Farm Workers (UFW), the Dolores Huerta Foundation (DHF), the NAACP, Greater Bakersfield Legal Assistance (GBLA), PICO Bakersfield, as well as members of Sikh and LGBTQ+ community groups. During the first year of the Panel’s existence, it will meet at least bimonthly. The Panel will thereafter meet with Sheriff’s Office staff at least quarterly to provide input into policy and procedure, provide insight into the community’s concerns, and educate the community about their Sheriff’s Office.*

The process of community engagement is complex, difficult, and time-consuming, particularly if done right. A population as diverse as the one in Kern County requires understanding of how best to approach, collaborate with, and learn from different communities. Language and cultural barriers must

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<sup>17</sup> These two separate committees were merged in January 2022 for efficiency.

be recognized and appreciated to ensure every person in Kern County is treated fairly and with justice and respect. No law enforcement agency can do this alone; community partnerships are essential for an agency to meet these goals.

In late spring of 2021, the MT conducted a site visit to Bakersfield and met (both in person and virtually) with representatives from different geographic areas and segments of the community, such as nonprofit organizations, education representatives, and members of the faith community. The CAC chair helped facilitate and arrange those meetings, for which the MT was grateful.

During this reporting period, the CAC focused on structure, planning, and policy review; but they have not conducted extensive organized outreach to groups outside the CAC. They report that they intend, moving forward, to proactively share with the community the knowledge they have gained by working with KCSO personnel in CAC meetings. Throughout the past year, KCSO has documented minimal progress of their outreach and provision of SJ information to community stakeholders outside of the CAC. That said, the MT understands KCSO's challenges. Initial relationship building and internal understanding of what is expected from KCSO to reach compliance with the SJ's community engagement-related provisions can take time; the pandemic has made planning in-person public events difficult; and a staff shortage has not allowed KCSO the ability and resources to commit to holding or attending more public meetings. The MT looks forward to more community outreach being conducted by KCSO and the CAC throughout the County, including engaging with LEP populations and others who may feel uncomfortable with law enforcement in general.

An early impediment to reaching out to and working with some stakeholders stemmed from miscommunication and misunderstandings between organizations that needed clarification on the CAC's structure and membership. The misperceptions appeared to trace back to the CAC's origins. After the murder of George Floyd in the May 2020 by convicted then-police officer Derek Chauvin in Minneapolis, Minnesota, a group of community members gathered to express to Sheriff Youngblood their concerns regarding the relationship between law enforcement and the public in general, particularly so with regard to the Black/African American community in Kern County. This tragic event prompted law enforcement agencies across the United States to examine their own policing efforts; KCSO was no exception. This group met with the sheriff and other KCSO staff to talk through their concerns and to create a path toward improving police legitimacy in the eyes of different communities within the County. Note that these meetings occurred before the SJ was signed and made public.

Once the SJ became public and the requirement for KCSO to work with a CAC was identified, the group that had been informally meeting with KCSO transitioned to one that could serve as the CAC because they were already having the type of conversations the SJ envisioned. However, the CAC's mandate is to be a general and broad representation of Kern County as a whole, not focused on any one group or segment of the community. The establishment of the current CAC raised concerns among some organizations that believed they should be included in the CAC due to their previous interviews with DOJ during its investigation of KCSO. KCSO, the CAC, and, later, the MT held several communications (by phone, in person, via email) with these organizations to discuss the importance of including everyone's voice, provide information about the SJ overall and the community engagement provisions in particular, invite them to participate in the CAC, and identify how non-CAC members could provide feedback to KCSO. Some of those organizations subsequently chose to participate as official CAC members while others did not.

KCSO has reached out to engage with different community-based organizations, with varying degrees of success, and work with community stakeholders who are not involved in the CAC. Not everyone can or wants to be part of the CAC, nor do they need to be for their voices, experiences, and expertise to be heard. It is incumbent upon KCSO to continue reaching out to groups that are specifically identified in the SJ, as well as other groups that are not explicitly named but who do represent traditionally underserved communities. In the next reporting period, KCSO needs to continue its outreach to a variety of County residents and organizations that have not yet met with KCSO.

### **c. Community Meetings and Events**

Paragraph 119 of the SJ requires KCSO to regularly attend and actively participate in community meetings and events. A particular purpose of this requirement is improving KCSO's relationships with certain groups.

*A variety of sworn personnel shall continue to actively attend community meetings and events. KCSO agrees to develop a plan for such attendance. The plan shall indicate the number and types of events to be attended on a regular basis and take into account the need to enhance relationships with particular groups within the community, including, but not limited to, youth, LEP individuals, and communities of color.*

Attendance in such events provides opportunities for law enforcement and community members alike to interact in a neutral location and capacity; this is a necessary step in initiating and fostering effective working relationships. Some CAC members have accepted KCSO's invitation to participate in ride-alongs and observe first-hand what a deputy's job involves as they respond to calls for service, initiate traffic and pedestrian stops, and otherwise interact with community members when not engaging in various enforcement activities.

During one of these ride-alongs and visit to the Communications Center, a CAC member noted that a dispatcher asked a caller, "Is he/she White, Black, or Hispanic?" and inquired why that phrase was used instead of a more open-ended question. KCSO responded that it was just practice that developed at some point in time and that the CAC member had raised a good point. The current phrasing seems to limit the caller to picking one of three options. That feedback was well received at a KCSO supervisor meeting. Based on this community member's observations and suggestion, KCSO will change the phrasing of this question to "What race do you perceive them to be?" or "What race do you think they are?" This was considered a "small win" for community input by both KCSO and the CAC and reflects a willingness to consider and value community input. KCSO is in the process of formalizing this directive and training KCSO staff accordingly.

The CAC's Communications Subcommittee is working on developing a Bridge the Gap forum, which is designed to be a constructive exchange between KCSO and the community about topics of interest in a comfortable conversational setting. The forum will also serve as a venue to provide the community with information about the SJ's existence and purpose and the kind of beneficial impact it is designed to have for all County residents. Bridge the Gap will provide updates on what KCSO and the CAC have been doing in relation to the SJ provisions, particularly those directly affecting the community, such as those involving the creation and implementation of new KCSO policies on UOF incidents, resident

complaints, and language access. The CAC and KCSO intend to make this forum an ongoing series of meetings to take place across the County.

KCSO has attended and intends to continue participating in the following events and meetings during the next reporting period.

- Monthly CAC general meetings, which started in March 2021
- CAC committee meetings, which take place twice a month
- Bridge the Gap forum in mid-March 2022
- Planning stages of co-hosting a job fair with the CAC to recruit deputies, with an eye for diversification as required by the SJ (see “Recruitment, Hiring, and Promotions” section)
- Kern County Sheriff’s Activities League (SAL) program
  - » SAL’s mission is to assist the youth of Kern County by having law enforcement members serve as mentors and by exposing youth to positive and constructive activities as a way for them to avoid some of the negative influences they might encounter, such as gangs and drugs.

The MT has worked closely with KCSO and the CAC to inform them of other community-based entities engaging in similar work. The hope is that these resources serve as opportunities for peer learning and interaction for CAC members who volunteer many hours and who could benefit by hearing from others with similar experiences. Further, they learn about other examples of community engagement activities from other jurisdictions such as Community Problem-Oriented Policing (CPOP) and “Freedom Fridays” activities in Cincinnati, Ohio. “Breaking Bread, Breaking Barriers” in Portland, Oregon, consists of hosting informal community and law enforcement dinners at a local restaurant with the “desire to begin to build trust, relationships, friendships, and ultimately, for each group to see the value in each other and see each other as human beings first.”<sup>18</sup> One of the CAC members had the opportunity to meet with that program’s founder and discussed whether the model had promise for Kern County; they reached the conclusion that it did. The CAC is seeking funds to bring the founder to Bakersfield to assist in program development. Though it did not come into fruition during this reporting period, the CAC have learned about the elements of this program and expressed a desire to implement something similar.

The CAC has identified severe KCSO staffing issues as an obstacle to holding more community events in collaboration with KCSO. Additionally, as mentioned in several CAC meetings, lack of financing makes it difficult to fund and implement strategies and to hold the number and types of activities and events needed to affect relationship building between the community and KCSO. KCSO supports the CAC with media and marketing efforts for events, but more funds are needed for things like refreshments/snacks, facility rentals (when necessary), interpreters, a PA system, and other associated costs. The CAC has had to be creative to obtain funding, such as engaging with the Kern County Board of Supervisors. The MT applauds these efforts. In the next reporting period, KCSO and the CAC must continue to conduct outreach outside of the CAC, plan for events and outreach efforts in other areas of the County, and seek other funding sources.

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<sup>18</sup> Quote from Founder Sam Sachs in a document describing the history of the “Breaking Bread, Breaking Barriers” program.

## 2. POLICY DEVELOPMENT, IMPLEMENTATION, AND TRAINING

SJ paragraph 117 requires KCSO to “. . . form and maintain a CA[C], and to develop its UOF policies, community policing strategy and policies, bias-free policing policies, and civilian complaint policies with input from the CA[C] and other stakeholders within the community.”<sup>19</sup>

To provide guidance to the CAC, the KCSO compliance coordinator sent a letter to the CAC Policy Committee asking them to review certain KCSO policies as mandated by the SJ. The policies shared with the CAC included Use of Force Policies (DPPM F-100 through F-900), Bias-Free Policing (DPPM J-2300), and Complaint Policies (DPPM D-100 through D-700). In the letter, the coordinator proposed that the committee start reviewing the existing policies to gather some initial thoughts and ideas for community input while KCSO begins work to identify and undertake the necessary changes required by the SJ. The idea appeared to be well received and they plan to use the Bridge the Gap forum in March to obtain public comment. CAC will gather these recommendations and provide them to KCSO, which will try to blend shared edits before sending the document to Kern County Counsel, the MT, and DOJ for review.

The CAC has begun coordinating efforts with KCSO in reviewing and providing feedback on policies identified in the SJ. The CAC has established committees—including the Policy Committee, which includes KCSO representatives—to focus on the relevant sections of the SJ. The CAC has begun reviewing two identified policies: Use of Force (UOF), to include use of canines, and Language Access. They are in the process of reviewing these policies within the Policy Committee and providing feedback to KCSO. Given the scope and extensive range of issues that are addressed in the UOF policy, KCSO and the CAC understand that this process may take several more months before KCSO will have a revised policy to submit to the MT for compliance assessment. The Policy Committee is making considerable and laudable effort to educate themselves on a variety of topics to provide meaningful input on policy, including reading and familiarizing themselves with relevant legal requirements and reports such as the *Final Report of the President’s Task Force on 21st Century Policing*.

Additionally, KCSO provided an outline of a community policing policy to the CAC, who agreed to provide some draft language for KCSO’s consideration. This a first step toward compliance with paragraph 117, which requires, among other things, that KCSO develop a community policing strategy and policies with the CAC. CAC members and KCSO will get a chance to provide their input prior to submitting it to the MT. The current structure of providing feedback is informal but appears to be working for both KCSO and CAC during the first year; however, the MT would like to see a written, more formalized process so that future members and community stakeholders can provide their comments in a consistent manner that ensures KCSO can see and consider necessary input.

A strategic plan is a formal approach to laying out elements including objectives, critical tasks to be undertaken, timelines involved, identification of responsible groups or individuals, use of resources, and

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<sup>19</sup> Paragraphs 39, 99, and 117 all mandate community engagement in developing policies, including: policy to inform public of about officer-involved shootings, deaths in custody, or other significant matters; language access; UOF community policing strategy and policies; bias-free policing; and civilian complaints. Paragraph 10 specifically refers to UOF-related policies.

desired outcomes. The MT has provided resources and recommendations to KCSO on how to create a strategic plan and will further discuss the plan's development and implementation.

To date, the committee has created its own draft work plan that will serve as a guide and organizational tool, e.g., the order of policies to be reviewed and revised, and a timeline that identifies how the CAC is including community input and identifying appropriate subject matter experts to guide policy revision. The MT applauds that the CAC is proactive and organized in their efforts; it shows they understand the influence and importance of their role in helping KCSO reach SJ compliance and improve community relations and policing efforts overall. However, the responsibility to create and implement such a strategic plan ultimately lies with KCSO, to be created with substantial assistance from the CAC.

Pursuant to SJ paragraph 10, the MT urges KCSO to develop a strategic plan with input from the CAC policy team that includes clarifying KCSO's and the Policy Committee's objectives and desired results, identifies groups or individuals responsible for the tasks involved, and sets timeline expectations. This should be finalized with agreements from all involved actors to help them stay on track with the development of the other policies identified in the SJ, which include: a policy to inform the public about officer-involved shootings, deaths in custody, or other significant matters as deemed by KCSO that will include an outreach and community forum component (paragraph 39); bias-free policing (paragraph 117); and civilian complaints (paragraph 117). After these policies have been officially approved by the MT and DOJ, KCSO will be able to take the next step toward compliance with other SJ provisions: training and implementation of said policies.

### **3. PUBLIC REPORTS AND INFORMATION**

SJ paragraph 123 requires KCSO to seek the assistance of the CAC and community advocates in "widely disseminating to the public, in English and Spanish," important information such as complaint forms, brochures, etc. The Parties met in the fall of 2021 and clarified that English and Spanish are the minimum; more languages can be added to reach the community in different languages. County HR stated that they plan to have each County department make a list of vital documents to be translated in different languages. This is a good first step and we hope to see this accomplished during the second quarter of the next reporting period.

To continually improve police–community partnerships, KCSO will need to assess and report on the impact of its community engagement initiatives. The SJ requires such a report to be produced annually starting in 2022 and posted on their website (SJ paragraph 122). This report will need to share community engagement efforts and identify successes, obstacles, and recommendations for future improvement. Folding this exercise into the fabric of everyday policing business can help KCSO continue to build community trust.

### **4. COMMUNITY SURVEY**

Paragraphs 124–127 require KCSO to "assist the Monitor in conducting a reliable, comprehensive, and representative biennial survey of members of the Kern County community regarding their experiences with and perceptions of KCSO and of public safety." The Monitor has retained a research team from the

University of California, Los Angeles (UCLA) to design, conduct, and analyze a baseline survey, and any subsequent surveys, that will be based on a representative sample of Kern County residents. It will measure public satisfaction with policing and perceptions of the quality of police–community encounters. The first survey will serve as a baseline to aid in determining how these perceptions might change over time.

During this reporting period, the MT and the research team began the process of engaging KCSO, community stakeholders that include the CAC and various community-based organizations (CBOs), and DOJ in the development of the community survey. The MT met with and received written feedback on a draft survey instrument from the Parties and community stakeholders. At the time of this report, the extensive and iterative process required to design and refine the survey is nearing completion. Each stakeholder group that has provided survey instrument feedback and input thus far has made significant contributions that have improved the survey’s content. The UCLA research team has incorporated many of the suggestions while also ensuring the questionnaire meets the standards of reliable survey research.

The next steps will be to finalize the survey’s content and determine the survey methodology. The process to develop and finalize the survey methodology will be similar to the survey development process, engaging the same stakeholder groups to provide input on the research team’s recommended data collection methods. The MT will seek support and participation from the CAC, CBOs, individual community stakeholders, and KCSO to promote and disseminate the survey widely throughout the County. As with the survey instrument, the methodology chosen will meet the standards of professional survey research with particular focus on (1) achieving participation rates among the general public and among those previously arrested by KCSO deputies to facilitate reliable interpretation of results and (2) establishing a participant sample that is representative of the general Kern County population with regard to gender, age, and race/ethnicity. It is anticipated that the survey will be available in both pen-and-paper and online formats and in English and Spanish. The survey will be made available in other languages and/or translation services will be provided as deemed necessary by the Parties and CAC.

KCSO has been a supportive and collaborative partner thus far in the development of the community survey. They have provided useful feedback on the content of the survey and have committed to the tasks that will be required to distribute the survey, such as translating it into other languages and promoting it throughout the community. KCSO has also helped the MT and the research team strategize on how to address the inevitable jurisdictional issues that will arise when trying to ensure that survey respondents are actually served by KCSO as opposed to the various other law enforcement agencies that serve the vast Kern County area.

When the survey is complete and the report published, to achieve full compliance with the SJ, the MT will expect KCSO to use the survey results to inform its community policing and engagement strategies. Data from the survey will be used to assess community perceptions of the relationship between KCSO and the Kern County community and to measure how, if at all, the SJ reforms are influencing that relationship. KCSO can use survey data to better understand how and where to focus its community engagement efforts and the insights into which communities require greater improvement efforts. In the next reporting period, the MT also will discuss with the Parties some as-yet unaddressed elements of paragraphs 125–126, including a possible survey of KCSO personnel and focus groups.



## 5. NEXT STEPS FOR KCSO AND CAC

Some of the important activities and objectives to be addressed by KCSO and the CAC regarding Community Policing, primarily in the next reporting period, include the following.

- KCSO and the CAC will increase public outreach regarding the SJ and the associated responsibilities of KCSO and CAC (SJ paragraphs 118, 122, and 123).
- KCSO will continue reaching out to groups that are specifically identified in the SJ and other groups that represent traditionally underserved communities (SJ paragraphs 59, 118, and 121).
- KCSO will continue efforts to build trust and meaningful positive relationships with the CAC as well as with other community stakeholders (SJ paragraphs 10, 59, 117, 118, and 121).
- The CAC will review and provide feedback regarding KCSO's community policing policy and community engagement strategies. KCSO and CAC will establish a timeline and process for KCSO to receive CAC's input (SJ paragraph 117).
- In consultation with the CAC, KCSO will enhance or develop its community policing policies and strategies as necessary to fulfill SJ requirements (SJ paragraph 117).
- Working with the MT, KCSO will enhance or develop its community policing training (SJ paragraph 120).
- KCSO will finish developing a plan for sworn personnel to attend community events on a regular basis to enhance relationships with groups such as youth, LEP individuals, and communities of color (SJ paragraph 119).
- KCSO will develop a strategic plan to meaningfully engage with community stakeholders (SJ paragraph 10).
- KCSO will create a written, more formalized process of receiving community feedback so that future members and community stakeholders can provide their comments consistently, ensuring that KCSO obtains necessary public input (SJ paragraph 117, 118).
- KCSO will develop a plan for incorporating the *Final Report of the President's Task Force on 21st Century Policing* and its concepts into its organizational strategies and policing philosophy (SJ paragraph 121).
- KCSO will assess and report on the impact of its community engagement initiatives (SJ paragraph 122).
- KCSO will collaborate with the MT in implementing a community survey and will use community survey results to inform its community policing and engagement strategies (SJ paragraph 124–127).
- KCSO will continue to cooperate and assist with the MT's various information requests, inquiries, and reviews and with the development of compliance metrics.

## 6. NEXT STEPS FOR THE MT

In the next reporting period, the Parties and the MT will identify and agree upon the quantitative and qualitative performance metrics required to establish compliance for each of the SJ provisions and how compliance will be measured. Consideration of community expectations is of great importance in this process. Other key MT activities will include the following.

- The MT will provide consultation and technical assistance, as needed, to KCSO and the CAC on the development and implementation of a strategic plan and the other SJ requirements described above.
- The MT and DOJ will assess submitted plans, policies, and training curricula for compliance and provide feedback to KCSO regarding any changes needed prior to approval and implementation.
- MT will continue to work with the CAC and the Parties to develop the community survey methodology. When completed, working with the CAC and KCSO, the MT will administer the survey and launch data collection and analysis.
- MT will conduct ride-alongs, attend meetings and events, observe station activity, and review KCSO documentation to gain insight and provide feedback regarding KCSO's community policing strategies and activities.

## H. PERSONAL COMPLAINT REVIEW

The SJ requires KCSO to ensure that all allegations of personnel misconduct are received and documented, that they are fully and impartially investigated, and that employees are held accountable when they are found to have committed misconduct pursuant to a disciplinary system that is fair and consistent. To achieve these outcomes, KCSO and Kern County agreed to implement specific provisions enumerated in SJ paragraphs 128–157. Essentially, those paragraphs require that:

- Complaint materials be readily accessible to the public;
- Public complaints are willingly received;
- Complaints are classified properly;
- Each substantive allegation is identified and investigated, whether the complainant specifically articulated it as an allegation or not;
- Complaint investigations are thorough enough to support a reliable adjudication;
- Complaints are adjudicated by KCSO managers using a preponderance of evidence;
- Complaint investigators and managers receive adequate training on the investigation and adjudication of personnel complaints, including effective methods of handling complaints from people who may not be proficient in English;
- KCSO will conduct annual audits of personnel complaint cases; and,
- KCSO will publish an annual report of personnel complaint data.

### 1. GROUNDWORK AND PRELIMINARY REVIEWS

KCSO began reviewing its policies and practices for handling public complaints before the MT was selected. KCSO revised Chapter D of the Department Manual, describing policies and procedures governing the intake, investigation, and adjudication of public complaints. In the MT's assessment, this initial attempt to revise complaint-related policies to be in alignment with the SJ was significant and demonstrated a good understanding of the work. As with some of the other policies KCSO has been developing, these drafts were not submitted for formal compliance approval; instead, KCSO sought

preliminary feedback from the MT in an effort to develop momentum and begin making progress where possible. During the onsite kickoff meeting in May 2021, the MT discussed the revised complaints-related policies with KCSO, sharing general comments and suggestions for steps that KCSO could take to make further progress. The MT appreciates that KCSO personnel were open to feedback, committed to reaching compliance, and understanding of the significant work required to reach that goal.

Considerable time was spent at the May onsite meeting discussing KCSO's current complaint process so that the MT could gain a complete understanding of how public complaints are being handled currently. As we did for UOFs, the MT then summarized this process in a process map that comprehensively describes KCSO's process for handling public complaints. The process map is a basis for developing a shared understanding, among the Parties and the MT, of KCSO's processes for documenting, investigating, and adjudicating personnel complaints and provides a structure by which SJ-mandated reforms can be understood and assessed. Once agreement was reached with a representative from the Internal Affairs Bureau (IAB), which is responsible for complaint investigations, the process map was then shared with DOJ and KCSO managers, all of whom concurred the document accurately summarized the current complaint process.

Once consensus was reached on how complaints are being handled in the process map, the MT worked with IAB representatives to thoroughly examine each SJ complaint paragraph and identify any issues that are unclear and any outstanding questions. As well-intentioned as the efforts were to revise the manual before the MT was in place, these revisions can only be made after each SJ paragraph is thoroughly examined, any ambiguities are identified and discussed, and the Parties reach agreement on exactly what each paragraph requires. The MT, in coordination with IAB, prepared a list of each SJ paragraph and any content that was unclear to either the MT or KCSO. During the November virtual site visits, DOJ, KCSO managers, the Monitors and members of the MT met to discuss and clarify the requirements for each of the SJ's complaint paragraphs. This process led to a common understanding of the SJ's requirements, which was documented and submitted to the Parties for their approval.

Two of the more significant issues that arose through this process are as follows. SJ paragraph 131 prohibits using language on the complaint intake form that could be construed as discouraging the filing of a complaint, but Penal Code § 148.6 requires that complaint intake forms contain an admonishment about being prosecuted for perjury for making a false complaint. This may have the effect of discouraging filing a complaint based on the fear of prosecution for an inadvertent error. The MT and Parties, including Kern County, developed acceptable options for resolving this issue. Another issue concerned the SJ's scope. The SJ applies to all complaints regarding a deputy's interaction with the public, including any personnel complaints made by an incarcerated person. It was agreed that the SJ does not, however, include incarcerated persons' grievances or complaints that are solely about policies, procedures, or services as existing procedures govern how such grievances are dealt with in a custodial setting.

Our original process map of the complaint process described above did not address the custodial setting, so a supplemental report will describe the way in which those personnel complaints are currently handled. That document will also include a description of the grievance process so that the Monitors can review those documents and ensure personnel complaints are not being mistakenly

handled or classified as grievances.<sup>20</sup>

With that important work completed, KCSO has continued the process of revising the manual sections to reflect the agreements reached for SJ paragraphs 132, 134, 135, and 137, among others. As with the other policies, such as UOF, development of these revisions will include obtaining feedback and input from the CAC, DOJ, and MT. Once they are formally submitted to the MT, the MT will review them for compliance and work with KCSO to make any necessary revisions. Following that step, they will be submitted for DOJ review.

## **2. NEXT STEPS FOR KCSO**

- In consultation with the CAC, KCSO will revise its policies and procedures to reflect the SJ requirements in paragraphs 128–150. This will include but not be limited to the completion of an educational brochure describing the complaint process for the public, as well as making complaint forms available on KCSO’s website.
- Once the policies and procedures have been revised and approved, KCSO will develop or enhance associated training for those responsible for investigating and adjudicating public complaints. Once approved, KCSO will implement training for all appropriate personnel (SJ paragraphs 151–153).
- In consultation with the MT, KCSO will develop a protocol and schedule for conducting internal complaints audits (SJ paragraphs 154–157).
- KCSO will continue to cooperate and assist with the MT’s various information requests, reviews, and audits and with the development of compliance metrics.

## **3. NEXT STEPS FOR THE MT**

In addition to working with the Parties and County Counsel to develop compliance metrics, key MT activities include the following.

- The MT will complete the supplemental process map that will describe the process for handling complaints and grievances filed in the jails.
- The MT will assess the revised manual sections and sundry other related policies and documents for compliance and provide feedback regarding additional revisions required before approval and implementation (SJ paragraphs 132, 133, and 135).
- The MT will review and provide feedback to KCSO regarding any necessary changes to submitted deputy training materials prior to their implementation. The MT will then verify that the trainings are provided to appropriate personnel.

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<sup>20</sup> The Department Manual defines an inmate grievance or “grievable condition of confinement” as including, but not limited to, “medical or mental health care, classification actions, disciplinary actions, program participation, telephone, mail, visiting procedures, food, clothing and bedding” (I-0200 Inmate Grievance Scope & Process).

- The MT will assess KCSO’s training program and materials for supervisors and managers who handle public complaints for compliance and provide feedback on additional revisions required before approval (SJ paragraphs 151, 152, and 153).
- The MT will provide consultation and technical assistance, as needed, to assist KCSO with the development of complaint investigatory summary reports and its audit protocol that assess the effectiveness of its complaint processes.
- Once policies and procedures are in place, the training has been provided, and sufficient time has passed to institutionalize the changes, the MT will conduct inspections and audits of completed cases to assess KCSO compliance.
- In addition to formal audits of public complaints, the MT will review complaints or other allegations of misconduct discovered while reviewing various other activities, such as UOFs and stops.
- The MT will also provide feedback as complaints arise while reviewing other KCSO activity, such as UOFs and stop data.

### III. CONCLUSION

As we have noted throughout this report, the Parties and MT have begun discussions surrounding the process of developing formalized metrics by which the MT will assess KCSO’s compliance with the SJ. Using these metrics as a guide, the MT will assess the degree to which KCSO complies with each SJ paragraph and demonstrates continual improvement toward the agreement’s overall purposes. Most importantly, the MT’s assessments will ascertain whether the many changes and reforms mandated by the SJ are achieving the improvements sought in law enforcement services that are provided to and experienced by Kern County residents.

The MT has largely experienced excellent cooperation from KCSO and County HR staff, and we have witnessed a common spirit of commitment to achieving the outcomes envisioned in the SJ. We found it especially helpful that the Sheriff designated someone of sufficient rank, and possessing the necessary skills and decision-making authority, to serve as the primary liaison working with both the MT and the community. That level of leadership has been invaluable, and we want to take this opportunity to specifically recognize Chief Deputy Erik Levig and his team for their commitment to this process. With rare exception, KCSO and County staff who have been engaged in this work have been attentive and timely in responding to the MT’s numerous requests for data and information.

While we are certainly impressed with the energy and potential, there are areas that require more attention. Among the most pressing needs relate to recruitment, retention, and promotions, which are critically affecting the ability of KCSO to provide important and basic law enforcement services and their ability to comply with SJ requirements and, therefore, achieve the outcomes to which KCSO and the County have agreed. The County’s policymakers, KCSO, and the community must come together to develop realistic solutions or to adjust expectations about the quality and level of services that can be provided. Another area of concern is data collection and the availability of data for the purposes of management review. In several areas—perhaps most importantly human resources and stops—the MT has found the ability of KCSO and County personnel to access and analyze relevant data to inform practice limited to such an extent as to significantly hamper progress toward SJ compliance. The

Monitors appreciate the efforts by KCSO to seek improvements and, in some cases, replacements to these systems; that goal should be prioritized in the next reporting period.

The leadership and the members of the CAC have proven themselves to be invaluable to KCSO; they are invested and engaged in this work to a far greater extent than we have observed in almost any other community. The breadth of talent, skills, and experience they bring to the table is impressive, as have been their contributions to date. Their candor and ability to constructively engage around tough questions and complex issues is exactly what is needed to bring about an effective working relationship built on trust and respect. The parties in this process are establishing a solid foundation that will enable them to accomplish the SJ's immediate goals and ensure the community is meaningfully engaged and valued as a partner and coproducer of public safety.

The Monitors have found an impressive commitment to the SJ-related work over the past year by KCSO, the CAC, other community stakeholders, and County representatives. This is especially notable in light of the challenges faced—not the least of which were those associated with the COVID-19 pandemic—and bodes well for the future as it serves to illustrate what can be accomplished by the parties who have committed themselves to this endeavor. The MT and DOJ look forward to working with KCSO and the County to ensure that the reforms under the SJ will continue to be implemented over the next year.