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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

United States of America,  
  
Plaintiff,  
  
v.  
  
Maricopa County, Arizona; Maricopa County  
Sheriff's Office; and Joseph M. Arpaio, in his  
official capacity as Sheriff of Maricopa  
County, Arizona,  
  
Defendants.

No. 2:10-cv-01878-LOA

**FIRST AMENDED COMPLAINT**

Plaintiff, the United States of America, by its undersigned attorneys, brings this civil action for declaratory and injunctive relief, and alleges as follows:

1 **INTRODUCTION**

2 1. The United States brings this action to enforce Title VI of the Civil Rights Act  
3 of 1964, the Title VI implementing regulations issued by the United States Department  
4 of Justice, and related contractual assurances. The United States seeks declaratory and  
5 injunctive relief against Maricopa County, Arizona; the Maricopa County Sheriff’s  
6 Office (MCSO); and Sheriff Joseph M. Arpaio (collectively, Defendants).

7 2. Accountability for taxpayer funds is a fundamental element of Title VI, its  
8 implementing regulations, and the contractual assurance agreements that all recipients  
9 sign as a condition of receiving federal financial assistance. As recipients of federal  
10 financial assistance, Defendants are required by law, regulation, and contract to  
11 provide the United States with access to documents, other sources of information, and  
12 facilities in connection with Title VI investigations or compliance reviews.

13 3. Since March 2009, the United States has attempted to secure Defendants’  
14 voluntary cooperation with the United States’ investigation of alleged national origin  
15 discrimination in Defendants’ police practices and jail operations. Despite notice of  
16 their obligation to comply in full with the United States’ requests for information,  
17 Defendants have refused to do so. Defendants’ refusal to cooperate with reasonable  
18 requests for information regarding the use of federal funds is a violation of  
19 Defendants’ statutory, regulatory, and contractual obligations. The United States  
20 accordingly seeks a judgment granting declaratory and injunctive relief for  
21 Defendants’ violations of the law.

22 4. The United States, on information and belief, alleges:

23 **DEFENDANTS**

24 5. Maricopa County is a political subdivision of the State of Arizona. Maricopa  
25 County programs and activities receive federal financial assistance from the United  
26 States Department of Justice (DOJ).

27 6. MCSO is a law enforcement agency in Maricopa County. MCSO is a program  
28 or activity that receives federal financial assistance from DOJ, both directly and as a

1 subrecipient of Maricopa County.

2 7. Joseph M. Arpaio is the Sheriff of Maricopa County and is responsible for the  
3 operation of MCSO.

#### 4 **JURISDICTION AND VENUE**

5 8. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and  
6 1345.

7 9. The United States is authorized to initiate this action under Title VI, 42 U.S.C.  
8 §§ 2000d to 2000d-7; and the Title VI implementing regulations, 28 C.F.R. §§ 42.101  
9 to 42.112.

10 10. Declaratory and injunctive relief is sought as authorized by 28 U.S.C. §§ 2201  
11 and 2202.

12 11. Venue is proper in the District of Arizona pursuant to 28 U.S.C. § 1391(b).  
13 Defendants reside in Arizona, and a substantial part of the events or omissions giving  
14 rise to this claim occurred in Arizona.

#### 15 **FACTS**

16 12. Title VI prohibits discrimination on the ground of race, color, or national  
17 origin in any program or activity receiving federal financial assistance. 42 U.S.C.  
18 § 2000d. DOJ has issued regulations to implement the provisions of Title VI. 42  
19 U.S.C. § 2000d-1; 28 C.F.R. §§ 42.101 to 42.112.

20 13. The Title VI implementing regulations require, among other obligations, that  
21 recipients of federal financial assistance permit access by DOJ to such sources of  
22 information and facilities as may be pertinent to ascertain compliance with Title VI  
23 and the implementing regulations. 28 C.F.R. §§ 42.106, 42.107.

24 14. The Title VI implementing regulations also require that every application for  
25 federal financial assistance be accompanied by a contractual assurance that the  
26 program will be conducted in compliance with all requirements imposed by Title VI  
27 and the implementing regulations. 28 C.F.R. § 42.105(a)(1). Such assurances apply to  
28 the direct recipient as well as to subrecipients that receive a disbursement of funds from the

1 direct recipient. 28 C.F.R. §§ 42.102(f), 42.105(b).

2 15. At all relevant times described in this complaint, Defendants have been and  
3 remain recipients of federal financial assistance from DOJ, either directly or through  
4 another recipient of federal financial assistance.

5 16. Maricopa County has received the following grants from the DOJ Office of  
6 Justice Programs, Bureau of Justice Assistance:

- 7 a. A Justice Assistance Grant (JAG Grant) in the amount of \$578,399, with  
8 an award date of September 4, 2008, and a grant period through September  
9 30, 2011;
- 10 b. A Fiscal Year 2009 Recovery Act JAG Grant in the amount of  
11 \$10,536,695, with an award date of August 3, 2009, and a grant period  
12 through February 28, 2013; and
- 13 c. A Fiscal Year 2009 Edward Byrne Memorial JAG Grant in the amount of  
14 \$2,429,831, with an award date of August 21, 2009, and a grant period  
15 through September 30, 2012.

16 17. Maricopa County has provided significant funding from the grants identified  
17 in paragraph 16 to MCSO through sub-awards.

18 18. MCSO received a grant from the DOJ Office of Community Oriented  
19 Policing Services in 2007 in the amount of \$449,999. This grant has an award period  
20 of September 1, 2007 through August 31, 2010, and a remaining balance of  
21 approximately \$18,543.

22 19. MCSO participates in the DOJ Equitable Sharing Program, which is  
23 administered by the DOJ Criminal Division, Asset Forfeiture and Money Laundering  
24 Section (AFMLS). According to DOJ equitable sharing records, MCSO received  
25 equitable sharing payments and tangible assets in the following amounts:

- 26 a. \$3,726.98 during its Fiscal Year 2006-07 (from July 1, 2006, to June 30,  
27 2007);
- 28 b. \$156,945.31 during its Fiscal Year 2007-08;

- 1 c. \$126,813.44 during its Fiscal Year 2008-09;
- 2 d. \$235,706.50 during its Fiscal Year 2009-10; and
- 3 e. \$31,162.12 during the first two months of its Fiscal Year 2010-11 (from  
4 July 1, 2010, through August 31, 2010).

5 20. As a condition of receiving federal financial assistance, Maricopa County  
6 has, through its authorized representatives, signed contractual assurances agreeing to  
7 comply with all requirements imposed by Title VI and the implementing regulations.  
8 These requirements include providing DOJ with access to and the right to examine  
9 records and other sources of information. The assurances signed by Maricopa County  
10 bind subsequent recipients and subgrantees, including MCSO, to whom Maricopa  
11 County disburses the funds.

12 21. As a condition of receiving federal financial assistance, MCSO has, through  
13 its authorized representatives including Defendant Arpaio, signed contractual  
14 assurances agreeing to comply with all requirements imposed by Title VI and the  
15 implementing regulations. These requirements include providing DOJ with access to  
16 and the right to examine records and other sources of information.

17 22. In June 2008, the United States, through the DOJ Civil Rights Division,  
18 opened a preliminary inquiry into allegations that MCSO was engaged in a pattern or  
19 practice of discriminatory law enforcement conduct.

20 23. On March 10, 2009, the United States notified Defendants that DOJ was  
21 initiating an investigation of MCSO regarding alleged discrimination in violation of  
22 the prohibition on national origin discrimination in Title VI, 42 U.S.C. § 2000d; the  
23 pattern or practice provisions of the Omnibus Crime Control and Safe Streets Act of  
24 1968, 42 U.S.C. § 3789d; and the pattern or practice provisions of the Violent Crime  
25 Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141. The United States  
26 informed MCSO that the investigation would focus on allegations of discriminatory  
27 police practices and jail operations.

28 24. On March 25, 2009, the United States supplied Defendants with its First

1 Request for Documents and Information (First Request), which consisted of fifty-one  
2 requests for documents. Representatives of the United States and Defendants  
3 conferred by telephone in March and April 2009 to discuss details related to the  
4 production of the documents and information requested by the United States.

5 25. Representatives of the United States and Defendants met in Phoenix, Arizona  
6 on April 30, 2009, to discuss the logistics of the investigation and document  
7 production. The United States explained that its investigation of MCSO would involve  
8 extensive document review, facility tours, and interviews with command staff, line  
9 officers, non-officer staff, and jail inmates.

10 26. On May 12, 2009, MCSO provided the United States with eleven pages of  
11 documents. This initial production was partially responsive to three of the fifty-one  
12 requests in the First Request.

13 27. On May 12, May 20, and May 27, 2009, the United States sought additional  
14 information from Defendants regarding the status of the remaining document  
15 production.

16 28. On May 29, 2009, MCSO informed the United States that it would no longer  
17 cooperate with the investigation and would not respond further to any document  
18 requests or other requests for access to sources of information issued by the United  
19 States.

20 29. On June 22, 2009, an attorney for MCSO reiterated MCSO's refusal to  
21 cooperate during a conference call with representatives of the United States.

22 30. On July 7, 2009, Defendant Arpaio held a press conference and announced  
23 publicly that MCSO would not cooperate with the United States' investigation, either  
24 by providing documents or permitting interviews with personnel.

25 31. On July 16, 2009, MCSO indicated to the United States that it would  
26 consider limited and partial cooperation with one portion of the investigation  
27 (involving the provision of services to persons with limited English proficiency in  
28 MCSO jail facilities), but would not cooperate with the remainder of the investigation.

1           32. On August 12, 2009, MCSO represented that it would provide this limited  
2 cooperation in the form of a position statement by October 2009. No statement or  
3 documents were produced by October 2009.

4           33. On November 10, 2009, MCSO represented that it would produce the limited  
5 position statement by mid-December 2009. No statement or documents were produced  
6 by mid-December 2009.

7           34. MCSO produced the limited position statement on June 14, 2010. The  
8 position statement contained documents fully responsive to only two of the fifty-one  
9 requests in the First Request, did not contain any information relevant to the  
10 allegations of national origin discrimination in MCSO police practices, and did not  
11 include any agreement to permit access to MCSO facilities or personnel.

12           35. On August 3, 2010, the United States notified Defendants that they were not  
13 in compliance with Title VI, its implementing regulations, and related contractual  
14 assurances. The United States requested compliance by August 17, 2010, and advised  
15 Defendants that absent full cooperation by that date, the United States would conclude  
16 that compliance could not be secured by voluntary means.

17           36. In a letter dated August 5, 2010, MCSO refused to cooperate in full with  
18 DOJ's investigation of both MCSO police practices and jail operations. MCSO also  
19 requested a meet-and-confer to discuss the United States' August 3 letter.

20           37. On August 12, 2010, Maricopa County acknowledged the obligation of  
21 federal fund recipients to cooperate with DOJ investigations, and directed MCSO to  
22 fully cooperate in any DOJ Title VI inquiry.

23           38. MCSO responded to Maricopa County the next day and refused to comply  
24 with Maricopa County's instruction.

25           39. Maricopa County has been unable to compel MCSO to produce all of the  
26 requested documents, and is unable to secure access to MCSO's facilities and staff.

27           40. On August 24, 2010, the United States and MCSO held a meet-and-confer to  
28 discuss the United States' investigation and requests for access. The United States

1 memorialized that meeting and communicated its expectations in writing the following  
2 day. The United States also clarified and narrowed the scope of the two document  
3 requests as to which MCSO had requested clarification during the meet-and-confer.

4 41. On August 27, 2010, MCSO advised the United States by letter that it would  
5 not cooperate in full with the investigation.

6 42. The United States has determined that all administrative requirements have  
7 been exhausted and securing compliance from Defendants cannot be achieved by  
8 voluntary means.

9 43. On September 2, 2010, the United States notified Defendants that they had  
10 failed to comply with Title VI, its implementing regulations, and related contractual  
11 assurances, and that this lawsuit would follow.

12 **FIRST CLAIM FOR RELIEF:**  
13 **DEFENDANTS' DENIAL OF ACCESS TO SOURCES OF**  
14 **INFORMATION VIOLATES TITLE VI AND ITS IMPLEMENTING**  
15 **REGULATIONS**

16 44. Plaintiff re-alleges and incorporates by reference the allegations set forth in  
17 paragraphs 1-43 above.

18 45. Defendants received and continue to receive federal financial assistance for  
19 their programs and activities.

20 46. Defendants have denied the United States access to such sources of  
21 information and facilities as may be pertinent to ascertain compliance with Title VI  
22 and its implementing regulations.

23 47. Defendants' denial of access to these sources of information and facilities  
24 violates Title VI and its implementing regulations.

25 **SECOND CLAIM FOR RELIEF:**  
26 **DEFENDANTS' DENIAL OF ACCESS TO SOURCES OF**  
27 **INFORMATION VIOLATES THE TITLE VI ASSURANCES**

28 48. Plaintiff re-alleges and incorporates by reference the allegations set forth in  
paragraphs 1-43 above.

49. Defendants signed contractual assurance agreements with the United States



1 that all programs and activities receiving federal financial assistance would be  
2 conducted in compliance with all of the requirements of Title VI and its implementing  
3 regulations, including providing the United States with the right of access to  
4 documents, facilities, and other sources of information as may be pertinent to ascertain  
5 compliance with Title VI and the implementing regulations.

6 50. Defendants have denied the United States the right of access to documents,  
7 facilities, and other sources of information as are pertinent to ascertain compliance  
8 with Title VI and the implementing regulations.

9 51. Defendants' denial of access violates the Title VI assurances.

10 **PRAYER FOR RELIEF**

11 52. The United States is authorized by Title VI and its implementing regulations  
12 to seek relief for Defendants' refusal to provide the United States with access to  
13 documents, facilities, and other sources of information necessary for the United States  
14 to determine whether Defendants are in compliance with the nondiscrimination  
15 requirements of Title VI and its implementing regulations.

16 WHEREFORE, the United States prays that the Court:

- 17 a. Declare that Defendants have violated Title VI, its implementing  
18 regulations, and related contractual assurances by failing to provide the  
19 United States with access to documents, facilities, and other sources of  
20 information pertaining to the investigation of alleged national origin  
21 discrimination;
- 22 b. Direct Defendants to provide the United States access to documents,  
23 facilities, and other sources of information pertaining to its investigation,  
24 including by directing Defendants to comply with the First Request for  
25 Documents and Information, and all future requests; and
- 26 c. Order such other relief as the interests of justice may require.
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DATED: September 13, 2010

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