

EXHIBIT F

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. CV 07-02513-PHX-GMS
)	
Joseph M. Arpaio, et al.,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF JOHN MacINTYRE

Phoenix, Arizona
March 16, 2015
9:02 a.m.

REPORTED BY:
CATHY J. TAYLOR, RPR
Certified Reporter
Certificate No. 50111

PREPARED FOR:
ASCII/CONDENSED
(CERTIFIED COPY)



1 injunction issued by the Honorable Judge Snow.

2 And you responded you cannot --

3 A. Yes.

4 Q. -- is that right?

5 As we sit here today, do you remember when you
6 first became aware of that preliminary injunction?

7 A. I cannot give you a hard-and-fast date, no..

8 Q. If the injunction was issued on December 23rd,
9 2011, can you give us an estimate when you heard about it
10 after that date?

11 A. Sometime in January of 2012.

12 Q. And what was the occasion that you heard it, if you
13 recall?

14 MS. IAFRATE: And I'm going to object as to --

15 THE WITNESS: Heard.

16 MS. IAFRATE: -- privilege if you heard about
17 it from an attorney.

18 MR. POCHODA: Well, I'm not asking what anyone
19 told him.

20 BY MR. POCHODA:

21 Q. I'm just saying, what was the occasion? You could
22 tell us if an attorney's name was there, but not what anyone
23 said.

24 A. I believe I received it in an e-mail that -- or I
25 was given a copy of the preliminary injunction. I think I

EXHIBIT G

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FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega)	
Melendres, et al.,)	
)	
Plaintiffs,)	
	)	No.
vs.	)	CV-07-2513-PHX-GMS
)	
Joseph M. Arpaio, et al.,)	
)	
Defendants.)	
)	

VIDEOTAPED DEPOSITION OF JOSEPH SOUSA
Phoenix, Arizona
April 2, 2015
9:07 a.m.

REPORTED BY:
Kellie L. Konicke, RPR
AZ Certified Reporter
No. 50223

PREPARED FOR:
ASCII/Copy



1 MR. MITCHELL: Barry Mitchell in limited
2 appearance on behalf of Chief Gerald Sheridan from the
3 firm Mitchell Stein Carey.

4 MR. COMO: Greg Como, Lewis Brisbois Bisgaard &
5 Smith, representing Brian Sands.

6 THE VIDEOGRAPHER: You may swear the witness.
7

8 JOSEPH SOUSA,
9 a witness herein, having been first duly sworn by the
10 Certified Reporter to speak the truth and nothing but
11 the truth, was examined and testified as follows:
12

13 EXAMINATION

14 BY MS. WANG:

15 Q. Good morning, Lieutenant.

16 A. Good morning, ma'am.

17 Q. Is there any reason that you can't testify
18 truthfully and completely today?

19 A. No, ma'am.

20 Q. You're feeling quite well physically and
21 mentally for purposes of testifying?

22 A. My usual self, ma'am.

23 Q. Is that a "yes"?

24 A. Yes, ma'am.

25 Q. Okay. What did you do to prepare for today's

1 deposition?

2 A. Met with my attorneys this week and last week
3 and reviewed a string of e-mails. That was about it.

4 Q. Okay. Which attorneys did you meet with?

5 A. I met with Tom Liddy, I think it was last week,
6 and I met with my attorney, Dave Eisenberg, yesterday.

7 Q. Okay. For about how long did you meet with
8 each of them?

9 A. Yesterday I met with Dave Eisenberg probably
10 maybe 30 minutes; I got called out.

11 And with Tom Liddy and Dave Eisenberg, I was
12 there -- whatever that was, a few weeks ago, probably
13 45 minutes to an hour.

14 Q. Okay. You mentioned that you reviewed some
15 e-mails to prepare for the deposition. Can you give me
16 the general gist of what those e-mails were about?

17 A. Training scenarios reference to a judge's
18 order, is what the title was, I believe.

19 Q. Okay. Did you review any other documents to
20 prepare for the deposition?

21 A. No, ma'am.

22 Q. Did you talk to anybody else about this
23 deposition besides --

24 A. No.

25 Q. -- Mr. Liddy and Mr. Eisenberg?

1 Q. Okay. What was his role at MCSO during the
2 time you were --

3 A. I'm sorry, ma'am. Correction. Repeat that
4 question.

5 Q. Well, the last question I was about to ask you
6 is what was his role at MCSO while you were --

7 A. The one before that.

8 Q. -- at HSU.

9 A. I just want to make sure I give you the --

10 Q. I wanted to ask -- I asked you whether you ever
11 interacted with Chief MacIntyre while you were the head
12 of HSU.

13 A. Yes. That string of e-mails, at one point when
14 we got the scenarios typed up and sent to the attorney,
15 he was copied on that string of e-mails. I just noticed
16 that on the review yesterday.

17 Q. Okay. We'll get back to that in a bit.

18 Do you recall -- you were the head of HSU when
19 this lawsuit was filed, right?

20 A. Yes, ma'am.

21 Q. That would have been 2008?

22 MR. LIDDY: Form.

23 THE WITNESS: Yes, ma'am.

24 Q. BY MS. WANG: Okay. And you stayed until about
25 three months after the Court's preliminary injunction

1 A. Yes, ma'am.

2 Q. While you were at HSU, did anyone ask you to
3 look specifically for recordings of traffic stops?

4 A. I don't recall anybody ever asking me to look
5 for them, other than I believe -- I know
6 Deputy Armendariz had gotten a citizen's complaint and
7 Chief Trombi had called me about it. Now, I -- I can't
8 remember if he asked me for video or I said, I'll see if
9 there is video on it.

10 Q. Okay. And that's the only instance in which
11 you recall anyone asking you to look for a video
12 recording of a traffic stop while you were at HSU?

13 A. Yes. And I'm not sure he asked. I'm -- I'm --
14 I think I might have said I might have video on it.

15 Q. All right. You mentioned that in the past year
16 you also have been asked for certain e-mails that you
17 exchanged with Lieutenant Jakowinicz around the time
18 that you transitioned command of HSU over to him; is
19 that correct?

20 A. Yes, ma'am.

21 Q. And that was a request from the monitor team?

22 A. Through Russ Skinner, the Court Compliance
23 Unit, yes, ma'am.

24 Q. Did they ask you for anything besides the
25 e-mails back and forth with Lieutenant Jakowinicz?

1 A. There were some -- I think -- I believe prior
2 to that there were some requests. I'm -- I'm not sure
3 if it was strictly about -- I don't know if it was an
4 office-wide type of request. I know the e-mails -- that
5 request was very specific to me and Jakowinicz.

6 Q. Okay. Do you recall anything else about other
7 requests you've gotten to search for documents in the
8 last year?

9 A. I -- I know Jakowinicz asked me to look for
10 some documents, some PowerPoints, some training
11 PowerPoints, see if I had anything. We -- it probably
12 happened more than once. I'm pretty sure -- I'm trying
13 to think of -- I know I dealt with Sergeant Armer on
14 some kind of a request that was coming down too. I
15 can't remember off the top of my head, but there was
16 more. I just can't remember right now.

17 MS. WANG: Okay. Can you flip to Exhibit 100?
18 It's probably not in that binder. Maybe Mr. Liddy can
19 help. Thank you.

20 MR. LIDDY: Hand me that book.

21 Q. BY MS. WANG: Okay. Have you ever seen
22 Exhibit 100 before?

23 A. Can I review it real quick?

24 Q. Yes, please. Of course.

25 A. I -- I don't -- I can't -- I don't remember it.

1 Q. Okay. Can you turn to page 2? I'm going to
2 focus your attention on paragraph A. Has anyone asked
3 you since February 12th of 2015 to search for copies of
4 identification documents seized by MCSO personnel from
5 apparent members of the plaintiff class in the Ortega
6 Melendres case?

7 MR. LIDDY: Objection to form.

8 THE WITNESS: What was the date on that?

9 Q. BY MS. WANG: The date of the order, so that's
10 up at the top here, since February of this year.

11 A. I was -- the only thing I remember is during
12 interviews, Internal -- it was Professional Standards
13 interviews and interviews with the monitors, they asked
14 me about IDs, and I didn't remember anybody having IDs.
15 But I was asked -- we were asked to go through our
16 division. It was -- once again, it was an e-mail to all
17 the commanders and lieutenants, walk through your
18 division. I believe it was Trombi that sent it out and
19 see if there is anything out of place, anything that we
20 need to address. Do an inspection of your division.

21 And I believe that stemmed from them finding
22 identifications in vehicles or in offices and also
23 stemming from license plates.

24 Q. Okay. Was that before your interview with the
25 monitor team, like November or so of last year?

1 A. I believe it was before because I mentioned
2 that to the monitor team when I did my interview, I
3 think.

4 Q. Okay. Since --

5 A. I think I did.

6 Q. Pardon me.

7 Since February 12th of this year, has anyone
8 asked you to search for copies of identification
9 documents seized by MCSO from members of the Melendres
10 plaintiff class?

11 A. I can't remember, as I sit here right now.

12 Q. Okay. Since February 12th of 2015, has anyone
13 asked you to look for what's listed in paragraph B here,
14 "All documents relating to any individuals who were the
15 subject of any U.S. ICE or U.S. CBP inquiry and/or
16 individuals who were detained by MCSO after
17 December 23rd, 2011, based upon suspected unlawful
18 presence in the United States, and who were not charged
19 with or cited for any crime"?

20 A. As I sit here right now, I don't remember, but
21 I've routinely been walking the division, looking for
22 anything out of place that doesn't belong to it since
23 all this started.

24 Q. Okay. But you haven't gotten any requests to
25 look for such documents in the last two months and a

1 half?

2 MR. LIDDY: Objection to form.

3 THE WITNESS: I -- if I did, I don't remember.
4 I don't know -- it could be something that went directly
5 to my captain.

6 Q. BY MS. WANG: Okay. In the last two months,
7 have you gotten any requests to search for documents
8 relating to information concerning the circumstances and
9 length of any detention as described in paragraph B?

10 A. Not -- not that I remember, ma'am.

11 Q. Okay. Did anyone ask you to look through
12 incident reports, DRs, FI cards, anything like that in
13 the last two months?

14 MR. LIDDY: Form.

15 THE WITNESS: That, no, ma'am. That, I'm
16 pretty confident.

17 Q. BY MS. WANG: Okay. In the last two months,
18 has anyone asked you to look for communications between
19 MCSO and either ICE or CBP after the 2011 preliminary
20 injunction order?

21 MR. LIDDY: Form.

22 THE WITNESS: I -- I don't -- I seem to vaguely
23 remember a request like that, but I can't say with
24 100 percent certainty.

25 Q. BY MS. WANG: Okay. In the last couple months?

1 A. In the last couple of months, I don't believe
2 so, ma'am.

3 Q. All right. How about paragraph E, has anyone
4 in the last two months asked you to look for documents
5 relating to the Court's December 23rd, 2011, preliminary
6 injunction order and/or the LEAR policy?

7 MR. LIDDY: Form.

8 THE WITNESS: I want to say in the last three
9 months I sent up to the Court Compliance Unit -- I can't
10 remember who it was -- one of the current SOPs or one of
11 the SOPs where the cameras ended up showing up on the
12 SOP. That's all I can remember.

13 Q. BY MS. WANG: Okay. But that related to video
14 recordings?

15 A. I believe so.

16 Q. Okay. Do you recall ever getting a request in
17 the last two months to search for documents that had to
18 do with the Court's December 2011 preliminary injunction
19 order?

20 A. No, I don't remember getting any requests.

21 Q. All right. Have you made any search for such
22 documents --

23 MR. LIDDY: Form.

24 Q. BY MS. WANG: -- in the last two months?

25 A. Yes. When I came across -- when the monitor

1 team -- when the monitor team made that request of any
2 e-mails between me and Lieutenant Jakowinicz, I can't
3 remember the time frame, but 30 days before, 30 days
4 after my transfer, and when I came across those training
5 scenarios, I did a thorough search to see if there was
6 anything else that was relevant.

7 Q. Okay. And that was in response to the
8 monitor's request through CCID?

9 A. Correct. And -- but I took it further just to
10 make sure I didn't have anything else.

11 Q. All right. But you don't recall getting any
12 other request to specifically look for documents about
13 the December 2011 court order?

14 A. I don't remember --

15 MR. LIDDY: Form.

16 THE WITNESS: I don't remember getting any --
17 any specific instructions to do that specifically from
18 somebody else. I kind of did it on my own.

19 Q. BY MS. WANG: All right. Thank you.

20 Okay. I'm going to hand you -- what did you
21 find when you did that search on your own?

22 A. I found that string of e-mails for training
23 scenarios, and I also found an e-mail from approximately
24 eight months after I was transferred. I can't remember
25 what I titled the e-mail, but it was -- it was eight

1 months after I transferred out. It was like about
2 October of 2012.

3 And the e-mail I sent -- let's see -- to
4 Lieutenant Jakowinicz, and by reading the e-mail, the
5 best I could come up with is that, once I transferred
6 out, for the first several months Chief Sands was
7 calling me accidentally and -- and that's what I'm
8 assuming happened here, because I forwarded the
9 information, and the e-mail had something to do with
10 getting some training out reference the order. And I
11 ended up forwarding it to Jakowinicz and copying Tim
12 Casey.

13 MS. WANG: Okay. I'm going to hand you
14 Exhibit 168.

15 (Exhibit No. 168 was marked for
16 identification.)

17 Q. BY MS. WANG: Okay, sir. Is Exhibit 168 the
18 memo you sent to Captain Skinner in response to his
19 request for e-mails between you and
20 Lieutenant Jakowinicz around the time of your transfer
21 out of HSU?

22 A. Yes, ma'am.

23 Q. Okay. And you note that you found 12 such
24 e-mails, correct?

25 A. Yes, ma'am.

1 Q. BY MS. WANG: Okay. What did Chief Sands say
2 to you during this conversation on the phone?

3 A. I -- I don't remember. I don't remember. I --
4 I know he didn't tell me "you're wrong and stop what
5 you're doing," because I would have.

6 Q. Did you think that HSU needed to take any steps
7 to carry out the judge's December 2011 order?

8 MR. LIDDY: Form.

9 THE WITNESS: Yes, ma'am. When I came --
10 basically, I -- I'm trying to -- for the last few days
11 I've been trying to think about what my mindset was back
12 then because, based on my personal belief and the e-mail
13 string I found that -- all I could think of is that,
14 yeah, that was my personal belief, but we needed
15 something in writing and put something out office-wide.
16 Because the e-mail string I found to Sergeant Palmer was
17 based on our conversations. This was several days after
18 the order. Based on our conversations and based on
19 attorney conversations, to start putting some scenarios
20 together so we can put something out via e-learning
21 system and training reference this.

22 And so he put about four scenarios together
23 that were rough drafts of -- it was just a thought
24 process at this point, and then once -- and when I made
25 that request via e-mail to him, I copied our attorney,

1 Chief Sands, Chief Trombi, and I also copied the
2 director of training, Director Seebert.

3 At some point -- let me see if I can remember
4 this -- he put the training scenarios together, and he
5 sent them back to me, as I requested, and he copied the
6 other sergeant, Sergeant Trowbridge, on it, at which
7 point I took those scenarios and forwarded it to our
8 attorney for review to see what else we have to do with
9 it.

10 And let's see. And then I copied -- on that I
11 copied Chief Trombi, Chief Sands, Chief MacIntyre,
12 Eileen Henry, the paralegal for Tim Casey, and Tim
13 Casey. And I'm basing this on this e-mail string
14 because I'm having a hard time remembering this, but --
15 and then I didn't get a response for quite awhile, so I
16 ended up sending another e-mail saying, hey, have you
17 ever looked at these?

18 MR. LIDDY: Excuse me. I'm going to object.
19 It's not clear to me what he's talking about. If you're
20 referring to a communication that you sent to your
21 counsel, I would object to that as attorney-client
22 privileged communication and instruct you not to
23 provide -- not to include that in your answer.

24 MR. EISENBERG: Well, I have no objection to
25 him answering anything that pertains to privilege.

1 MS. WANG: Okay.

2 MR. LIDDY: But it's not clear to me that's
3 what he was doing. I'm just -- I think he was.

4 MS. WANG: Let's figure this out.

5 Q. BY MS. WANG: So, for the record, let me hand
6 you -- well, take a look at Exhibit 156. That's
7 probably in a different binder.

8 MR. LIDDY: 156?

9 MS. WANG: Correct. I think this is a copy of
10 Exhibit 156 that I'm handing to counsel now. Maybe I
11 can ask Mr. Liddy to verify that what I've handed him
12 is --

13 MR. LIDDY: Well, I'll show you. Is that what
14 you're --

15 MS. WANG: Yes, that's it.

16 MR. LIDDY: If you just give me a moment to
17 look at it.

18 MS. WANG: Okay.

19 MR. LIDDY: Okay. Just for the record, I think
20 we went through this yesterday, this is a document that
21 is a string of e-mails, appears to be, some of which
22 include -- some of which were authored by Tim Casey,
23 some of which include him as an addressee, and to the
24 extent that they reveal any attorney work product or
25 attorney-client communication, I would object to its use

1 directing me to do this. That's normally how I would do
2 it.

3 Q. No attorney directed you to ask Brett Palmer to
4 draft those training scenarios, correct?

5 MR. LIDDY: Objection. If the question, in my
6 opinion, calls for the revelation of attorney-client
7 communications, then I instruct the witness not to
8 answer.

9 MR. EISENBERG: I have no objection if he does
10 answer.

11 Q. BY MS. WANG: Are you going to follow
12 Mr. Liddy's instruction not to answer?

13 A. Well, I'm going to answer it because I don't
14 remember. I don't remember if I was -- like I said, I'm
15 pretty sure it was my initiative, but I can't -- I can't
16 say with 100 percent certainty.

17 Q. Okay. Let's look at the earliest e-mail in the
18 string on Exhibit 156. This was an e-mail on
19 January 11th from you to Brett Palmer, and you copy Tim
20 Casey, Rollie Seebert, Brian Sands, David Trombi, Eileen
21 Henry, and you cc'ed yourself, actually, too.

22 Do you see that?

23 A. Okay. Where it says "Work Product"?

24 Q. Yeah. It's all redacted out by the --

25 MR. LIDDY: Standing objection.

1 Q. BY MS. WANG: -- defense counsel.

2 A. Page 5 of the e-mail?

3 Q. Correct.

4 A. Yes, I'm there, ma'am.

5 Q. Okay. Was that -- was that the first time you
6 communicated with Brett Palmer about drafting some
7 training scenarios, or had you talked to him about it
8 earlier?

9 A. From reviewing the e-mail that I wrote, it --
10 we had conversations prior.

11 Q. All right. Was any lawyer involved in those
12 conversations?

13 A. From reviewing the e-mail, it was from input
14 from talking to the attorneys too.

15 Q. All right. Lieutenant, was any training on the
16 Court's December 2011 order ever done with HSU deputies?

17 A. No, ma'am.

18 Q. Why not?

19 A. I never got the responses and everybody on
20 board to formulate the training, and I don't have that
21 kind of power, because this was designed -- from reading
22 this, this was our thought process, was this needed to
23 go office-wide. But it was important enough to me that
24 it's one of the last e-mails I sent saying, hey, we need
25 to get this done. We need to get this done.

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1 MR. LIDDY: Join.

2 THE WITNESS: I don't have any memory of it, so
3 I can't question it.

4 Q. BY MS. WANG: Okay. But sitting here now, is
5 there any reason to think that this is wrong, that this
6 didn't happen?

7 MR. LIDDY: Form.

8 MR. MITCHELL: Same.

9 THE WITNESS: I have no reason either way.

10 Q. BY MS. WANG: Okay. Did Tim Casey ever brief
11 HSU about the Court's December 2011 order?

12 MR. LIDDY: I object to these -- to the extent
13 that the question calls for the revelation of
14 attorney-client communications. If you can answer it
15 without revealing that, go ahead.

16 THE WITNESS: I know Casey had been to our
17 office and spoken with me. I just can't put it for
18 what, what was the reason.

19 Q. BY MS. WANG: Okay. Did he participate in any
20 briefing with all of HSU personnel?

21 A. I don't remember anything like that --

22 Q. All right.

23 A. -- happening.

24 Q. Do you think that would have been a good idea?

25 MR. LIDDY: Objection; form.

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1 is that right?

2 MR. LIDDY: Form.

3 THE WITNESS: We didn't have an official -- it
4 wasn't an official relationship anymore, but if we had
5 some questions about something, I'm sure we did. I know
6 I probably did.

7 Q. BY MS. WANG: All right. You know those ICE
8 agents, so --

9 A. Yes.

10 Q. -- it would make sense to call them if you knew
11 they had the information you were looking for, correct?

12 MR. LIDDY: Form.

13 THE WITNESS: Yes.

14 Q. BY MS. WANG: All right. You mentioned that
15 some months after you transferred out of HSU you sent an
16 e-mail to Lieutenant Jakowinicz and Tim Casey about
17 training scenarios. Do you recall that?

18 A. Yes, ma'am.

19 Q. Okay. You said that was about maybe eight
20 months after you transferred out of HSU?

21 A. Roughly, yes, ma'am.

22 Q. All right. What -- you said that was triggered
23 by a call Chief Sands made to you. I think you said it
24 was accidental. He meant to call Lieutenant Jakowinicz;
25 is that right?

1 A. Based on the e-mail, that's how I interpreted
2 it because once I transferred, he would still call me
3 accidentally several times, and I'd be like, oh,
4 remember, I got transferred.

5 Q. Okay.

6 A. Tell Brian this. And then he would -- I would
7 just go tell him until he stopped calling.

8 Q. And what did Sands say to you when he contacted
9 you?

10 A. I -- I don't remember the conversation.
11 It's -- once again, I came across that e-mail. I think
12 based on the e-mail that I wrote he wanted some training
13 put out. This was probably a three-, four-minute
14 conversation again, and I e-mailed Brian Jakowinicz
15 about, hey, Chief Sands wants some training to go out
16 reference the order. And I believe I put something in
17 there also to the fact that, once again, that I didn't
18 believe we were violating the order, but Chief Sands
19 wanted something to go out officially.

20 Q. Okay. And when you say "the order," you're
21 talking about the Court's December 2011 order?

22 A. Yes, ma'am.

23 Q. All right. And to your knowledge, at that
24 point that this happens, eight months after your
25 transfer out of HSU, had any training taken place?

1 MR. LIDDY: Objection; form.

2 THE WITNESS: No, ma'am. And when I came
3 across that e-mail, you know, when I was looking at it,
4 and my thought -- I was thinking, you know -- and then
5 when I came across those e-mails, the first set of
6 e-mails, I was thinking did they not do anything with
7 that, the first set of -- of scenarios.

8 Q. BY MS. WANG: Okay. And did you follow up to
9 find out whether they had done anything after the first
10 set of e-mails in January?

11 A. I just thought of that when I found those
12 e-mails a couple of months ago. That's when it kind of
13 dawned on me when I found those e-mails that, hey, I
14 sent this. It's obvious they didn't do anything with
15 this.

16 Q. All right. So your impression was that eight
17 months after you transferred out of HSU, still no
18 training had happened on the Court's December 2011
19 order?

20 A. Yes. But when I found those e-mails a few
21 months ago, that's just what I -- that's just what I
22 figured as -- that must have been what I thought.

23 Q. Okay. During the three months or so between
24 the Court's December 2011 order and the time you
25 transferred out of HSU, did you speak to any attorneys

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1 MR. LIDDY: Actually, if I may, I'm going to
2 show this to you briefly so you know exactly what it is.

3 MS. WANG: All right. Thank you.

4 Q. BY MR. MURDY: Sir, just so the record is
5 clear, Exhibit 35 is Defendants' Joseph M. Arpaio and
6 Maricopa County Sheriff's Office's Response to
7 Plaintiffs' Amended First Set of Interrogatories to
8 Defendants Regarding Contempt.

9 If you go to page 8, at line 7 is
10 interrogatory 10. Just take a moment and read the
11 interrogatory and then read the response, and I'm
12 specifically interested in the response at lines 17 and
13 18.

14 A. Yes, sir.

15 Q. Okay. The response indicates that on
16 December 30th, 2011, Tim Casey conferred with
17 Lieutenant Joseph Sousa and Former Chief Brian Sands for
18 approximately one hour and five minutes.

19 My first question is, do you have an
20 independent recollection of that meeting?

21 A. As I sit here, no, sir.

22 Q. Okay. Given that answer, I think I know the
23 answer to my next question. Do you recall anything that
24 Chief Sands may have said during the course of that
25 meeting?

1 MR. LIDDY: I object to the extent that that
2 question calls for the revelation of attorney-client
3 privileged communication, and the privilege of course is
4 held by the sheriff and he has not waived it.

5 Instruct the witness -- if you're going to
6 answer "yes" or "no" whether you recall, that's fine.
7 But I would instruct you not to answer as to the
8 substance of any communication of any participant in
9 that privileged meeting.

10 Q. BY MR. MURDY: So let's make it a "yes" or "no"
11 question. Do you recall any specific statements made by
12 Chief Sands during the course of that meeting?

13 A. No, sir.

14 Q. Okay. Do you recall any specific conversation
15 you had with Chief Sands concerning the distribution of
16 Judge Snow's December 2011 order?

17 A. No, sir, I don't recall any specific
18 conversations.

19 Q. Do you recall any specific conversations with
20 Chief Sands concerning the enforcement or compliance
21 with Judge Snow's December 2011 order?

22 A. Other than that conversation I've already
23 talked to or I gave him my -- what I personally thought,
24 I don't recall his responses or what he said.

25 Q. Now, I take it, it was your intent to comply

1 A. No, sir, I don't.

2 Q. Okay. Did Chief Sands ever direct you not to
3 finish the training materials?

4 A. No, sir. I'd remember that.

5 Q. Okay. Now, as I understand it, the initial set
6 of training materials were prepared, they were provided
7 to you, correct?

8 A. By Sergeant Palmer, yes, sir.

9 Q. And then you forwarded them to Mr. Casey?

10 A. Yes, sir.

11 Q. And you -- then you were waiting for Mr. Casey
12 to respond back to you?

13 A. Yes, sir.

14 Q. Okay. Now, as I understand your testimony, the
15 training materials were developed on your initiative?

16 A. Yes, according to the e-mail string, that's
17 what I determined.

18 Q. Do you have any recollection as to whether
19 Chief Sands directed you to prepare those materials?

20 A. I don't remember that, sir.

21 Q. Okay. Now I'm getting into the realm of
22 possibilities and speculation, but is it possible that
23 he directed you to prepare those materials?

24 A. It's possible.

25 Q. Okay. Now, this is a "yes" or "no" question.

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1 Do you recall ever getting any response from Mr. Casey
2 with regard to the training materials that were
3 provided?

4 A. I don't think I can answer that with a "yes" or
5 "no" and answer it accurately.

6 Q. Okay. Well, can you answer it accurately
7 without revealing anything that Mr. Casey may have said
8 to you?

9 A. No. I would have to give you his one sentence
10 to accurately describe it.

11 Q. Okay. And as we sit here today, you have a
12 recollection of that one sentence?

13 A. Yeah. I reviewed it last night.

14 Q. Okay. Did you ever request authority to
15 provide the training and that request was denied?

16 A. No, sir.

17 Q. Now, as I understand it, you spoke with
18 Sheriff Arpaio and Chief Sands and you told them, in
19 your opinion, MCSO was not in violation of the Court's
20 order, correct?

21 A. I believe I told them my personal opinion.

22 Q. Did Chief Sands ever dispute your
23 interpretation?

24 A. No. I would -- if he did, I would -- I would
25 have remembered that because then I would have -- like,

EXHIBIT H

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. CV-07-02513-PHX-GMS
)	
Joseph M. Arpaio, et al.,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF JOSEPH SOUSA
VOLUME II

Phoenix, Arizona
April 14, 2015
4:23 p.m.

REPORTED BY:
CATHY J. TAYLOR, RPR
Certified Reporter
Certificate No. 50111

PREPARED FOR:
ASCII/CONDENSED
(CERTIFIED COPY)



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1 Q. Okay. I think you testified that when you first
2 realized you were going to be deposed again in this case, and
3 particularly about the Court's preliminary injunction order
4 in December of 2011, you didn't have a very complete memory
5 of that time period.

6 Is that fair to say?

7 A. When this all started, yes, ma'am.

8 Q. And is it fair to say that you went and looked at
9 these e-mails, including the one about eight months after
10 your transfer, to refresh your recollection of those events?

11 A. Yes, ma'am.

12 MS. WANG: Okay. At this time, I'm going to
13 ask that the defendants produce the October 2012 e-mail.

14 MR. SCHWAB: And we are going to object based
15 on attorney-client privilege just to preserve the objection,
16 but we understand the judge has overruled that objection
17 based on 612 --

18 MS. WANG: Okay.

19 MR. SCHWAB: -- so...

20 MS. WANG: Let's go off the record so I can
21 take a look at this.

22 THE VIDEOGRAPHER: Okay. The time is
23 4:42 p.m. We're going off the record ending Volume II,
24 media 1.

25 (Recess from 4:42 p.m. to 4:44 p.m.)

1 there.

2 Do you see that?

3 A. Yes, ma'am.

4 Q. Where'd you get that paragraph?

5 A. Oh, I think that was right from the cut and paste
6 from Tim Casey's e-mail.

7 Q. Okay. Do you recall whether Tim Casey told you
8 anything about what the order meant other than this
9 paragraph?

10 MR. SCHWAB: Objection.

11 He can answer yes or no.

12 THE WITNESS: I told him what I thought. He
13 never corrected me if I was wrong.

14 BY MS. WANG:

15 Q. Okay. And what did you tell him that you thought?

16 A. My --

17 MR. SCHWAB: Objection. Attorney-client
18 privilege.

19 MS. WANG: Are you instructing him not to
20 answer?

21 MR. LIDDY: Would you read the question back.
22 (The requested record was read.)

23 MR. SCHWAB: Yes, we're instructing him not to
24 answer.

25 (Next page, please.)

1 BY MS. WANG:

2 Q. Are you following that instruction?

3 A. I have to. I won't -- or else I won't have
4 lawyers. I could be wrong.

5 Q. You're a smart man.

6 A. I think that's how it works.

7 Q. Okay. Let me ask you a different question.

8 A. All right.

9 Q. I think you testified last week that you read the
10 Court's December 2011 order yourself; correct?

11 A. Yes, ma'am.

12 Q. And you formed an opinion about what it meant for
13 HSU's work; correct?

14 A. I had a personal opinion, what I thought.

15 Q. Okay. What was that opinion?

16 A. My opinion was after we lost the 287(g) training
17 that we couldn't detain folks that are in this country
18 illegally or anything like that. So, basically, what we --
19 what the training was after 2009 was we -- I guess I can take
20 these off -- was during -- if you make a traffic stop for
21 a -- a violation, a state statute violation, and you have
22 reasonable suspicion someone's in the country illegally
23 during the course of that traffic stop, back in the day, they
24 used to always teach us 20 minutes, but now new training said
25 that's not necessarily true. You could make a call to ICE,

EXHIBIT I

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega)	
Melendres, et al.,)	
)	
Plaintiffs,)	
	)	No.
vs.	)	CV-07-2513-PHX-GMS
)	
Joseph M. Arpaio, et al.,)	
)	
Defendants.)	
)	

VIDEOTAPED DEPOSITION OF BRIAN JAKOWINICZ
Phoenix, Arizona
March 26, 2015
9:32 a.m.

REPORTED BY:
Kellie L. Konicke, RPR
AZ Certified Reporter
No. 50223

PREPARED FOR:
ASCII/Copy



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1 A. Not that I recall, no.

2 Q. Were you told anything about an order on -- in
3 this case in February of this year about producing
4 certain documents to plaintiffs?

5 MR. LIDDY: Form.

6 THE WITNESS: Restate that, please.

7 Q. BY MR. SEGURA: Sure. Did anyone talk to you
8 since February of this year about producing documents
9 for this case?

10 A. We're in the middle of producing documents
11 since the first of the year. That's all we've done is
12 produce documents. We haven't done casework. It's what
13 we do.

14 Q. Has anyone instructed you to search your own
15 files for documents or e-mails for this case since
16 February of this year?

17 A. For this case? I don't know if that -- does
18 that include the monitors?

19 Q. Sure.

20 A. Then, yes.

21 Q. And what files have you instructed -- what of
22 your own files have you been instructed to search?

23 MR. LIDDY: I want to make an objection. To
24 the extent that his question calls for you to reveal
25 instructions you got from your attorneys, I instruct you

Page 220

1 not to answer. If you received instructions from anyone
2 that's not an attorney, go ahead and answer if you can.

3 THE WITNESS: Can you ask me one more time?

4 Q. BY MR. SEGURA: Sure. You said you were
5 instructed to search your files since February of this
6 year, whether it's from the monitor or for this case.
7 What files were you instructed to search?

8 A. I received a document request from the CID for
9 e-mail -- e-mail correspondence between myself and
10 Lieutenant Sousa for a time period back in 2012.

11 Q. Were you asked to search for anything else?

12 A. Pertaining to?

13 Q. To anything.

14 A. Yes, several -- several requests.

15 Q. About what? Just the search of your own files.

16 A. I'm sorry?

17 Q. Were you asked to search your files for any
18 other categories of documents other than correspondence
19 between you and Lieutenant Sousa?

20 MR. LIDDY: Form.

21 THE WITNESS: Which files?

22 Q. BY MR. SEGURA: Your own files, your e-mails,
23 your documents that you maintain.

24 MR. LIDDY: Form.

25 THE WITNESS: If I'm understanding correctly,

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1 you're talking about any e-mail-related stuff?

2 Q. BY MR. SEGURA: Sure. Let's start with that.

3 Were you asked to look for any of -- were you asked to
4 collect any of your e-mail correspondence in addition to
5 that between you and Lieutenant Sousa?

6 A. Not that I recall.

7 Q. Do you know why you were asked for
8 correspondence between you and Lieutenant Sousa?

9 A. The monitors made that decision.

10 Q. Why do you understand that to be the case?

11 MR. LIDDY: Form.

12 THE WITNESS: Because I got -- I received these
13 document requests from CID saying they came from the
14 monitors. We need to reveal this -- we need to turn
15 this stuff over to the monitors.

16 Q. BY MR. SEGURA: Do you recall any document
17 requests or requests for e-mails as a result of
18 plaintiffs' request for those doc- -- for such
19 documents?

20 MR. LIDDY: Form.

21 THE WITNESS: Restate that.

22 Q. BY MR. SEGURA: Sure. And were you ever told
23 something like the plaintiffs have made requests for
24 documents from us. Please search your documents for
25 these categories, anything like that?

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1 MR. LIDDY: Form.

2 THE WITNESS: Nothing that comes to mind right
3 now.

4 MR. SEGURA: Let me take a quick break and then
5 I can probably finish within 30 to 40.

6 THE VIDEOGRAPHER: The time is 4:31 p.m. We
7 are going off the record ending media 7.

8 (Recess taken from 4:31 p.m. until 4:41 p.m.)

9 THE VIDEOGRAPHER: My name is Mary Onuschak
10 with the firm of Legal Video Specialists,
11 Phoenix, Arizona. This begins media 8 of the videotaped
12 deposition of Brian Jakowinicz. The time is 4:41 p.m.

13 We are now back on the record.

14 Q. BY MR. SEGURA: So I'd like to talk to you a
15 little bit about the use of video recording devices
16 within MCSO. When was the first time you recall anyone
17 at MCSO using a recording device while out on patrol?

18 MR. LIDDY: Form.

19 THE WITNESS: I believe it was HSU.

20 Q. BY MR. SEGURA: When you arrived at HSU, that
21 was the first time you learned that anyone at MCSO had,
22 like, a personal recording device?

23 MR. LIDDY: Form.

24 THE WITNESS: No. I don't -- I can't think of
25 anybody that I knew that had a personal recording

EXHIBIT J

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	Case No. CV-07-02513-PHX-GMS
)	
Joseph M. Arpaio, et al.,)	
)	
Defendants.)	
)	
)	
)	

VIDEOTAPED DEPOSITION OF BRIAN JAKOWINICZ

VOLUME III

Phoenix, Arizona
April 16, 2015
10:10 a.m.

REPORTED BY:

TERESA A. VANMETER, RMR
Certified Reporter
Certificate No. 50876

PREPARED FOR:

ASCII/Condensed

(Certified Copy)



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1 MR. LIDDY: Objection to form and lack of
2 foundation.

3 THE WITNESS: Because I wasn't -- I wasn't paying
4 specific attention to dates of when and what was going over to
5 the CID group. It was just a -- just a lot of stuff being put
6 over to them.

7 BY MR. BENDOR:

8 Q. Have you had any conversations since October 2012
9 about this e-mail or your subsequent conversations with Tim
10 Casey, Joe Sousa or Brian Sands?

11 MR. LIDDY: Objection to form.

12 THE WITNESS: I spoke with counsel today.

13 BY MR. BENDOR:

14 Q. And before then?

15 A. Did I talk about this with somebody? Not that I
16 recall. Nothing stands out.

17 Q. Has anyone instructed you not to say why no steps were
18 taken by the Court's order?

19 MR. LIDDY: Object to form, and to the extent
20 that the question calls for the revelation of attorney-client
21 privilege information, we'd object.

22 But as to anyone other than counsel, if you
23 understand, go ahead and answer.

24 THE WITNESS: I'm sorry. Could you restate the
25 question?

1 Q. So you saw this e-mail yesterday?

2 A. Yes, sir.

3 Q. Did you see any other e-mails yesterday that were
4 relevant to this matter or Exhibit 193?

5 A. Yes.

6 Q. What did you see?

7 A. There were three other e-mails to Tim Casey.

8 Q. And have you produced those to your attorneys?

9 A. I believe so.

10 Q. Were there any other -- what were the dates on those
11 e-mails to Tim Casey?

12 A. It was October 2012. I don't remember dates.

13 Q. Were there any e-mails other than those to Tim Casey?

14 A. There may have been, but nothing that stood out.

15 Q. And how did you go about finding this e-mail
16 yesterday?

17 MR. LIDDY: Form and lack of foundation.

18 THE WITNESS: I searched my e-mail. There's a
19 search at the top that they showed me Friday on how to do it.
20 Typed in 2012 and searched it from there.

21 BY MR. BENDOR:

22 Q. And then you just scrolled down?

23 A. Yeah.

24 Q. And just to clarify your testimony, when you looked
25 for e-mails on Friday, had you come across this e-mail, Exhibit

Page 325

1 193, at that time as well?

2 A. That's what I'm saying. I believe so.

3 Q. So you believe you saw this e-mail both on Friday and
4 yesterday?

5 A. Right. On Friday I wasn't reading things, though,
6 like I said.

7 Q. I see.

8 A. I just was dragging stuff over.

9 Q. And the e-mails that you found to Tim Casey yesterday,
10 had you also found those on Friday?

11 A. That's -- I don't know what was exactly. I believe
12 so.

13 MR. BENDOR: Okay. No further questions.

14 MR. LIDDY: I have no questions. Do you have
15 any?

16 MR. DODD: Yeah, I have just a couple questions.

17

18 EXAMINATION

19 BY MR. DODD:

20 Q. The three e-mails that you sent to Tim Casey that you
21 discovered in your search yesterday, did you CC anyone on those
22 or --

23 MR. LIDDY: Objection, form and lack of
24 foundation.

25 Go ahead. If you understand the question, answer

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1 it.

2 THE WITNESS: Ask it again.

3 BY MR. DODD:

4 Q. Okay. When you -- you just testified a moment ago
5 about three e-mails that you discovered in your search
6 yesterday, correct?

7 A. Yes.

8 Q. And those three e-mails were to Tim Casey, correct?

9 A. They were correspondence with him, yes.

10 Q. Were any other individuals CCed or included on those
11 conversations?

12 A. Other -- I don't recall who -- I don't recall.

13 MR. DODD: No further questions.

14 MR. BENDOR: I don't have any follow-ups.

15 MR. LIDDY: I have a question.

16

17

EXAMINATION

18 BY MR. LIDDY:

19 Q. The three e-mails from you to Tim Casey, which you've
20 just testified that you reviewed yesterday, did you find them
21 last Friday when you were reviewing all your e-mails with your
22 attorneys?

23 A. I believe so.

24 MR. LIDDY: I have no more questions.

25 THE VIDEOGRAPHER: The time is 11:02 a.m. This

EXHIBIT K

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. CV-07-02513-PHX-GMS
)	
Joseph M. Arpaio, et al.,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF MIKE TROWBRIDGE

Phoenix, Arizona
March 30, 2015
8:34 a.m.

REPORTED BY:
CATHY J. TAYLOR, RPR
Certified Reporter
Certificate No. 50111

PREPARED FOR:
ASCII/CONDENSED
(CERTIFIED COPY)



1 A. No, I do not.

2 Q. Do you recall any meetings within HSU about the
3 December 2011 order after it was issued?

4 A. No. Not within HSU, no.

5 Q. How about outside of HSU?

6 A. There was a meeting held at Wells Fargo with the
7 sheriff's attorneys and stuff.

8 Q. And when was that?

9 A. It was -- it was after the initial order, the 2011
10 one, but I'm not sure of the exact time frame.

11 Q. Was this -- was there another meeting after the
12 May 2013 order was issued?

13 A. That I don't know. I wasn't in the unit anymore.

14 Q. And do you recall when this meeting at Wells Fargo
15 happened?

16 A. Not exactly, no.

17 Q. Do you recall what was discussed?

18 A. I believe --

19 MS. IAFRATE: I just want a yes or no,
20 because --

21 THE WITNESS: No.

22 MS. IAFRATE: -- it's attorney-client
23 privileged.

24 THE WITNESS: No, I don't. I don't remember
25 specific conversation, no.

1 order?

2 A. I believe so, yes.

3 Q. Do you know why there was more than one meeting?

4 A. No, I don't.

5 Q. And just answering yes or no, were you told to do
6 something about the December 2011 order?

7 MS. IAFRATE: Objection. Attorney-client
8 privilege. Don't answer.

9 BY MR. SEGURA:

10 Q. How long did the first meeting about the
11 December 2011 order last?

12 A. It's been a while, but I'd say probably an hour
13 roughly.

14 Q. And the second meeting?

15 A. Probably about the same amount of time.

16 Q. And how were you notified about these meetings?

17 A. I believe the lieutenant said, hey, we're going to
18 a meeting at Wells Fargo. Maybe the day -- day or two
19 before.

20 Q. Is this something you would have been told about
21 over e-mail?

22 A. I don't believe so.

23 Q. Do you know of any documentation that came out of
24 these meetings?

25 A. No, I do not.

1 BY MR. SEGURA:

2 Q. Why's that?

3 A. I -- I'm -- I'm not sure if it would be in the
4 e-mails or not.

5 Q. Have you searched your e-mails regarding the
6 December 2011 order?

7 A. No.

8 Q. Do you know if anyone has searched your e-mails
9 about the December 2011 order?

10 A. No. I'm not sure.

11 Q. Were you surprised that no changes were implemented
12 after the December 2011 order?

13 A. No. At the time, no, I guess not.

14 Q. Why not?

15 A. I guess if there's something to come down to say
16 we're changing the way we're doing business, like I said, it
17 would be instructed to me, hey, you know, you guys do
18 something different on the road or we're not going to do
19 interdiction and stuff like that. So nothing like that ever
20 came.

21 Q. Did you anticipate that there were going to be
22 changes after you read the December 2011 order?

23 A. Not that I remember, no.

24 Q. You don't recall reading it and thinking, this is
25 going to change what we do?

EXHIBIT L

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. CV-07-02513-PHX-GMS
)	
Joseph M. Arpaio, et al.,)	
)	
Defendants.)	
_____)	

VIDEOTAPED DEPOSITION OF BRETT PALMER
VOLUME II

Phoenix, Arizona
April 7, 2015
9:58 a.m.

REPORTED BY:
CATHY J. TAYLOR, RPR
Certified Reporter
Certificate No. 50111

PREPARED FOR:
ASCII/CONDENSED
(CERTIFIED COPY)



1 would affect my job in the sense of whether we would be able
2 to continue enforcing the state statutes or not or how we
3 would have to go about doing that with respect to the judge's
4 order.

5 BY MS. WANG:

6 Q. And did you discuss those questions that arose for
7 you with anybody else?

8 A. Lieutenant Sousa, Sergeant Trowbridge, I think
9 Sergeant Madrid had -- had already been out of the unit at
10 that point. So Sergeant Trowbridge and I would have
11 discussed it, because I -- I would have had to have had those
12 conversations with my local chain of command at HSU.

13 Q. Okay. And who would that have included?

14 A. Sergeant Trowbridge and Lieutenant Sousa --

15 Q. All right.

16 A. -- and Cesar Brockman.

17 Q. Did you have any discussions with anyone above
18 Lieutenant Sousa in the chain of command about the
19 preliminary injunction order?

20 A. No, not to my recollection.

21 Q. Did you learn of any direction from the chain of
22 command above Lieutenant Sousa concerning the preliminary
23 injunction order?

24 MS. IAFRATE: Form.

25 THE WITNESS: Yes.

1 MR. RAPP: Form.

2 BY MS. WANG:

3 Q. Tell me about what you learned.

4 A. After the order came down on December 23rd, 2011,
5 at some point quickly following that -- I don't know if it
6 was a day later or a few days later or a week later,
7 whatever, but some point quickly following it, we were given
8 instruction. I had read a copy of the order. Somehow it was
9 provided to me. And we were given instruction through the
10 chain of command coming from Lieutenant Sousa that the -- the
11 MCAO, Maricopa County Attorney's Office, and -- had been
12 in -- in -- talked with the sheriff's office and that how we
13 were going to enforce this was as long as we were still
14 conducting criminal investigations of the state human
15 smuggling statutes, for the purposes of that investigation,
16 detainments, arrests, could still be made, charges could
17 still be brought.

18 When the -- it became apparent there were no
19 criminal charges, there -- there was no longer a criminal
20 investigation afoot, that probable cause and reasonable
21 suspicion had been -- had been tossed for one reason or
22 another, that at that point we could no longer detain anybody
23 based on just believing that they're -- they're possibly in
24 the country illegally.

25 Q. And what would you be required to do at that point

1 BY MS. WANG:

2 Q. Okay. And what specifically did you think needed
3 to change in order to be in compliance with the prelimin- --
4 preliminary injunction order?

5 MR. RAPP: Form.

6 THE WITNESS: This kind of took a couple
7 different stages. The initial stage, to the best of my
8 recollection as I sit here today, is that when I read the
9 order and understood it and then got the information from the
10 H -- MCSO chain of command on how we were to continue to do
11 daily business and -- and investigate the criminal statutes
12 under Arizona State law, my question was, okay, so we're okay
13 to still detain the occupants of the vehicle and remove them
14 back to Enforcement Support Division for investigation?

15 The information that I was provided through
16 the chain of command that I recall being told came from the
17 county attorney, with input from them was that, yes, as long
18 as you're investigating and have reasonable -- reasonable
19 suspicion or probable cause for the investigation of those
20 state crimes, then, yes, you're able to do that.

21 I didn't raise a question about the -- the
22 occu- -- or what to do with occupants after the investigation
23 was complete and you determine that some we're not going to
24 be able to make state charges on until I was faced with that
25 situation around approximately in the area of January 2012.

1 BY MS. WANG:

2 Q. Okay.

3 MR. RAPP: Cecillia, whenever --

4 MS. WANG: You need a break?

5 MR. RAPP: -- you've got a chance for a break.

6 MS. WANG: Okay. Let's take a break now.

7 MR. RAPP: Okay.

8 THE VIDEOGRAPHER: The time is 10:41 a.m.

9 We're going off the record ending Volume II, media 1.

10 (Recess from 10:41 a.m. to 10:55 a.m.)

11 THE VIDEOGRAPHER: My name is Mary Onuschak
12 with the firm of Legal Video Specialists, Phoenix, Arizona.
13 This begins Volume II, tape 2, of the videotaped deposition
14 of Brett Palmer. The time is 10:55 a.m. We're now back on
15 the record.

16 BY MS. WANG:

17 Q. Okay. Sergeant, before the break, you mentioned
18 that after the preliminary injunction order came down, you
19 were told that the order meant that HSU, once it determined
20 it could not make a criminal charge against an individual,
21 would have to release that individual; was that correct?

22 A. Yes.

23 Q. And you said that MCAO informed you of that through
24 your chain of command; was that correct?

25 MS. IAFRATE: Form.

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1 MR. RAPP: Form.

2 THE WITNESS: They were -- my understanding
3 was they were involved in -- in the information being
4 provided to us, both the MCAO and the MCSO.

5 BY MS. WANG:

6 Q. Who at MCAO was involved in providing that
7 information?

8 MS. IAFRATE: Form and foundation.

9 THE WITNESS: I don't know.

10 BY MS. WANG:

11 Q. Did you have a regular contact at MCAO at -- during
12 that time period?

13 A. The HSU had regular contacts with the specific
14 county attorneys that charged the criminal statutes that we
15 were arresting under. I don't recall their names as I sit
16 here today.

17 Q. Was Vicki Kratovil one of them?

18 A. Yes. Her, and there was at least one other
19 gentleman or two other gentlemen that were primarily
20 responsible for charging them. So contacts -- they were our
21 contacts for charging. I do not know if they were the -- the
22 ones that were involved in the dissemination of information.

23 My recollection, as I sit here today, is that
24 the MCSO chain of command and the MCAO were providing us the
25 direction that we had gotten, but I believe that everything I

Page 40

1 got came from the MCSO chain of command.

2 Q. Okay. You also mentioned that you briefed HSU
3 about that direction; is that right?

4 A. Yes.

5 Q. Okay. In conducting that briefing with M -- HSU,
6 did you consult with anyone in the chain of command?

7 A. I don't recall specifically, but I'm sure I
8 consulted with Sergeant Trowbridge and Lieutenant Sousa. I
9 would not have just done it on my own without their
10 involvement or their knowledge.

11 Q. Did you consult with any attorneys in putting
12 together that briefing?

13 A. Me personally, no, not to my recollection.

14 Q. Did anyone else in HSU consult with an attorney
15 about that briefing?

16 MS. IAFRATE: Form. Foundation.

17 THE WITNESS: I don't know.

18 BY MS. WANG:

19 Q. Do you recall ever meeting with anyone in the chain
20 of command above Lieutenant Sousa about the preliminary
21 injunction order?

22 MR. RAPP: I'm going to object to form.

23 THE WITNESS: As I sit here today, no, not to
24 my recollection.

25 (Next page, please.)

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1 being the Detention Removal Office in Downtown Phoenix for
2 ICE. They -- it was the first time they had refused us
3 following that order to accept any illegal immigrants that we
4 had detained at that time.

5 So we were doing highway interdiction. HSU
6 interdiction teams were working -- I don't know what highway.
7 It -- I want to say it was SR-87, but it could have been
8 I-17. I don't remember specifically.

9 But with good reasonable suspicion for a
10 traffic stop, we stopped a vehicle. It had -- it was --
11 through the traffic stop investigation, it was determined to
12 be a human smuggling load vehicle. The driver was detained.
13 There were several, my recollection as I sit here today is
14 that it was somewhere on the order of 10 or 12 give or take
15 passengers in the vehicle. We had reasonable suspicion,
16 possibly probable cause for others on scene at the traffic
17 stop for investigation of the criminal state statutes for
18 human smuggling.

19 In accordance with what I -- instructions I
20 had been given to the MCS -- MCSO, what I had been told the
21 MCAO said was okay and based on my interpretation of the
22 order, we detained everybody and removed them back to the
23 Enforcement Support Division offices for further
24 investigation.

25 You can't do these investigations on the side

1 There were another couple of individuals. I
2 don't recall how many. I want to say it was somewhere around
3 three to five. I know that there were at least a couple of
4 children, is my recollection. Young children, probably
5 around -- between seven and 10 ages. Somewhere in that
6 range. I want to say there was definitely a female, if not
7 two females in the group, and a male subject.

8 In any case, through the investigation, we
9 determined we were not going to be able to make state charges
10 for coconspirators on those individuals for various
11 mitigating reasons and -- and instructions we'd received
12 through the MCAO.

13 Now we have these individuals, and I don't
14 have state charges on them. So applying the judge's order, I
15 have to release them immediately. This was significant
16 because it was, okay, what do I do now with them? Because
17 neither does the -- I have the judge's order. I know what
18 I've been told by the MCSO chain of command and what I've
19 been told the MCAO says they'll file on. So we went through
20 these motions, and now I had these individuals. I have to
21 get -- I have to get rid of them.

22 Q. Can I break --

23 A. But --

24 Q. -- in here?

25 You said a few minutes ago that ICE-DRO

1 So we are building and building and building
2 on the reasonable suspicion that there's something else going
3 on here.

4 You add to that clothing, disheveledness.
5 We're looking for individuals who look like they came out of
6 the desert quite literally within the last few days to the
7 last week. We're looking for indicators of individuals who
8 will not look in -- or identify themselves to law enforcement
9 at all. The coyotes are very brazen and very ruthless in
10 many respects. They instill fear -- control through fear in
11 their -- in their people they're smuggling. And they -- our
12 intel and what we've developed over the time that I was there
13 was that a lot of the smugglers will coach their occupants on
14 how to respond to law enforcement.

15 So additionally to everything else I've
16 stated, we're looking for people who will not look at the
17 officer or deputy. They'll look forward. They'll look down.
18 When you go to talk to them, they -- you can tell they're
19 shy. They do not want to acknowledge the officer. That's
20 another indicator.

21 None of these by themselves standing alone,
22 absent anything else, is reasonable suspicion or qualifies
23 for us to take the vehicle back. But building upon this,
24 when we establish four, five, six, several indicators, then
25 the -- it's building to a point of the county attorney had --

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1 we received instructions from the chain of command and the
2 county attorney that you can -- you can under reasonable
3 suspicion detain the -- detain the vehicle for further
4 investigation.

5 Once we're able to -- I commented earlier that
6 you can't investigate this vehicle on the side of the road.
7 It's -- it's -- it's not an investigation -- a street
8 investigation that you can simply start pulling 10 people out
9 one at a time and do a thorough interview with, with Miranda
10 rights and everything else. It's impossible to do. It would
11 take hours. It takes literally us hours to investigate a
12 human load vehicle just by the nature of the work that we're
13 doing.

14 So back at Enforcement Support, when we get
15 individuals that are occupants alone, they're more willing to
16 talk to the detective when they're not in line of sight to
17 the coyote, to the driver. When they're not -- and that
18 fear, we try to remove some of that fear from them, that
19 you're in a safe place now. You can talk to us.

20 And that's when we start getting our -- more
21 of our admissions on payment. Many times they would provide
22 us information on the drop house and where that was located.
23 Plenty of drop house investigations spun from interdiction
24 load vehicles from the passengers identifying the house to us
25 and -- and we're able to get into the house at that point.

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1 ICE refuses to take some illegal immigrants from MCSO?

2 MS. IAFRATE: Form.

3 MR. RAPP: Form.

4 THE WITNESS: I -- that I do not recall,
5 ma'am.

6 BY MS. WANG:

7 Q. Okay. Do you recall any meetings where you
8 witnessed the sheriff giving directions on -- on that subject
9 to anyone at MCSO?

10 MS. IAFRATE: Form.

11 THE WITNESS: No, not specifically. I'm
12 sorry.

13 BY MS. WANG:

14 Q. Okay. I'm going to have you turn to -- and I don't
15 have a copy of this exhibit. Can you turn to Exhibit 100. I
16 think it's in book 3 in those binders next to you. This is
17 the Court's February 12th, 2015, order.

18 A. I'm sorry, ma'am. What page?

19 Q. It's Exhibit Number 100. Is it in that book?

20 A. Yeah, I have Exhibit 100 here.

21 Q. Okay.

22 A. Is this maybe --

23 Q. So Exhibit 100 should be an order from the Court
24 dated February 12th, 2015; is that correct?

25 Look at the top of the -- the front page.

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1 MS. IAFRATE: Very top.

2 THE WITNESS: Yes.

3 BY MS. WANG:

4 Q. Okay.

5 A. Yes, it is.

6 Q. Okay. Turn to the second page of that order. And
7 you'll see in paragraph --

8 MR. RAPP: If I get my tie in this.

9 BY MS. WANG:

10 Q. In paragraph -- there -- there are four
11 paragraphs -- excuse me -- five paragraphs setting out
12 various categories of documents.

13 Do you see that?

14 A. Yes, ma'am.

15 Q. Okay. Can you read those five paragraphs. And let
16 me know if anyone has asked you to search for any of those
17 documents since February 12th of 2015.

18 A. No, ma'am. I don't recall anybody asking me to
19 research anything contained in those five paragraphs, A
20 through E.

21 Q. Thank you.

22 A. Okay to close this?

23 Q. Yes. Thank you.

24 Did you believe that Deputy Armendariz was
25 doing a good job as a deputy in HSU?

1 Q. Okay. Did you -- I think I asked you already
2 whether you got any input from counsel for MCSO before doing
3 that informal briefing, but can you remind me what the answer
4 is.

5 MS. IAFRATE: Form.

6 MR. RAPP: Form.

7 THE WITNESS: We received information through
8 the MCSO chain of command, and I understood that it included
9 information from the MCAO as far as what we could and could
10 not do respective to these investigations.

11 BY MS. WANG:

12 Q. Did you have any input from the Training Division
13 of MCSO before you gave that informal briefing to HSU --

14 A. No.

15 Q. -- personnel?

16 A. Not to my recollection.

17 Q. Before Lieutenant Jakowinicz took over for
18 Lieutenant Sousa as the commander over the Human Smuggling
19 Division, what was his assignment in MCSO? If you know.

20 A. I -- I don't recall what he did prior to that
21 assignment.

22 Q. Do you recall whether he was in the Training
23 Division at that point in time?

24 A. I don't recall.

25 Q. Okay. You said in response to a question from

EXHIBIT M

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. CV-07-02513-PHX-GMS
)	
Joseph M. Arpaio, et al.,)	
)	
Defendants.)	
)	

VIDEOTAPED DEPOSITION OF DAVID TROMBI

Phoenix, Arizona
March 31, 2015
9:01 a.m.

REPORTED BY:
CATHY J. TAYLOR, RPR
Certified Reporter
Certificate No. 50111

PREPARED FOR:
ASCII/CONDENSED
(CERTIFIED COPY)



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1 THE WITNESS: No, sir.

2 Sorry.

3 BY MR. POCHODA:

4 Q. Now, you had mentioned that at -- later in the day
5 at some point, you had a discussion with Chief Warshaw about
6 the e-mail that was sent out; is that right?

7 A. Yes.

8 Q. Had you had any discussion with Chief Sheridan
9 prior to that later meeting with Chief Warshaw?

10 A. Yes.

11 Q. And what did -- was stated at that meeting?

12 A. It --

13 MS. IAFRATE: Is -- one moment.

14 Is -- can you reveal this without revealing
15 attorney-client privilege?

16 THE WITNESS: I don't believe so given the
17 fact that Christine Stutz was present.

18 MS. IAFRATE: Then I'm going to object on
19 attorney-client privilege and tell you not to answer.

20 BY MR. POCHODA:

21 Q. Who else was present at this meeting with
22 Chief Sheridan?

23 A. Myself and Christine Stutz and Chief Sheridan.

24 Q. And what was the topic at that meeting?

25 MS. IAFRATE: You can give general, not

1 specific.

2 THE WITNESS: The topic? I'm trying to
3 generalize.

4 MS. IAFRATE: Can you give a topic?

5 BY MR. POCHODA:

6 Q. Who -- who called the meeting?

7 A. At --

8 Q. Withdraw that question.

9 Who called the meeting?

10 A. What do you mean? I'm sorry.

11 Q. With -- who called this meeting with Chief Sheridan
12 and yourself and Christine Stutz?

13 A. No one called it.

14 Q. How did it come about?

15 A. I walked by the open door to the executive
16 conference room and saw Chief Sheridan and Christine Stutz
17 seated in there.

18 Q. And you walked in?

19 A. I -- to the doorway, yes.

20 Q. And that's how the -- the meeting commenced? The
21 three of you were in the same room?

22 A. I -- yeah. You're labeling it a meeting. It was a
23 conversation.

24 Q. That's how the conversation began, because you
25 walked into that room?

1 A. Yes.

2 Q. They didn't call you in?

3 A. No. The door was open, and I walked by and saw
4 them seated there.

5 Q. And at that meeting, was the topic of the e-mail
6 that you had sent out to collect videos discussed?

7 A. That conversation focused on the fact.

8 MS. IAFRATE: Can you answer without revealing
9 attorney-client privilege?

10 THE WITNESS: I don't think so.

11 MS. IAFRATE: Then I'm going to instruct you
12 not to answer.

13 BY MR. POCHODA:

14 Q. Did -- what did you say at that meeting?

15 MS. IAFRATE: Same objection. Attorney-client
16 privilege.

17 THE WITNESS: With all due respect, counsel's
18 advising otherwise, sir.

19 MR. POCHODA: We object, and -- and we'll see
20 after the judge has -- opines on that.

21 BY MR. POCHODA:

22 Q. The -- in any event, the -- the -- after leaving
23 that meeting, what actions, if any, did you take?

24 A. None --

25 Q. The --

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1 A. -- related to the issue.

2 Q. None relating to the e-mail or collection of
3 videos?

4 A. No.

5 Q. Was the topic of the judge's concerns at the
6 May 14th hearing raised at all?

7 A. No.

8 Q. Was the topic of the monitor's concerns about the
9 method of collecting videos raised at all?

10 MS. IAFRATE: Objection.

11 Can you answer without revealing
12 attorney-client privilege?

13 THE WITNESS: I don't believe I can.

14 MS. IAFRATE: Then I'm going to instruct you
15 not to answer.

16 BY MR. POCHODA:

17 Q. Let me ask, did you at any point in that day after
18 the initial assignment from Chief Sheridan to send out or to
19 collect these videos report back to Chief Sheridan that you
20 had taken some action?

21 A. Yes.

22 Q. When was that?

23 A. In -- in answering that, I'm -- I might be
24 discussing what was mentioned in the instance where I walked
25 into the open door of the meeting room.

EXHIBIT N

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres, et al.) NO. CV07-02513-PHX-GMS
)
Plaintiffs,	) DEFENDANTS JOSEPH M.
	) ARPAIO AND MARICOPA
vs.	) COUNTY SHERIFF'S OFFICE'S
	) RESPONSE TO PLAINTIFFS'
Joseph M. Arpaio, et al.,	) AMENDED FIRST SET OF
	) INTERROGATORIES TO
Defendants.	) DEFENDANTS REGARDING
	) CONTEMPT

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, Defendants
Joseph M. Arpaio and Maricopa County Sheriff's Office respond to Plaintiffs'
Interrogatories as follows:

INTERROGATORIES

INTERROGATORY NO. 1

IDENTIFY the individual(s) responsible for the failure to communicate the Court's December 23, 2011 preliminary injunction order to MCSO deputies upon the issuance of the order in December 2011.

RESPONSE: Defendants Arpaio and the Maricopa County Sheriff's Office object to this interrogatory because it is vague and Plaintiffs fail to define "responsible" and "failure to communicate". In the spirit of discovery and without waiving their objections, Defendants respond that Sheriff Arpaio, former Chief Sands, Chief Sheridan, and Lieutenant Sousa were responsible for communicating the December 23, 2011 preliminary injunction to MCSO deputies.

INTERROGATORY NO. 2

During the period from December 2011 to October 2013, which unit(s) and individual(s) within the MCSO were responsible for communicating Court orders in state of federal litigation involving the Maricopa County Sheriff's Office to relevant personnel?

RESPONSE: During this time period, MCSO did not have a specific mechanism established to communicate litigation information to relevant personnel. It was expected the assigned attorneys would communicate the court orders with the relevant personnel.

INTERROGATORY NO. 3

What is the date on which the Court's December 23, 2011 preliminary injunction order was communicated to personnel within MCSO? If the order was communicated on different dates to different groups of personnel, IDENTIFY the recipient(s) with the date on which the order was communicated.

1 **RESPONSE:** On December 23, 2011, the preliminary injunction order
2 was communicated to Sheriff Arpaio, former Chief Sands, Chief Sheridan, and
3 Lieutenant Sousa.

4 **INTERROGATORY NO. 4**

5 What is the earliest date on which any MCSO deputy used a video or audio
6 recording device to record a traffic stop?

7 **RESPONSE:** The earliest date documented by a recording and verified is
8 September 24, 2008.

9 **INTERROGATORY NO. 5**

10 What is the earliest date on which any MCSO personnel with a rank of
11 sergeant or above became aware that any MCSO deputy was using a video or
12 audio recording device to record traffic stops?

13 **RESPONSE:** Defendants Arpaio and the Maricopa County Sheriff's
14 Office object to this interrogatory because it is vague and Plaintiffs fail to
15 define what is meant by the phrase "became aware that any MCSO deputy was
16 using a video or audio recording device." MCSO did not have any policy
17 regarding the recording of traffic stops. However, in the spirit of discovery
18 and without waiving their objections, the earliest date documented by a
19 recording and verified is September 24, 2008.

20 **INTERROGATORY NO. 6**

21 In or after December 2007, how many MCSO deputies or sergeants (a) had
22 any responsibility for conducting traffic stops and also (b) made at least one audio or
23 video recording of a traffic stop?

24 **RESPONSE:** Defendants Arpaio and the Maricopa County Sheriff's
Office object to this interrogatory because it is vague. However, in the spirit
of discovery and without waiving their objections, Defendants respond that all
MCSO deputies are responsible for conducting traffic stops. (a) In 2007,
MCSO had 797 sworn officers responsible for traffic stops; in 2008, MCSO had
765 sworn officers responsible for traffic stops; in 2009, MCSO had 736 sworn
officers responsible for traffic stops; in 2010, MCSO had 702 sworn officers

1 responsible for traffic stops; in 2011, MCSO had 668 sworn officers
 2 responsible for traffic stops; in 2012, MCSO had 650 sworn officers
 3 responsible for traffic stops; in 2013, MCSO had 647 sworn officers
 4 responsible for traffic stops; and in 2014, MCSO had 700 sworn officers
 5 responsible for traffic stops. (b) Defendants previously provided Plaintiffs
 6 this information in Bates stamped documents numbers MELC099560-
 7 MELC099562.

8 **INTERROGATORY NO. 7**

9 IDENTIFY all MCSO personnel who participated in any traffic stop listed at
 10 pages 5-8 of Plaintiffs' Request for OSC, Doc. 843, including any personnel involved
 11 in follow-up to such a stop, such as supervisor review or an internal investigation.

12 **RESPONSE:** Defendants previously provided Plaintiffs with this
 13 information in Bates stamped document numbers MELC099560-MELC099562.

14 **INTERROGATORY NO. 8**

15 IDENTIFY the individual(s)—by name and, if applicable, assigned MCSO unit
 16 and rank—who were responsible for the collection of DOCUMENTS that (1) related
 17 to the Human Smuggling Unit and (2) were required to be disclosed in litigation
 18 matters involving MCSO during the period 2008-2012.

19 **RESPONSE:** (1) The Chiefs who oversaw the HSU during this timeframe
 20 were:

21 Chief B. Sands S0708
 22 Chief D. Trombi S0948

23 **January 30, 2006**

24 Capt. T. Tyo S0564 (commanded enforcement support until his
 retirement February 15, 2008).

April 2006

Lt. C. Siemens S1081 (reassigned out of the division September 2008)
 Sgt. G. Rios S1084 (reassigned out of the division March 2007)
 Dep. S. Ross S1654 (reassigned out of the division June 2008)

1 Dep. C. Rangel S1528 (currently in the division out of HSU February
2 2014).

3 March 2007

4 Dep. J. Cosme S1501 (currently in the division)

5 Dep. H. Martinez S1593 (reassigned out of the division December 23,
6 2013)

7 Sgt. R. Baranyos S1297 (reassigned out of the division January 2009)

8 Dep. A. Navarrette S1474 (reassigned out of the division April 2009)
9 currently in custody

10 Dep. E. Quintero S1331 (reassigned out of the division September 2011)

11 June 2007

12 Ofc. V. Navarrette A6235 (reassigned out of the division November 2013)

13 Ofc. R. Montoya A8052 (currently in the division)

14 Ofc. P. Plata A8936 (reassigned out of the division August 19, 2013)

15 Ofc. M. Murillo A5617 (resigned November 2009)

16 Sgt. M. Madrid S1376 (reassigned out of the division February 2011)

17 July 2007

18 Sgt. C. Brockman S1513 (reassigned out of the division January 2014)

19 Dep. G. Almanza S1376 (reassigned out of the division November 2013)

20 Dep. T. Sedlacek S1413 (reassigned out of the division September 2007)

21 Dep. L. Ruiz S1634 (resigned February 4, 2009)

22 Dep. G. Doster S1661 (reassigned out of the division August 2010)

23 Dep. Dep. B. Komorowski S1507 (reassigned out of the division January
24 2011)

September 2007

Lt. J. Sousa S1180 (reassigned out of the division April 2012)

Dep. J. Templeton S1804 (reassigned out of the division September
2008)

January 2008

Dep. D. Frei S1570 (currently in the division)

Dep. C. Griffin S1523 (reassigned out of the division June 2009) resigned

August 2009

Dep. T. Brice S1767 (reassigned out of the division June 2009)

February 2008

Capt. R. Jones S0491 (commanded enforcement support until his
retirement April 30, 2009)

March 2008

Dep. D. Joya S1739 (currently in the division)

**Dep. C. Garcia S1399 (reassigned out of the division November 2008)
resigned October 2008**

April 2008

Dep. S. Monroe S1713 (reassigned out of the division January 2013)

May 2008

Dep. D. Beeks S1722 (reassigned out of the division January 2010)

**Ofc. T. Henley B0742 (reassigned out of the division May 2009) resigned
March 6, 2009**

June 2008

**Dep. C. Armendariz S1764 (reassigned out of the division August 19,
2013)**

November 2008

Dep. C. Lopez S1760 (currently in the division)

Dep. R. Gonzalez S1783 (currently in the division)

**Dep. Cisco Perez S1346 (reassigned out of the division 2011) terminated
October 2013**

March 2009

**Dep. A. Ortega-Rodriguez S1717 (reassigned out of the division
September 2012)**

Dep. R. Lopez Jr. S1835 (reassigned out of the division December 2012)

Dep. J. Jerez S1226 (reassigned out of the division December 2012)

April 2009

Sgt. B. Palmer S1409 (reassigned out of the division May 2012)

**Dep. G. Fernandez S1587 (reassigned out of the division July 2009)
resigned July 2009**

June 2009

**Dep. W. Voeltz S1658 (reassigned out of the division October 2012)
August 2010**

Dep. D. Gandara S1906 (currently in the division)

October 2010

Capt. Letourneau S0945 (reassigned out of the unit September 2, 2013)

February 2011

Sgt. M. Trowbridge S1703 (reassigned out of the division September 2, 2013)

March 2011

Dep. J. Silva S1615 (reassigned out of the division September 2012)

September 2011

Dep. C. Hechavarria S1851 (reassigned out of the division out of HSU September 2013)

May 2012

Lt. M. Summers S1641 (reassigned out of the division August 2012)

Lt. B. Jakowinicz S1237 (currently in the division)

September 2012

Dep. Frank Gamboa S1924 (currently in the division)

Dep. D. Ochoa S1802 (currently in the division)

Sgt. Glenn Powe S1259 (currently in the division)

October 2012

Dep. J. Henderson S1456 (currently in the division)

December 2012

Dep. M. Garcia S1244 (reassigned out of the division May 12, 2014)

November 2013

Dep. S. Locksa S1312 (currently in the division)

The following supervisory personnel were promoted on the following dates.

Lt. Jakowinicz promoted to lieutenant on 06/04/2007

Lt. Siemens promoted to lieutenant on 01/30/2006

Lt. Sousa promoted to lieutenant on 07/03/2006

Lt. Summers promoted to lieutenant on 09/17/2012

Sgt. Powe promoted to sergeant on 07/03/2006

Sgt. Trowbridge promoted to sergeant on 02/11/2008

Sgt. Brockman promoted to sergeant on 01/20/2014

Sgt. Baranyos promoted to sergeant on 02/26/2007

Sgt. Rios promoted to sergeant on 12/18/2006

Sgt. Palmer promoted to sergeant on 07/03/2006

Sgt. Madrid promoted to sergeant on 06/04/2007

1 **INTERROGATORY NO. 9**

2 IDENTIFY any advice of counsel defense DEFENDANTS intend to make in
3 response to any of the charged grounds for civil contempt listed in the Order to
4 Show Cause.

5 **RESPONSE: Defendants do not assert an "*on the advice of counsel*"**
6 **defense to any of the alleged grounds for civil contempt.**

7 **INTERROGATORY NO. 10**

8 IDENTIFY, by reference to date, time, location, duration and participants, all
9 meetings and conversations RELATING TO (1) the Court's preliminary injunction
10 order of December 23, 2011 or (2) the Court's oral orders of May 14, 2014
11 RELATING TO the collection of video and audio recordings of traffic stops.

12 **RESPONSE: On December 26, 2011, Tim Casey conferred (location**
13 **unknown) with the following individuals:**

14 **Sheriff Arpaio for approximately twenty-one to twenty-six minutes;**
15 **Former Chief Brian Sands for approximately fifteen to twenty minutes;**
16 **Chief Jack MacIntyre for approximately four to eight minutes; and**
17 **Lieutenant Joseph Sousa for approximately twenty-seven to thirty-two**
18 **minutes.**

19 **On December 30, 2011, Tim Casey conferred with Lieutenant Joseph**
20 **Sousa and former Chief Brian Sands for approximately one hour and five**
21 **minutes.**

22 **///**

23 **///**

24 **///**

///

//


///

1 On January 19, 2012, Tim Casey conferred with the following:
2 Brad Keogh and Tom Liddy for approximately two hours and six
3 minutes;
4 Tom Liddy for approximately thirty minutes (location unknown); and
5 John Masterson approximately six minutes (location unknown).

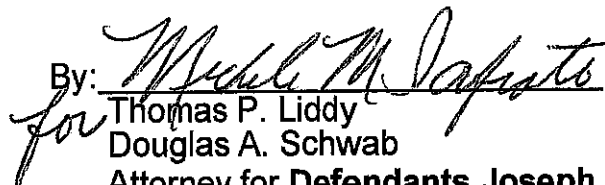
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DATED this 13th day of March, 2015

IAFRATE & ASSOCIATES

By: 
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Attorney for Defendants Joseph M.
Arpaio and Maricopa County Sheriff's
Office

**MARICOPA COUNTY ATTORNEY
CIVIL SERVICES DIVISION**

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19 Phoenix, Arizona 85012
20 Attorneys for **Brian Sands**

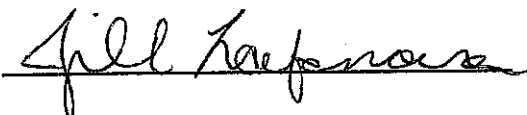
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22
23
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By: 

EXHIBIT O

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Manuel de Jesus Ortega Melendres,)	
et al.,)	
)	
Plaintiffs,)	
)	
vs.	)	No. CV-07-02513-PHX-GMS
)	
Joseph M. Arpaio, et al.,)	
)	
Defendants.)	
_____)	

REPORTER'S TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE G. MURRAY SNOW

Phoenix, Arizona
April 7, 2015
9:04 a.m.

REPORTED BY:
CATHY J. TAYLOR, RPR
Certified Reporter
Certificate No. 50111

PREPARED FOR:
ASCII/CONDENSED
(CERTIFIED COPY)



1 category of documents that were used to refresh the memories
2 at least of Sheriff Arpaio and Chief Sheridan for their
3 depositions. They testified that they looked at a timeline.
4 We've asked for the production of that, and that's been
5 refused.

6 So those are the general categories of things
7 that we bring before the Court, and we seek, Your Honor, your
8 guidance as to how to proceed.

9 THE COURT: All right. Thank you.

10 Ms. Iafrate?

11 MS. IAFRATE: Thank you, Your Honor. First of
12 all, regarding Sheriff Arpaio's immigration file, as you are
13 aware, I was not part of this original lawsuit, and that is
14 my error. I have since reviewed the immigration file. It
15 essentially is duplicative of things that have already been
16 provided, however, I have had it copied. And I know that
17 that is late, and I apologize, but it will be given to
18 plaintiffs' counsel today.

19 Regarding searching for certain things that
20 relate to the compliance with the injunction, I have gone
21 through the Court Compliance Division, and that request did
22 go out to the troops to look for items that were responsive
23 to the request.

24 So the -- the argument that defendants have
25 not looked is not accurate. We have looked. And, in fact,

1 Court's discovery order.

2 When we probed Lieutenant Sousa, he said, by
3 the way, that he had heavily relied upon the so-called
4 training scenarios e-mail exchange that he had in January of
5 2012 through about March of 2012 in order to testify on those
6 matters.

7 And we would mention that in advance, that we
8 do plan to rely on Rule 612 as to that current dispute that's
9 ongoing, and we'll -- we'll cite that rule in our briefing
10 that's due today.

11 But -- but the main point is that
12 Lieutenant Sousa's testimony, along with that of the sheriff
13 and Chief Deputy Sheridan and Chief Sands, all point to the
14 fact that this was not an oversight. It's not a matter of,
15 you know, an ongoing rolling production that's still in
16 progress. A charged contemnor in this case has not even been
17 asked to search for documents. He hasn't been asked to
18 search his e-mails, and he hasn't been asked to search any of
19 his other files for the categories of documents that your --
20 Your Honor ordered to be disclosed.

21 THE COURT: All right. Let's take them up
22 category -- category by category.

23 First off, you indicated, Ms. Iafrate, that --
24 well, the first thing was the February 12th order. And you
25 indicated, Ms. Iafrate, that requests have gone out to MCSO

Page 14

1 for this information. Let me say, without trying to be
2 pejorative, that one of the reasons, of course, that this
3 contempt suit has been noticed is that the MCSO, leading up
4 to this lawsuit, simply did not provide a number and a --
5 what I gather is a very large number of responsive
6 information to production requests.

7 And so I guess I want to understand a little
8 bit more with a little bit more detail, Ms. Iafrate, about
9 what kind of request has gone out to who.

10 MS. IAFRATE: Your Honor?

11 THE COURT: For the information that is
12 included in my February 12th order.

13 MS. IAFRATE: Your Honor, the request was
14 funneled through the Court Compliance Division that is run by
15 Russ Skinner, Captain Russ Skinner. Then it went out to the
16 various chiefs and down the chain of command, and then we
17 required a response back regarding what people had done or
18 had not done.

19 THE COURT: You required a response back from
20 whom?

21 MS. IAFRATE: From whoever the Court
22 Compliance sent the request out to.

23 THE COURT: Well, I -- I would suggest that --
24 I'm -- I'm going to require, I guess, you to provide to the
25 plaintiffs a complete listing of whom was requested and what

1 specific responses were received.

2 And then, Mr. Young, I'll be available all the
3 rest of today and tomorrow. If, in fact, no specific
4 responses were received from the contemnors or the other
5 persons who have been disclosed in this discovery as having
6 been intimately involved in the events at issue, I -- I am
7 going to require the defendants to make specific inquiries of
8 specific people if they have any documents responsive and if
9 they've looked for them, because I think that at this point,
10 you know, part of the reason we're having this whole hearing
11 is because we didn't get the original discovery prior to the
12 lawsuit as requested, and I want to make sure we have it now.

13 And so, number 1, I'm going to require you to
14 disclose to the plaintiffs what the process was by which such
15 discovery was sought, who was given the request to provide
16 such discovery, and what responses were received, because it
17 simply isn't sufficient for the MCSO at this point to ask in
18 a general e-mail, or something else, everybody if they have
19 such responsive documents, and then if they all ignore that
20 e-mail and you don't get responsive documents, that's not
21 efficient for purposes of responding to discovery.

22 Do you understand what I'm saying?

23 MS. IAFRATE: I do.

24 THE COURT: Do you know, I note, by the way, I
25 apologize. I note I have a habit of saying stuff like, do

1 you understand what I'm saying? I don't mean to be
2 overbearing, and it comes across sometimes as being
3 overbearing on a transcript. I just want to make sure that
4 what I'm trying to convey comes across. That is, simply
5 requesting in a broadcast e-mail that anybody who has
6 information -- responsive information reply isn't sufficient
7 in this case, and I think demonstratively so, a guarantee
8 that -- that we have the information requested.

9 And so I am going to order you -- how much
10 time do you -- well, I'm going to order you to provide within
11 a day the process that Russ Skinner went through to request
12 such information and all specific answers he received and
13 provide that to plaintiffs. Then I would provide to
14 plaintiffs, if I were you, the specific persons you will
15 follow up with.

16 And plaintiffs, you might provide your
17 suggestions as to specific persons they might follow up with.
18 And if those aren't adequate -- if you can't arrive -- and I
19 think you have worked together professionally to try to
20 accomplish discovery. But if you can't arrive at a process
21 by which you can get confirmation about such documents, then
22 you can call me. And I am available all -- all of tomorrow
23 afternoon, and I'll make myself available on that point.

24 Any further questions as to how we're going to
25 proceed with the February 12th order?

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1 MS. IAFRATE: So -- yes, I do have a question,
2 Your Honor. This is Michele IafRATE.

3 So I understand your first directive to me,
4 which is to identify the process and what was responsive to
5 it. Then you mentioned a list of people to follow up with.

6 THE COURT: Yes. I mean -- yeah, let me
7 restate that. Well, let me -- I'm sorry. Finish your
8 question.

9 MS. IAFRATE: That -- my question mark is
10 there.

11 THE COURT: All right.

12 MS. IAFRATE: I guess I just need some further
13 guidance.

14 THE COURT: Okay. In addition to the process
15 and who was -- to whom the request was -- was sent, I want
16 you to detail the actual people, individuals, who responded
17 to the e-mail --

18 MS. IAFRATE: Okay.

19 THE COURT: -- so that we know actually who
20 responded one way or the other. And then when we know to
21 whom the request was made and who responded, we know the
22 number of people who did not respond.

23 And apparently Lieutenant Sousa was not one of
24 those. And he apparently considered it, based on his
25 deposition testimony, as not having ever been requested. And

Page 18

1 apparently, based on his deposition testimony, whatever
2 method went out, he did not cognize or recognize as such a
3 request.

4 MS. IAFRATE: Okay. I understand.

5 THE COURT: So I want you then to -- based on
6 people who actually responded, I want you to identify to the
7 plaintiffs the people you will personally -- or -- or you
8 will have Lieutenant Skinner or Captain Skinner follow up
9 with to make sure they realize such a request was made and
10 any other steps necessary to accumulate the information that
11 I have required to be delivered and to deliver it.

12 MS. IAFRATE: Understood.

13 THE COURT: And if plaintiffs can't -- and you
14 can't agree on appropriate steps to do the follow-up to make
15 sure that such documents as MCSO has are identified and
16 delivered promptly, then I'll be available tomorrow afternoon
17 to resolve any problems in that scope.

18 Does that help?

19 MS. IAFRATE: Yes.

20 THE COURT: All right. Now, any -- any
21 questions by plaintiffs as to what I've ordered?

22 MR. YOUNG: I have none, Your Honor. Thank
23 you.

24 Ms. Wang?

25 MS. WANG: I don't have any questions. I

EXHIBIT P

Iafrate & Associates

Attorneys at Law

Michele M. Iafrate

649 N. 2nd Ave.
Phoenix, AZ 85003
(602) 234-9775
Fax (602) 254-9733
Tax ID 20-1803233

April 13, 2015

VIA E-MAIL

Cecillia Wang
ACLU Immigrants' Rights Project
39 Drumm Street
San Francisco, California 94111

RE: *Arpaio, et al. adv. Melendres, et al.*
U.S. District Court Case No: CV07-02513-PHX-GMS

Dear Counsel:

We have completed the search of the computers. Just to recap and update, following are the end results:

The following people do NOT have documents/e-mails responsive to the Court's February 2015 Order:

- Sheriff Arpaio, who does not have a computer; therefore, I searched his assistant's computer Amy Lake;
- Chief Deputy Sheridan;
- Director MacIntyre;
- Executive Chief Trombi;
- Retired Executive Chief Sands;
- Sergeant Rangel;
- Sergeant Palmer; and
- Lieutenant Jakowinicz.

Documents are being provided from the following that are responsive to the Court's February 2015 Order:

- Sergeant Trowbridge (Bates Stamped MELC172504-172614).
- Lieutenant Sousa (Bates Stamped MELC172485-172503).

Cecillia Wang
April 13, 2015
Page 2 of 2

If you have any questions or concerns, please do not hesitate to contact me.

Sincerely,

IAFRATE & ASSOCIATES



Michele M. Iafrate

MMI:CS/jdl
Attachments

EXHIBIT Q

MELENDRES, et al. v. ARPAIO, et al.
CV07-2513-PHX-GMS
Defendants' Privilege Log
4-17-15

BATES RANGE	DATE	AUTHOR	RECIPIENT(S)	DESCRIPTION	PRIVILEGE
1.	3/27/12 10:24 am	Tim Casey	Joseph Sousa, Michael Trowbridge, Cesar Brockman, Brett Palmer, Alejandro Ortega-Rodriguez, Carlos Rangel, Charley Armendariz, Christopher Hechavarria, Christopher Lopez, Daniel Gandara, Darrin Frei, David Joya, Gabriel Almanza, Gabriel Doster, Hector Martinez, Jesus Cosme, Jesus Jerez, Juan Silva, Perla Plata, Raphaelita Montoya, Richard Lopez, Jr., Roland Gonzalez, Susan Monroe, Victor Navarette, Wade Voeltz. CC: Brian Jakowinicz, Tim Casey, Eileen Henry, Tom Liddy	Discussion re litigation hold	Attorney-Client; Work Product
2.	10/18/2012 11:51 pm	Tim Casey	Joseph Sousa CC: Eileen Henry	Melendres Order on Summary Judgment	
3.	10/19/2012	Joseph Sousa	Brian Jakowinicz	Melendres Order	Attorney-Client

BATES RANGE	DATE	AUTHOR	RECIPIENT(S)	DESCRIPTION	PRIVILEGE
	12:22 pm		CC: Tim Casey, Eileen Henry, David Garland	on Summary Judgment	
4.	10/27/12 9:15 am	Joseph Sousa per T. Casey	Michael Trowbridge, Cesar Brockman, Brett Palmer, Alejandro Ortega-Rodriguez, Carlos Rangel, Charley Armendariz, Christopher Hechavarria, Christopher Lopez, Daniel Gandara, Darrin Frei, David Joya, Gabriel Almanza, Gabriel Doster, Hector Martinez, Jesus Cosme, Jesus Jerez, Juan Silva, Perla Plata, Ralphaelita Montoya, Richard Lopez, Jr., Roland Gonzalez, Susan Monroe, Victor Navarette, Wade Voeltz. CC: Brian Jakowinicz, Tim Casey	Operations e-mails	Work Product; Attorney-Client
5.	10/27/12 10:24 am	Tim Casey	Joseph Sousa, Michael Trowbridge, Cesar Brockman, Brett Palmer, Alejandro Ortega-Rodriguez, Carlos Rangel, Charley Armendariz, Christopher Hechevarria,	E-mails for lawsuits	Attorney-Client

BATES RANGE	DATE	AUTHOR	RECIPIENT(S)	DESCRIPTION	PRIVILEGE
			Christopher Lopez, Daniel Gandara, Darrin Frei, David Joya, Gabriel Almanza, Gabriel Doster, Hector Martinez, Jesus Cosme, Jesus Jerez, Juan Silva, Perla Plata, Ralphaelita Montoya, Richard Lopez, Jr., Roland Gonzalez, Susan Monroe, Victor Navarette, Wade Voeltz. CC: Brian Jakowinicz, Eileen Henry, Tim Casey, Tom Liddy		
6.	10/29/12 12:15 pm	Brian Jakowinicz	Tim Casey	Melendres Order on Summary Judgment	Attorney-Client
7.	10/29/12 12:27 pm	Tim Casey	Brian Jakowinicz CC: Tom Liddy, James Williams, Eileen Henry	Summary judgment Order	Attorney-Client

EXHIBIT R

CASE NO. _____

VS. _____

PLAINTIFF'S EXHIBIT _____

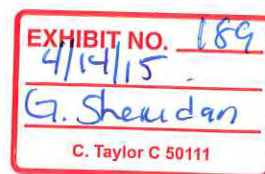
DATE: _____ IDEN.

DATE: _____ EVID.

BY: _____

Deputy Clerk

E-MAIL 1



i

|

MELC165670

Eileen Henry

From: Tim J. Casey
Sent: Friday, December 23, 2011 5:22 PM
To: Sands Brian; John MacIntyre - SHERIFFX; Jerry Sheridan - SHERIFFX; Joseph Sousa - SHERIFFX
Cc: Liddy Thomas; tomliddy@aol.com; Eileen Henry; James L. Williams
Subject: Melendres Order On Summary Judgement
Importance: High
Attachments: Order re MSJ 122311.pdf

Folks,

In follow-up to my recent telephone call, attached is the Court's Order on the dueling summary judgement motions and class certification motion.

Here is a quick summary:

1. There is **NO** finding as a matter of law that the MCSO is racial profiling. The racial profiling claim must be resolved at trial (Plaintiffs' motion is denied; Defendants' motion is denied);
2. The Plaintiff Rodriguez Fourth Amendment Claim is dismissed but there racial profiling claim appears to exist;
3. The Plaintiffs Melendres and Meraz and Nieto's Fourth Amendt claims as to traffic stops will go to trial;
4. Melendres' Fourth Amendment claim is granted on oral motion of the Plaintiffs as to his DETENTION. The Court ruled that Deputy Louis DiPietro did not have reasonable suspicion that Melendres may have violated the human smuggling statute (jn other words, he did not have reasonable suspicion that all the elements of the crime may have been satisfied).
5. The Court is enjoining the MCSO "from detaining any person based solely on knowledge, without more, that the person is in the country without unlawful authority. To be clear, the Court is not enjoining MCSO from enforcing valid state laws, or detaining individuals when officer have reasonable suspicion that individuals are violating a state criminal law. Instead, it is enjoining MCSO from violating federal, rights protected by the United States Constitution in the process of enforcing valid state law based on an incorrect understanding of the law.: p. 37-38.
6. Class certification is granted.

Where do go from here:

1. Declare victory on plaintiffs' failure to prove (so far) racial profiling. They themselves said they would win as a matter of law and did not want a trial;
2. Plaintiffs were granted only a very narrow victory on detention issues
3. Nothing stops the MCSO from conducting saturation patrols or crime suppression operations ;
4. The MCSO will appeal the narrow area of victory given to Plaintiff Melendres.

MELC165671

Timothy J. Casey, Attorney at Law
SCHMITT SCHNECK SMYTH CASEY & EVEN, P.C.
1221 East Osborn Road, Suite 105 Phoenix, AZ 85014
Phone: 602.277.7000
Fax: 602.277.8663
Email: timcasey@azbarristers.com
www.azbarristers.com

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From: Chelsea Arancio
Sent: Friday, December 23, 2011 4:45 PM
To: Tim J. Casey
Subject: Melendres Order

Chelsea Arancio, Paralegal
SCHMITT SCHNECK SMYTH CASEY & EVEN, P.C.
1221 E. Osborn Road, Suite 105 Phoenix, AZ 85014
Phone: 602.277.7000
Fax: 602.277.8663
Email: chelsea@azbarristers.com
www.azbarristers.com

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MELC165672

12/23/2011

EXHIBIT S

CASE NO. _____

VS. _____

PLAINTIFF'S EXHIBIT _____

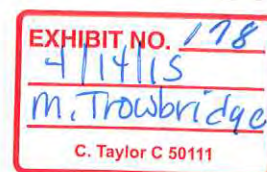
DATE: _____ IDEN.

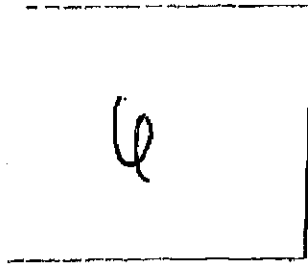
DATE: _____ EVID.

BY: _____

Deputy Clerk

E-MAIL 6A





MELC165690

Page 1 of 5

Eileen Henry

From: Tim J. Casey
Sent: Tuesday, January 24, 2012 11:14 AM
To: Liddy Thomas
Cc: Eileen Henry; James L. Williams
Subject: FW: Scenarios for review based on Judge's order
FYI for your proposed revision and feedback. thanks

tim

Timothy J. Casey, Attorney at Law
SCHMITT SCHNECK SMYTH CASEY & EVEN, P.C.
1221 East Osborn Road, Suite 105 Phoenix, AZ 85014
Phone: 602.277.7000
Fax: 602.277.8883
Email: tjcasey@azbaristers.com
www.azbaristers.com

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From: Joseph Sousa - SHERIFFX [mailto:J_Sousa@MCSO.maricopa.gov]
Sent: Tuesday, January 24, 2012 10:20 AM
To: Tim J. Casey
Cc: Brian Sands - SHERIFFX; David Trombi - SHERIFFX; Rollie Seebert - SHERIFFX; Brian Jakowinicz - SHERIFFX; John MacIntyre - SHERIFFX
Subject: Scenarios for review based on judge's order

Hi Tim,

Give me a call once you have reviewed the scenarios listed below. I am going to copy you on all these emails so attorney client privilege applies until we get a final training product out to the troops.

Thanks,

Joe

From: Brett Palmer - SHERIFFX
Sent: Thursday, January 19, 2012 11:24 PM
To: Joseph Sousa - SHERIFFX

MELC165891

Cc: Tim Casey; Michael Trowbridge - SHERIFFX
Subject: RE: Putting out training reference the court order

Lt. Sousa --

Below is my rough construction of an eLearning segment based on Judge Snow's order. I constructed this in accordance with the many conversations you & I have had, as well as taking into account the information conveyed to us both from Tim Casey concerning Judge Snow's order. Also, in accordance with my own personal experience in this matter, I think it is imperative that Tim Casey review this and any training material I am asked to create that could be used to instruct Deputies in this very sensitive area. Also note, I created these scenarios with Patrol Deputies as the focus.

Training Directive

Maricopa County Deputies in a wide range of assignments could come across individuals through their lawful contacts whom they suspect through reasonable suspicion of being illegal aliens in the United States. It is important the Deputies and the Supervisors understand the scope to which they are empowered to act in these scenarios, as limits have recently been set by Judge Murray Snow in a Federal court case. The order issued by Judge Snow states that MCSO cannot detain any person based solely on the suspicion they are an illegal alien present in the United States. What this means is that any Deputy who has contact with a person and during the contact, the Deputy arrives at the reasonable suspicion through articulable indicators that the person may be an illegal alien in the United States, cannot and will not detain or further the detainment of this person without having more than just this singular suspicion.

The most common articulable indicators giving rise to the reasonable suspicion that a person may be an illegal alien in the United States are:

- 1) The person speaks no English or difficult/broken English
- 2) The person has no form of ID or no form of ID issued by the United States.

Scenario 1

A Patrol Deputy working at 2AM is patrolling a residential area known to have been hit recently with car burglaries. The Deputy comes across an adult male walking in the area and decides to make contact. The Deputy quickly finds this person speaks no English and the only ID he has is a Mexico Driver License issued by Mexico. After talking with this person for several minutes, the Deputy determines there is no crime being committed under state law, but the Deputy reasonably believes based on the two indicators listed above that this person may be an illegal alien in the United States. **DO NOT DETAIN** - The Deputy has no other articulable indicators to show a crime has, is, or is about to be committed under state law. The Deputy cannot detain based solely on the reasonable suspicion this person may be an illegal alien. In this scenario, the Deputy should end his contact and allow the person to continue on their way.

Scenario 2

A Patrol Deputy conducts a traffic stop on a vehicle for speeding. The Deputy finds the vehicle is occupied by four adult male subjects. The driver speaks only Spanish and provides a valid Arizona driver license as his ID. As a matter of good policing practice, the Deputy asks for ID from the three passengers. All three passengers provide Mexico Consular Cards issued by the Mexican Consulate as ID (not a U.S. ID). All three passengers speak only Spanish. Within about 15 minutes, the Deputy has determined no criminal offense has, is or is about to be committed. The only violation is the civil speeding. However, the Deputy does reasonably believe based on the two indicators listed above that

MELC165692

the three passengers may be illegal aliens in the United States. **DO NOT DETAIN** - The Deputy has no articulable indicators of a crime under state law. The Deputy cannot detain based solely on the reasonable suspicion these passengers may be illegal aliens. In this scenario, the Deputy should use their discretion to issue either a written citation or a verbal warning to the driver and release the vehicle with all of the occupants.

Scenario 3

A Patrol Deputy conducts a traffic stop on a vehicle for expired registration. The Deputy finds the vehicle is occupied by an adult male driver and an adult male passenger. The driver speaks only Spanish and presents an expired California Driver License as ID. The passenger speaks only Spanish and presents a Mexico Voter Registration Card as ID (not a U.S. ID). The fact that the passenger does not speak English and has no form of U.S. ID causes the Deputy to reasonably believe the passenger may be an illegal alien in the United States. During the traffic stop investigation, the Deputy discovers the passenger is in possession of an open alcohol container and has been consuming alcohol out of that container while riding in the vehicle. In this scenario, there are two aspects to consider... With respect to the driver, the Deputy should write the driver a civil citation for expired registration and driving with an expired driver license. The driver should ultimately be released after being issued the citation. While the driver speaks only Spanish, he did present a valid form of U.S. ID. It does not matter that the ID was expired. The expired California license is still a valid form of U.S. ID. There is no reasonable suspicion the driver is an illegal alien. With respect to the passenger, the Deputy should write a criminal citation to the passenger for the Title Four violation. While in the course of writing both citations, the Deputy can simultaneously place a phone call to ICE to advise them of his suspicion that the passenger may be an illegal alien in the U.S. If ICE clearly instructs the Deputy to detain the passenger for subsequent turn over to an ICE facility or officer, then the Deputy can make the physical detainment of the passenger based on the directive from ICE. The difference in this scenario from the first two is that there was a criminal offense under state law committed by the passenger. The passenger was not detained because of suspicion he was an illegal alien. The passenger was detained for a state law violation and in the course of the ongoing investigation ICE was contacted.

Notes for Discussion - Scenario 3:

- 1) Per our many conversations LT, patrol needs very clear & direct instructions on how to handle these situations.
- 2) Is the Office going to require that criminal offenders in these instances be booked as a matter of policy, having removed the Deputy's discretion? If yes, then this in my opinion removes any idea of ever having patrol turn over a suspected illegal alien to ICE. They would all be booked.
- 3) There is the Florence ERO issue... Unless the Deputy is working in District One or Six, any turnover of an alien to ICE would conceivably take at a minimum 1 hour to as much as 3 hours or more given that the Deputy would have to drive to Florence or wait for ICE Officers to come to him from Florence. If the Deputy is going to be authorized to drive there, this is an out of county travel assignment and the training would need to address the Deputy obtaining supervisory permission for the out of county travel - just my opinion thinking about liability.

Scenario 4

A Patrol Deputy conducts a traffic stop on a vehicle for speeding. The Deputy finds the vehicle is occupied by 10 Hispanic subjects - a driver and nine passengers. The passengers all appear to have either no ID or only ID issued by another country other than the U.S. The passengers all appear to have a disheveled look, are dirty in appearance, look as if one or more of them were very recently in a desert

MELC165693

environment, and all appear nervous. There is a lack of luggage in the vehicle. The nine passengers are taking up space in the vehicle meant to comfortably seat six or less. The driver provides a story about their travel that cannot be corroborated in totality by the passengers or there are conflicting stories of their travel between the driver and passengers. The driver eventually admits he is being paid for driving these passengers to a specific destination (could be he is receiving money for gas). In this scenario, the Deputy should contact the on-call HSU Sgt. through Radio as these observations are good observations that human smuggling is taking place – a state felony crime.

Notes for Discussion – Scenario 4:

- 1) Not all of these observations need to be present to reasonably believe human smuggling is taking place. Any two or more of these observations would be sufficient to justify a call to the on-call HSU Sgt.
- 2) This would also apply to drop houses and stand-up loads, those caught traveling through the open desert on foot with a coyote/guide.

Sgt. Brett Palmer
Maricopa County Sheriff's Office
Human Smuggling Unit

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From: Joseph Sousa - SHERIFFX
Sent: Wednesday, January 11, 2012 11:16 AM
To: Brett Palmer - SHERIFFX
Cc: Tim J. Casey (tim@azbarristers.com); Rollie Seabert - SHERIFFX; Brian Sands - SHERIFFX; David Trombi - SHERIFFX; Eileen Henry (eileen@azbarristers.com); Joseph Sousa - SHERIFFX
Subject: Putting out training reference the court order

Bret,

Per our phone conversation write up a couple of scenarios (right way and wrong way) based on Judge Snows order to MCSO and your conversations with Tim Casey. I will have Tim review what you write up and have Chief Sands sign off on it. Once all that is done we will get with training reference putting something out in E-Learning.

Judge Snows order:

The Court is enjoining the MCSO "from detaining any person based solely on knowledge, without more, that the person is in the country without unlawful authority. To be clear, the Court is not enjoining MCSO from enforcing valid state laws, or detaining individuals when officer have reasonable suspicion that individuals are violating a state criminal law. Instead, it is enjoining MCSO from violating federal, rights protected by the United States Constitution in the process of enforcing valid state law based on an incorrect understanding of the law.: p. 37-38.
 (See attached for full ruling).

MELC165694

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Thanks,

Joe

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