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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE DISTRICT OF ARIZONA
12

13 United States of America,
14 Plaintiff,

15 v.

16 Maricopa County, Arizona; Maricopa County
17 Sheriff's Office; and Joseph M. Arpaio, in his
official capacity as Sheriff of Maricopa
18 County, Arizona,

19 Defendants.
20

No. _____

COMPLAINT

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

23 **INTRODUCTION**

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

1 9. The United States is authorized to initiate this action under Title VI, 42 U.S.C.
2 §§ 2000d to 2000d-7; and the Title VI implementing regulations, 28 C.F.R. §§ 42.101
3 to 42.112.

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

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

9 **FACTS**

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

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

18 14. The Title VI implementing regulations also require that every application for
19 federal financial assistance be accompanied by a contractual assurance that the
20 program will be conducted in compliance with all requirements imposed by Title VI
21 and the implementing regulations. 28 C.F.R. § 42.105(a)(1). Such assurances apply to
22 the direct recipient as well as to subrecipients that receive a disbursement of funds from the
23 direct recipient. 28 C.F.R. §§ 42.102(f), 42.105(b).

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

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

- 1 a. A Fiscal Year 2009 Recovery Act Edward Byrne Memorial Competitive
- 2 Grant in the amount of \$2,045,584;
- 3 b. A Fiscal Year 2009 Recovery Act Southern Border/HIDTA Grant in the
- 4 amount of \$685,993;
- 5 c. A Fiscal Year 2009 Edward Byrne Memorial Justice Assistance Grant
- 6 (JAG Grant) in the amount of \$2,429,831; and
- 7 d. A Fiscal Year 2009 Recovery Act JAG Grant in the amount of
- 8 \$10,536,695.

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

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

15 19. MCSO participates in the DOJ Equitable Sharing Program, which is
16 administered by the DOJ Criminal Division, Asset Forfeiture and Money Laundering
17 Section (AFMLS). In its annual Equitable Sharing Agreement and Certification
18 Report to AFMLS for Fiscal Year 2009, MCSO reported a year-end balance in its
19 equitable sharing revenue account of \$231,927.26. According to DOJ equitable
20 sharing records, during its Fiscal Year 2010, MCSO received equitable sharing
21 payments and tangible assets totaling \$235,706.50, and has received equitable sharing
22 payments totaling \$31,162.12 since the beginning of MCSO's 2011 fiscal year, which
23 began on July 1, 2010.

24 20. As a condition of receiving federal financial assistance, Maricopa County
25 has, through its authorized representatives, signed contractual assurances agreeing to
26 comply with all requirements imposed by Title VI and the implementing regulations.
27 These requirements include providing DOJ with access to and the right to examine
28 records and other sources of information. The assurances signed by Maricopa County

1 bind subsequent recipients and subgrantees, including MCSO, to whom Maricopa
2 County disburses the funds.

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

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

11 23. On March 10, 2009, the United States notified Defendants that DOJ was
12 initiating an investigation of MCSO regarding alleged discrimination in violation of
13 the prohibition on national origin discrimination in Title VI, 42 U.S.C. § 2000d; the
14 pattern or practice provisions of the Omnibus Crime Control and Safe Streets Act of
15 1968, 42 U.S.C. § 3789d; and the pattern or practice provisions of the Violent Crime
16 Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141. The United States
17 informed MCSO that the investigation would focus on allegations of discriminatory
18 police practices and jail operations.

19 24. On March 25, 2009, the United States supplied Defendants with its First
20 Request for Documents and Information (First Request), which consisted of fifty-one
21 requests for documents. Representatives of the United States and Defendants
22 conferred by telephone in March and April 2009 to discuss details related to the
23 production of the documents and information requested by the United States.

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

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

4 27. On May 12, May 20, and May 27, 2009, the United States sought additional
5 information from Defendants regarding the status of the remaining document
6 production.

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

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

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

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

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

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

26 34. MCSO produced the limited position statement on June 14, 2010. The
27 position statement contained documents fully responsive to only two of the fifty-one
28 requests in the First Request, did not contain any information relevant to the

1 allegations of national origin discrimination in MCSO police practices, and did not
2 include any agreement to permit access to MCSO facilities or personnel.

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

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

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

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

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

18 40. On August 24, 2010, the United States and MCSO held a meet-and-confer to
19 discuss the United States' investigation and requests for access. The United States
20 memorialized that meeting and communicated its expectations in writing the following
21 day. The United States also clarified and narrowed the scope of the two document
22 requests as to which MCSO had requested clarification during the meet-and-confer.

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

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

28 43. On September 2, 2010, the United States notified Defendants that they had

1 failed to comply with Title VI, its implementing regulations, and related contractual
2 assurances, and that this lawsuit would follow.

3 **FIRST CLAIM FOR RELIEF:**
4 **DEFENDANTS' DENIAL OF ACCESS TO SOURCES OF**
5 **INFORMATION VIOLATES TITLE VI AND ITS IMPLEMENTING**
6 **REGULATIONS**

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

9 45. Defendants received and continue to receive federal financial assistance for
10 their programs and activities.

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

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

16 **SECOND CLAIM FOR RELIEF:**
17 **DEFENDANTS' DENIAL OF ACCESS TO SOURCES OF**
18 **INFORMATION VIOLATES THE TITLE VI ASSURANCES**

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

21 49. Defendants signed contractual assurance agreements with the United States
22 that all programs and activities receiving federal financial assistance would be
23 conducted in compliance with all of the requirements of Title VI and its implementing
24 regulations, including providing the United States with the right of access to
25 documents, facilities, and other sources of information as may be pertinent to ascertain
26 compliance with Title VI and the implementing regulations.

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

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

PRAYER FOR RELIEF

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

WHEREFORE, the United States prays that the Court:

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

DATED: September 2, 2010

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