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7 8	Attorneys for Defendants Maricopa County Sheriff's Office and Joseph M. Arpaio		
9	UNITED STATES DISTRICT COURT		
10	DISTRICT OF ARIZONA		
11	United States of America,	NO. CV10-01878-PHX-GMS	
12	Plaintiff,	DEFENDANTS' SUPPLEMENTAL	
13	V.	STATEMENT OF FACTS IN SUPPORT OF REPLY TO CROSS-	
14	Maricopa County, Arizona; Maricopa County	MOTION FOR SUMMARY JUDGMENT	
15	Sheriff's Office; and Joseph M. Arpaio, in his official capacity as Sheriff of Maricopa		
16	County, Arizona, Defendants.		
17	Defendants.		
18	Defendants through counsel i	andersigned, submit their Supplement	
19	-		
20	Statement of Facts in Support of their Reply to Cross-Motion for Summary Judgment. 1. The scheduling of inmate and MCSO staff interviews was not		
21	particularly an easy task. (See Exhibit 1 – Affidavit of John T. Masterson and Joseph		
22	J. Popolizio)		
23		schedules of MCSO and DOJ lawyers, as	
24	well as MCSO personnel. (<i>Id.</i>)		
25	3. At all times, MCSO personnel, attorneys, and paralegals facilitated as		
26	seamless an interview process as possible under the circumstances – something for which		
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1	the DOJ personnel openly expressed appreciation. (Id.) (See Exhibit 2 - E-mail		
2	exchange between Joseph J. Popolizio and Kavitha Sreeharsha dated February 4, 2011)		
3	4. As the Title VI investigation moved forward in January 2011, DOJ		
4	attorneys and jail consultants continued to interview inmates in the Maricopa County Jail		
5	system. (See Exhibit 3 – Affidavit of Sergeant James Seibert)		
6	5. To facilitate the DOJ's inmate interview process, MCSO provided		
7	the DOJ with inmate rosters from which the DOJ selected interviewees. (Id.)		
8	6. MCSO also reserved legal visitation rooms for the DOJ to conduct		
9	these interviews. (Id.)		
10	7. MCSO did not limit the length or the number of these inmate		
11	interviews, nor did it limit the availability of any inmate for interview. (Id.)		
12	8. In the infrequent event that an inmate whom the DOJ randomly		
13	selected was unavailable, the unavailability was due to circumstances such as a previously		
14	scheduled medical visit or work shift of the particular inmate. (<i>Id.</i>)		
15	9. On one occasion, on the morning of January 25, 2011, an inmate at		
16	Durango jail appeared for an interview, but needed a Spanish interpreter. (Id.)		
17	10. As the DOJ did not have an interpreter present as it had for other		
18	interviews, the inmate's interview was postponed until that afternoon when an interprete		
19	could be present. (Id.)		
20	11. The interview process continued according to DOJ requests and		
21	agreed upon guidelines with few understandable limitations stemming from the necessar		
22	and expected security measures of jails. (Id.)		
23	12. The DOJ conducted inmate interviews outside the presence of MCSO		
24	personnel and attorneys as the DOJ requested, on dates and times that the DOJ requested.		
25	(Id.)		
26	13. The DOJ conducted 59 inmate interviews in January 2011 alone.		
27	(Id.)		
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1	14. Thus, to date, the DOJ has conducted a total of 145 inmate	
2	interviews in furtherance of their Title VI investigation, and all occurred with the	
3	assistance and cooperation of MCSO personnel and attorneys. (Id.)	
4	15. In January and February 2011, MCSO coordinated the interviews of	
5	both detention and patrol staff from an array of duty assignments. (See Exhibit 4 -	
6	Affidavit of Lieutenant Doris Culhane)	
7	16. Like the inmate interviews, the DOJ selected those staff members to	
8	interview, and MCSO made them available. (Id.)	
9	17. In all, the DOJ requested and conducted 85 staff member	
10	interviews, including interviews of 53 command staff (i.e., personnel holding the rank of	
11	Sergeant and above). (Id.)	
12	18. The 53 command staff included 5 administrative, 31 detention, and	
13	17 patrol staff members. (<i>Id.</i>)	
14	19. On the detention side, the DOJ interviewed 4 Chiefs, 6 Captains, 18	
15	Lieutenants, 1 Sergeant, and 18 Detention Officers; the DOJ also interviewed 2 civilian	
16	supervisors and 1 civilian employee. (<i>Id.</i>)	
17	20. On the law enforcement side, the DOJ interviewed 5 Chiefs, 8	
18	Captains, 2 Lieutenants, 2 Sergeants, 2 Volunteer Posse Members, and 11 Deputies. (Id.)	
19	21. The DOJ has also interviewed Sheriff Joseph M. Arpaio . (See Exh.	
20	1)	
21	22. Although this interview was originally scheduled for January 28,	
22	2011, the DOJ cancelled that interview because of inclement weather in Washington,	
23	D.C., and rescheduled it for February 11, 2011. (Id.)	
24	23. The DOJ did not complete Sheriff Arpaio's interview on February	
25	11, 2011, however, but, with Sheriff Arpaio's accommodation, it resumed and concluded	
26	on February 17, 2011. (<i>Id.</i>)	
27	24. His two interviews exceeded previously agreed upon time limits.	
28	(Id.)	
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- 25. MCSO's response to the United State's First Request for Production of Documents and Information is overwhelming. (*Id.*)
- 26. In addition to the 13,669 pages of documentation and a terabyte hard drive containing 931 gigabytes, the MCSO also made available 116 boxes of documents produced in response to the First Request. (*Id.*)
- DOJ attorneys have reviewed documents the contained in those boxes on **four occasions** at the offices of MCSO's lawyers: December 17, 2010 and January 3, 4, 5, 2011. (*Id.*)
- 28. On many occasions, MCSO lawyers have made clear that DOJ is welcome to resume its review of these documents upon reasonable notice and within normal business hours. (*Id.*)
- 29. To assist the DOJ in its evaluation of the voluminous documentation and information that MCSO has produced, MCSO attorneys have offered to provide the DOJ assistance to evaluate the boxed and electronic information previously provided in response to the DOJ's First Request for Documents and Information. (*Id.*)
- 30. MCSO's cooperation and allowed access to information has occurred and will continue to occur. (*Id.*)
- 31. As the DOJ nears the conclusion of this Title VI investigation, MCSO's pledge of cooperation, among other things, will appear in an agreement between the parties intended to conclude this investigation. (*Id.*)
- 32. Since Jones, Skelton & Hochuli, P.L.C. became counsel of record on October 2, 2010, the United States has received nothing short of complete cooperation in its investigation, including total access to MCSO staff, facilities, and documents, which is precisely the injunctive and declaratory relief the United States seeks in this lawsuit. (*Id.*)
- 33. As an acknowledgement of the MCSO's continued cooperation, the DOJ proposed entering into an agreement that would identify the few items that the DOJ deems left to accomplish in this Title VI investigation. (*Id.*)

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1	34. Although discussions regarding a contemplated agreement date back
2	at least to the beginning of February, 2011, and were formally acknowledged in the
3	Stipulation filed on February 25, 2011, the United States delivered a draft of this
4	proposed "go forward" agreement on April 13, 2011. (Id.)
5	35. The draft agreement outlines the tasks that the DOJ believes it has
6	left to accomplish, including limited follow-up interviews and review of certain
7	documents. (Id.)
8	36. The proposed agreement also includes a reasonable time period in
9	which to finalize the DOJ's investigation, followed by a dismissal of this case. (Id.)
10	37. The MCSO is confident that it will enter into an agreement which
11	will lead to the conclusion of the Title VI investigation and this action shortly. (Id.)
12	DATED this 26th day of April, 2011.
13	JONES, SKELTON & HOCHULI, P.L.C.
14	
15	By <u>/s/Joseph J. Popolizio</u> William R. Jones, Jr.
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1	COPY e-mailed
2	this 26th day of April, 2011, to:
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4	Roy L. Austin, Jr. Matthew Colangelo
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