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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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Manuel de Jesus Ortega Melendres, on behalf of himself and all others similarly situated; et al.

No. CV-07-2513-PHX-GMS

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Plaintiffs,

**FINDINGS OF FACTS
- AND -
ORDER SETTING A HEARING FOR
MAY 31, 2016**

11

and

12

United States of America,

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Plaintiff-Intervenor,

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v.

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

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Defendants.

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This Court held 21 days of evidentiary hearings in April, September, October, and November of 2015. At issue were three different charges of civil contempt raised against Sheriff Joseph Arpaio and various other alleged non-party contemnors. Also at issue was the relief necessary to compensate the Plaintiff class for the Defendants' acts of misconduct.

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The Court ordered the Parties to introduce all fact evidence that would bear on the remedies to which the Plaintiffs might be entitled.

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From the substantial evidence presented during the hearing and the facts set forth in detail below, the Court finds that the Defendants intentionally failed to implement the Court's preliminary injunction in this case, failed to disclose thousands of relevant items

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2 **5. Personal Property Attributable to the Plaintiff Class in the Possession**
3 **of the MCSO Continues to Come to Light.**

4 765. Many ID investigations remain open. Identification cards and license
5 plates located in MCSO facilities—but not placed in Property and Evidence—continue to
6 come to light.

7 **C. The MCSO Executed a Fundamentally Flawed Investigation Into the**
8 **Allegations Raised by Maryann McKessy Regarding Detective Mackiewicz.**

9 **1. Ms. McKessy Raised Multiple Allegations, Both Civil and Criminal in**
10 **Nature, with the MCSO Regarding Detective Mackiewicz.**

11 766. Disclosed materials related to the Seattle investigation, together with the
12 subsequent testimony, demonstrated that in August 2014, Ms. McKessy registered a
13 complaint with the MCSO about Detective Mackiewicz. She had been, for a period of
14 time, one of Mackiewicz’s girlfriends—although, apparently unbeknownst to her,
15 Mackiewicz had also been living with a separate girlfriend—a Ms. W.

16 767. When Ms. McKessy found out about Ms. W., and Detective Mackiewicz’s
17 other relationships, she informed Ms. W. of them. Ms. W. had access to Mackiewicz’s
18 payroll information and she apparently reviewed it with McKessy. McKessy took screen
19 shots of some of that information with her cell phone.

20 768. Ms. McKessy charged that Detective Mackiewicz was wrongfully profiting
21 from his work in Seattle including billing the County for overtime work not performed
22 and having Mr. Montgomery, a confidential informant to the MCSO, build a computer
23 for Mackiewicz’s personal use. McKessy also alleged that Mackiewicz had an
24 inappropriate intimate relationship with a victim of a domestic violence incident that he
25 had investigated. She also alleged that he was a steroid user. (Doc. 1456 at Tr. 2180–
26 81.)

27 **2. In Addition to Ignoring His Own Conflicts of Interest, Chief Deputy**
28 **Sheridan Designated the Investigation of Ms. McKessy’s Allegations as**
Criminal and Assigned It to Sergeant Tennyson, Who Is Supervised by
Captain Bailey—Both of Whom Are Friends of Detective Mackiewicz.

1 769. Ms. McKessy made these allegations to Chief Lopez. She also told Lopez
2 that Detective Mackiewicz was protected within the MCSO by his close relationship with
3 Chief Deputy Sheridan and Captain Bailey. (Ex. 2015 at MELC186197.)

4 770. Chief Lopez sent a memorandum to Chief Deputy Sheridan in which he
5 reported Ms. McKessy's charges along with her concern that Detective Mackiewicz was
6 protected by Sheridan and Captain Bailey. (Ex. 2015.)

7 771. In fact, Chief Deputy Sheridan and his wife were friends with Detective
8 Mackiewicz and his girlfriend Ms. W. The Sheridans saw them socially. (Doc 1417 at
9 Tr. 1598.)

10 772. Chief Deputy Sheridan's wife was also involved in business relations with
11 Detective Mackiewicz and with Ms. W. (Doc. 1417 at Tr. 1598, 1604.) The Sheridans
12 received commissions from the real estate purchases Ms. Sheridan coordinated with
13 Mackiewicz and Ms. W. (*Id.* at Tr. 1598; Doc. 1456 at Tr. 2195–96). Ms. Sheridan
14 stood to make \$100,000 in commission from home sales she made to Ms. W earlier in
15 2015. (Doc. 1417 at Tr. 1604.)

16 773. Chief Deputy Sheridan nevertheless testified that he supervised both the
17 criminal and the administrative investigations that resulted from Ms. McKessy's
18 allegations. (Doc. 1417 at Tr. 1597–98.) In fact, Sheridan must approve all initiations of
19 PSB criminal investigations. (Doc. 1043 at Tr. 975–77; Doc. 1389 at Tr. 1128–29; Doc.
20 1456 at Tr. 2215–16; *see also* Ex. 2881 at MELC1306925, MELC1306920.)

21 774. Within a day or so of Chief Lopez's memorandum to Chief Deputy
22 Sheridan, the matter was designated as a criminal investigation and assigned to Sergeant
23 Tennyson. (Doc. 1456 at Tr. 2183; Doc. 1466 at Tr. 2948.) Captain Bailey, as head of
24 the PSB, supervises Tennyson's criminal investigations.

25 775. Detective Mackiewicz had a personal relationship with each person
26 involved in 'investigating' him or supervising his investigators. Mackiewicz "was very
27 important" to Sheriff Arpaio and his wife for the work he had done in protecting them.
28 (Doc. 1455 at Tr. 2059.) Chief Deputy Bailey and Mackiewicz were friends. Captain

1 Bailey and Detective Mackiewicz were friends. (Doc. 1498 at Tr. 3877.) Sergeant
2 Tennyson and Detective Mackiewicz were also friends. (Doc. 1467 at Tr. 2978–79; Ex.
3 2842 at MELC1397034 (“[Y]ou and I have been friends and I think you’ve seen you
4 know you’ve seen me go through my hives and knows whatever else.”); Ex. 2842 at
5 MELC1397042; *see also* Ex. 2894 (Tennyson gives Mackiewicz advice as a friend
6 concerning the McKessy allegations..))

7 **3. Sergeant Tennyson and Detective Zebro Subverted the Investigation.**

8 **a. Sergeant Tennyson Failed to Investigate or Follow Up on Any of**
9 **Ms. McKessy’s Allegations.**

10 776. Sergeant Tennyson and Detective Zebro met with Ms. McKessy on August
11 22, 2014. (Ex. 2016 at MELC186198.)

12 777. Sergeant Tennyson and Detective Zebro approached the interview
13 assuming that they were dealing with a woman “scorned.” (Doc. 1456 at Tr. 2184; Doc.
14 1467 at Tr. 3099–100.)

15 778. Ms. McKessy made the same allegations to Sergeant Tennyson and
16 Detective Zebro that she had made to Chief Lopez. (*See* Ex. 2893; *see also* Doc. 1456 at
17 Tr. 2180–85.)

18 779. She brought her cell phone to her meeting with Sergeant Tennyson to show
19 him Detective Mackiewicz’s payroll records of which she had taken a screen shot, but her
20 cell phone died. She also told Tennyson that the information verifying the excessive
21 overtime came from Ms. W. (*See* Ex. 2893.)

22 780. Sergeant Tennyson did not attempt to retrieve the documents on Ms.
23 McKessy’s cell phone because he found the documents to be of no evidentiary value,
24 even though he had never seen them. (Doc. 1466 at Tr. 2953–54; *see also* Doc. 1456 at
25 Tr. 2184.)

26 781. Ms. McKessy explained to Sergeant Tennyson that Detective Mackiewicz
27 was protected by Chief Deputy Sheridan, (Ex. 2893 at MELC186212–15), and that he
28 had a good relationship with Captain Bailey; however, Tennyson did not investigate

1 either statement. (Doc. 1466 at Tr. 2954–55.)

2 782. Sergeant Tennyson testified that he did not do so because the allegation did
3 not amount to a criminal allegation worth evaluating. (Doc. 1466 at Tr. 2955.)

4 783. While a personal and/or professional relationship may not in and of itself be
5 criminal, it does in this instance give rise to a conflict. To the extent that Sergeant
6 Tennyson professes that it bore no relationship to Tennyson’s criminal investigation of
7 Mackiewicz, which was being supervised by Chief Deputy Sheridan, the Court finds that
8 his testimony lacks credibility. His lack of concern demonstrates his own conflict of
9 interest in the investigation of Detective Mackiewicz.

10 784. Ms. McKessy told Sergeant Tennyson that Detective Mackiewicz had
11 inappropriately accessed some of her text messages through Cathy Woods Enriquez; yet,
12 Tennyson never looked into it. (Doc. 1467 at Tr. 2972–75.)

13 785. Sergeant Tennyson agreed with Ms. McKessy that what she brought forth
14 did not constitute a sufficient basis on which to go forward with a criminal investigation.
15 In fact, McKessy stated that she did not wish to see Detective Mackiewicz criminally
16 charged. (Ex. 2893 at MELC186259, MELC186261, MELC186264.)

17 **b. Captain Bailey, Sergeant Tennyson, and Detective Zebro**
18 **Obstructed the Investigation by Divulging Ms. McKessy’s**
19 **Allegations to Detective Mackiewicz.**

20 786. Ms. McKessy requested that Sergeant Tennyson and Detective Zebro not
21 inform Detective Mackiewicz about her complaint. Tennyson told her that “We . . . will
22 not divulge anything that’s been said today.” (Doc. 1456 at Tr. 2184–85; Ex. 2893 at
23 MELC186211, MELC186262–63.) They did say however that they were required to
24 document their investigation and interview with her, and even though it would not result
25 in criminal charges, it would be looked at on the administrative side of the PSB. She was
26 told that if an administrative investigation were pursued, Mackiewicz might eventually be
27 informed of her complaint. (Ex. 2893 at MELC186261–64.)

28 787. Despite this representation to Ms. McKessy, Sergeant Tennyson called
Detective Mackiewicz that same day. (Doc. 1456 at Tr. 2185–87.) Mackiewicz was on a

1 plane returning from Seattle. When he arrived in Phoenix, Mackiewicz had Posseman
2 Zullo's wife take him directly to the MCSO's offices to meet with Tennyson, Captain
3 Bailey, and Detective Zebro. (Ex. 2842 at MELC1397036.)

4 788. In that meeting, they discussed Ms. McKessy's allegations, (Doc. 1467 at
5 Tr. 2975), and the possibility that she was the snitch Sheriff Arpaio wished to identify
6 who had disclosed the substance of the Seattle investigation to *The New Times*. (*Id.* at Tr.
7 2987–89; Ex. 2842 at MELC1397035.)

8 789. They in fact apparently initiated some sort of surveillance on Ms. McKessy
9 to determine if she was in contact with Steve Lemons, the columnist for *The New Times*,
10 who wrote the story about the Seattle investigation. In their phone conversation the next
11 day, in which Sergeant Tennyson continued to discuss with Detective Mackiewicz the
12 details of McKessy's allegations against him, Mackiewicz comments to Tennyson that
13 “[i]f Maryann [McKessy] goes to Lemons we’ll know it’s her,” to which Tennyson
14 responds, “exactly.” (Ex. 2894.)

15 790. Detective Mackiewicz did not know that Ms. McKessy had asserted a
16 complaint against him with the PSB until he heard it in the meeting with Captain Bailey,
17 Sergeant Tennyson, and Detective Zebro. (Ex. 2842 at MELC1397037 (“I didn’t know
18 that Maryann pressed the issue with the Office until . . . you guys called me down and
19 said hey, we just met with Maryann. And I’m like what the fuck? Why did you guys
20 meet with Maryann?”).)

21 791. In that meeting, Captain Bailey advised Detective Mackiewicz not to
22 attempt to contact Ms. W. to learn about her cooperation with Ms. McKessy.
23 Mackiewicz ignored that advice. He reminded Sergeant Tennyson of that in a recorded
24 conversation that occurred a year later: “So against your advice ‘cause remember in that
25 meeting I was like I’m gonna confront [Ms. W.] and I wanna find out what fucking [Ms.
26 W.] told her. . . . And Bailey was like Brian, don’t do that. It’s not worth it. Let’s not
27 stir it up. Well, the first thing I did when I got in the car is I fucking got in [Ms. W.’s] ass
28 and I said I’m about ready to fucking get in trouble here. I wanna know what the fuck is

1 goin' on. And she's like Brian, she called me like two weeks ago telling me that she
2 wanted me to go to Internal affairs together so we could stick it up your ass and I said
3 absolutely not. I'm done. I'm over this. I don't wanna do anything with this. Nothing's
4 going on." (Ex. 2842 at MELC1397037.)

5 792. The day after Sergeant Tennyson's initial interview with Ms. McKessy, he
6 recorded a telephone exchange with Detective Mackiewicz concerning the matter.

7 793. In that interview, recorded on August 24, Detective Mackiewicz states to
8 Sergeant Tennyson that Ms. W. had spoken with Chief Deputy Sheridan about the
9 matter—apparently the day before Tennyson had his initial interview with Ms. McKessy.
10 (Ex. 2894).⁴²

11 794. In the recorded conversation, Detective Mackiewicz further asserted that
12 Ms. W. had confessed to him that Ms. McKessy had come to her about six-weeks earlier
13 and told her of Mackiewicz's concurrent relationship with McKessy and possibly others.
14 According to Mackiewicz, when McKessy told Ms. W. this, Ms. W. concluded that even
15 though she and Mackiewicz had been living together, she had no right to believe that they
16 had an exclusive relationship. Thus she was not angry and did not throw Mackiewicz's
17 stuff out on the lawn as McKessy had hoped or expected.

18 795. Rather, according to Detective Mackiewicz, Ms. W. confessed to giving
19 Ms. McKessy some of his financial information after she learned of Mackiewicz's
20 multiple relationships. Ms. W. further told Mackiewicz that she had cut off
21 communication with McKessy because she felt that McKessy was trying to drive a wedge
22 in their relationship. (Ex. 2016 at MELC186199.)

23 796. In that interview, Sergeant Tennyson told Detective Mackiewicz that the
24 matter had only to do with Mackiewicz's personal life and that the MCSO did not want
25 anything to do with it and he should just let the matter go. (Ex. 2894.)

26 797. Despite Sergeant Tennyson and Detective Zebro's representation to Ms.
27

28 ⁴² The Court does not consider this allegation for the truth of the matter asserted,
but merely for the fact that it was made to Sergeant Tennyson by Detective Mackiewicz.

1 McKessy that they would document their investigation and it would be referred to the
2 administrative side of the PSB, they shelved their investigation without writing a report.

3 **4. Lieutenant Seagraves Was Removed from the Case After Finding the**
4 **Investigation into Ms. McKessy's Allegations Deficient.**

5 798. Six months later, in February 2015, Lieutenant Seagraves became the
6 supervisor for Sergeant Tennyson and Detective Zebro.

7 799. Lieutenant Seagraves required that a report of the investigation into the
8 allegations against Detective Mackiewicz be prepared. (Doc. 1467 at Tr. 2981.)

9 800. Instead of writing the report himself, Sergeant Tennyson assigned the task
10 to Jennifer Johnson, a criminal analyst working within the PSB but not an investigator.
11 (Doc. 1467 at Tr. 2979–80; Ex. 2016.)

12 801. Ms. Johnson's report summarizes the August 22, 2014 interview of Ms.
13 McKessy by Sergeant Tennyson and Detective Zebro, and Tennyson's recorded
14 interview with Detective Mackiewicz the following day. (Ex. 2016.) The report states
15 that Ms. W. refused to cooperate with the investigation and that any information provided
16 by McKessy was not first-hand knowledge.

17 802. Lieutenant Seagraves refused to sign-off on the investigation because she
18 did not think that the allegations were appropriately investigated. (Doc. 1456 at Tr.
19 2187–88, 2193.)

20 803. Her criticisms included that:

21 a. After the initial investigation, Sergeant Tennyson and Detective
22 Zebro did not attempt to collect the documents brought in by Ms. McKessy
23 on her dead cell phone to support her charges against Detective
24 Mackiewicz. (Doc. 1466 at Tr. 2953–54; Doc. 1456 at Tr. 2184.)

25 b. Their disclosure of Ms. McKessy's complaint to Detective
26 Mackiewicz was not appropriate even assuming, as Sergeant Tennyson had
27 represented to her, that at some earlier point Ms. W. herself told
28 Mackiewicz that McKessy had approached her. (Doc. 1456 at Tr. 2184–85,

1 2187.)

2 c. The report's statement that Ms. W. would not cooperate was an
3 inappropriate statement since Ms. W. herself had never been contacted to
4 confirm as much. (Doc. 1456 at Tr. 2190–91.)

5 d. The overtime allegation had not been investigated. (Doc. 1456 at
6 Tr. 2191–92.) Captain Bailey told Lieutenant Seagraves that the overtime
7 allegation had been looked into because Chief Deputy Sheridan had told
8 him so. Seagraves confirmed this with Sheridan in a meeting, but there was
9 still no documentation in the file that the overtime allegation had in fact
10 been investigated. (*Id.* at Tr. 2191–93.) In fact, it had not been
11 investigated.

12 e. It was inappropriate for Sergeant Tennyson to request Jennifer
13 Johnson to draft the report. (Doc. 1456 at Tr. 2190, 2192–93.)

14 804. Lieutenant Seagraves took over the direction of the investigation because it
15 had not been adequately conducted. (Doc. 1456 at Tr. 2193, 2218–19.)

16 805. In that renewed investigation, Sergeant Tennyson tried to interview Sheriff
17 Arpaio to understand Detective Mackiewicz's work parameters because Mackiewicz was
18 working exclusively with Arpaio at that point. All such requests were denied. (Doc.
19 1466 at Tr. 2957–59, 2982–85; Ex. 2843.)

20 806. Lieutenant Seagraves opened additional investigations regarding Detective
21 Mackiewicz that had been disclosed by Ms. McKessy's initial allegations and that had
22 apparently been previously reported to the PSB.

23 807. Chief Deputy Sheridan signed off on initiating such investigations. For
24 example, on March 30, 2015, he approved a new criminal investigation into Detective
25 Mackiewicz's alleged steroid use. (Doc. 1498 at Tr. 3893–94; Ex. 2799.)

26 808. Sometime thereafter, Captain Bailey removed the investigation from
27 Lieutenant Seagraves because she was "hypersensitive." (Doc. 1456 at Tr. 2195.)

28

1 **5. Chief Deputy Sheridan Ensured that Detective Mackiewicz Received**
2 **No Discipline.**

3 809. Detective Mackiewicz was placed on administrative leave on August 4,
4 2015 without receiving notice as to why. (Ex. 2842 at MELC1397033.) He called
5 Sergeant Tennyson and left a message. On August 5, 2015, Tennyson returned
6 Mackiewicz's phone call and at Lieutenant Seagraves direction he recorded part of that
7 telephone call. According to Tennyson, he was unable to record the entire telephone call
8 because the batteries on his device ran out.

9 810. In that call, in addition to making the statements described above, Detective
10 Mackiewicz referenced the meeting in Captain Bailey's office that took place on the
11 same night that Ms. McKessy had her interview with Sergeant Tennyson. Mackiewicz
12 further referenced an additional communication he had allegedly received from "Jerry"
13 informing him that the investigation of him that had been closed needed be reopened, but
14 he should not worry about it. Mackiewicz stated:

15 I'm gonna speak frank with you 'cause I can trust you. But you know
16 when, when I got back and I sat in your when I sat in Bailey's office and
17 you, you, Bailey and Zebro were there, I was under the impression because
18 of not, not because of how it was handled but, um, it was what it was. You,
19 you were, obviously, the Sheriff wanted to find out who the snitch was.
20 We didn't know if it was McKessie [sic] or not blah, blah, blah. Makes all
21 those allegations. And then you investigate it. Basically, hey you know
22 what, there's nothin' here. You go ahead and close it out and the next thing
23 you know, I'm getting a call from Jerry saying hey, you know what don't
24 worry about it but we gotta open it back up again. And we're giving it to
25 Sparman because you know we just wanna make sure that everything looks
26 transparent and obviously they don't like Dave. And they're gonna say that
27 you know Dave just (unintel 6:06) it up you know what I mean. And they
28 didn't want that to happen.

(Ex. 2842 at MELC1397035.)⁴³

811. During the October hearing, the Court asked Chief Deputy Sheridan
whether he ever considered that he should assign out the oversight of the investigations of
Detective Mackiewicz since Mackiewicz was a scheduled witness in the contempt

⁴³ The Court does not consider Mackiewicz's statements about his conversations
with Jerry Sheridan for the truth of the matter asserted. It considers them merely for the
fact that the allegations were made to Sergeant Tennyson.

1 proceeding against Sheridan. (Doc. 1417 at Tr. 1597–98.)

2 812. Chief Deputy Sheridan answered that when he heard, a week prior to his
3 testimony, that Detective Mackiewicz had made some comments that would result in an
4 administrative investigation into Sheridan, he then assigned the responsibility to
5 supervise the investigation into Mackiewicz over to Chief Trombi; yet, no written record
6 exists of such an assignment. (Doc. 1417 at Tr. 1597–98.)

7 813. The investigation was subsequently turned over by the MCSO to the
8 Arizona Attorney General and the State Department of Public Safety.

9 **6. The Court Finds that Conflicts, Untruthfulness, Manipulation, and**
10 **Malfeasance Pervade the MCSO’s Investigation of Ms. McKessy’s**
11 **Allegations.**

12 814. In his April 24, 2015 testimony, Chief Deputy Sheridan testified that he did
13 not believe there were any matters referred to the PSB for investigation related to the
14 Seattle investigation. On the resumption of the hearing in the fall, after the MCSO
15 disclosed the investigation into Detective Mackiewicz’s overtime records, he
16 acknowledged that his earlier testimony had been incorrect. Nevertheless, based on the
17 evidence, the Court finds that he had intentionally concealed in his April 24 testimony the
18 existence of such investigation.

19 815. To have not “believed” that there were such investigations on April 24,
20 2015 would have required Chief Deputy Sheridan to forget that: (1) he had authorized a
21 criminal investigation arising from the Seattle investigation of (2) a social friend from
22 whom (3) he and his wife had financially benefited. Sheridan would also have to forget
23 that (4) he knew that Ms. McKessy alleged that Sheridan’s relationship with Detective
24 Mackiewicz would result in Mackiewicz’s protection, and (5) after the resumption of the
25 investigation by Lieutenant Seagraves, Sheridan himself had authorized the investigation
26 of additional criminal charges against Mackiewicz, and (6) Sheridan had authorized such
27 an investigation just three-weeks before he offered his April testimony.

28 816. The Court thus finds that Chief Deputy Sheridan’s testimony in this respect
is untruthful.

1 817. Further when Chief Deputy Sheridan testified that he had, a week earlier,
2 turned the management of the investigations into Detective Mackiewicz over to Chief
3 Trombi, his testimony was not credible.

4 818. Immediately prior to this testimony, Chief Deputy Sheridan testified that he
5 continued to oversee all of the criminal and administrative investigations into Detective
6 Mackiewicz. Only when he was confronted with questions regarding his conflicts in
7 maintaining oversight of the Mackiewicz investigation did he state that he had actually
8 turned it over to Chief Trombi. Furthermore, he acknowledged that there was no record
9 that he had, in fact, reassigned oversight of the investigations to Trombi.

10 819. Even if it were true that Chief Deputy Sheridan had turned over oversight
11 of the investigation to Chief Trombi a week earlier, Sheridan should have removed
12 himself from all oversight of any investigation into Detective Mackiewicz at its very
13 initial stages. Wholly aside from Ms. McKessy's allegations that Mackiewicz's
14 relationships with Sheridan and Captain Bailey would protect him, Mackiewicz did
15 indeed have such relationships. Moreover, Sheridan knew that Mackiewicz was going to
16 be testifying in his noticed evidentiary hearing. Sheridan also presumably knew for at
17 least a year that Mackiewicz had asserted to Tennyson that Sheridan had discussed the
18 McKessy allegations, even before the McKessy interview itself, with Ms. W.

19 820. Chief Deputy Sheridan maintained control of the investigations into
20 Detective Mackiewicz precisely because he wanted to insure that nothing came of them,
21 both because of his personal and professional relationship with Mackiewicz and because
22 he wished to keep secret the Seattle operation in which Mackiewicz had been working.

23 821. Thus, Chief Deputy Sheridan designated the investigation as a criminal one
24 and assigned the investigation to Sergeant Tennyson—Detective Mackiewicz's friend.
25 Tennyson was under the supervision of Captain Bailey—also Mackiewicz's friend.

26 822. Sergeant Tennyson, Captain Bailey, and Detective Zebro subverted any
27 criminal investigation, and demonstrated that they had no intent of performing any
28 legitimate investigation by immediately informing Detective Mackiewicz of Ms.

1 McKessy's allegations.

2 823. Chief Deputy Sheridan also made an intentional misstatement of fact to
3 Lieutenant Seagraves when he told her that an investigation into the overtime allegations
4 had already been completed when it had not been.

5 824. Captain Bailey further took steps to subvert any legitimate criminal
6 investigation by removing Lieutenant Seagraves from the investigation

7 825. At the least, in their management and conduct of the investigations into
8 Detective Mackiewicz, Chief Deputy Sheridan, Captain Bailey, Sergeant Tennyson,
9 Detective Zebro, and Mackiewicz himself violated multiple MCSO policies.⁴⁴ (Ex. 2001
10 at MELC416255-58.)

11 **D. Structural Inadequacies Pervade the MCSO's Internal Investigations.**

12 **1. The MCSO Did Not Provide Adequate Training On How to Conduct**
13 **an Internal Investigation.**

14 826. There is no requirement or practice that the MCSO train PSB officers on
15 conducting internal affairs investigations. (Doc. 1467 at Tr. 3189-90.)

16 827. Captain Bailey had no training in internal affairs at the time that he took
17 charge of the PSB. (Doc. 1467 at Tr. 3148.) And he never did receive training on IA
18 investigations even while he was in charge of the PSB. (*Id.* at Tr. 3148-49.) He
19 acknowledges that it would have been helpful.

20 828. Chief Deputy Sheridan has never been trained in IA investigations. (Doc.
21 1417 at Tr. 1539.)

22 829. Chief Olson does not appear to have an appropriate understanding of the
23 application of the MCSO disciplinary matrix. (Doc. 1495 at Tr. 3511.)

24 830. Lieutenant Seagraves received some external training in how to conduct
25 internal investigations in 2004. Yet she received no such training on her return to the

26 _____
27 ⁴⁴ There are also allegations of additional acts that would constitute misconduct if
28 they are correct. They include Detective Mackiewicz's allegations that Chief Deputy
Sheridan was in contact with both him and his girlfriend throughout the time when he
maintained supervision over the investigation.