



Commission to Restore Trust in Policing



Annapolis, Maryland
December 2020

Commission to Restore Trust in Policing

December 2, 2020

The Honorable Lawrence J. Hogan, Jr., Governor of Maryland
The Honorable Bill Ferguson, President of the Senate
The Honorable Adrienne A. Jones, Speaker of the House of Delegates

Lady and Gentlemen:

Herewith, the Commission transmits to you its final report under Chapter 753 of the Acts of the General Assembly of 2018, as amended by Chapters 459 and 460 of the Acts of the General Assembly of 2019.

The Commission's final report is the culmination of over two years of investigation and represents thousands of hours of commissioner, staff, and counsel time. Over the past two years, the Commission held 20 public hearings and heard from witnesses from a variety of entities and backgrounds. The Commission and its staff collected and reviewed tens of thousands of pages of documents relating to the internal affairs files of members of the Gun Trace Task Force (GTTF), as well as documents pertaining to Baltimore City Police Department (BPD) chain-of-command before, during, and after the GTTF scandal.

On behalf of the Commission, I trust that the findings in this report will provide public officials and citizens with meaningful insight into the underlying circumstances which allowed the GTTF to operate unchecked for so many years. I also trust that the recommendations will provide the State of Maryland and BPD with clear suggestions on how to restore trust in policing.

While we believe that our recommendations are truly meaningful, we understand that there are still awesome challenges associated with restoring trust in policing and reforming BPD. The restoration of truth and integrity in policing will not happen overnight, as the State and its law enforcement community must earn the public's trust through the implementation of meaningful reform.

I would like to thank all of the commissioners who have served so dutifully over the last 2 years. Their dedication to public service, as well as their respective and collective experiences and insight were invaluable to our process. I would also like to thank the Department of Legislative Services staff who supported our efforts throughout this process, as well as the attorneys at Gallagher, Evelius, and Jones who provided legal counsel.

Sincerely,



Alexander Williams, Jr.
Chair

AWJ/msr

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I. SUMMARY OF KEY FINDINGS CONCERNING THE GTTF SCANDAL

In carrying out its mission as directed by the General Assembly, over the past two years, the Commission to Restore Trust in Policing has conducted a detailed investigation of the Gun Trace Task Force (“GTTF”) of the Baltimore Police Department (“BPD” or the “Department”). The Commission’s inquiry has included dozens of interviews of current and former police officers; review of more than 267,000 pages of documents; review of the criminal proceedings involving the GTTF officers; and input from federal prosecutors, the Office of the State’s Attorney for Baltimore City, the legal affairs division of BPD, and multiple outside sources.

The criminal misconduct of the GTTF officers is without doubt one of the worst police corruption scandals in Maryland history, on many levels. The BPD’s Command Staff failures to properly supervise, deter misconduct, detect corruption and implement safeguards to ensure integrity within its ranks plays a significant role in the scope of the GTTF conduct. As of the date of this Report, 13 BPD officers have been charged criminally, as well as one additional former BPD officer. The federal criminal investigation conducted by the Office of the United States Attorney for the District of Maryland is not yet completed. One criminal trial and sentencing of certain defendants have been delayed because of the COVID-19 pandemic. It is possible that additional indictments may be returned by the federal grand jury.

Beyond the number (14) of officers involved in criminal misconduct, equally troubling is that the officers did not act simply on their own but instead regularly conspired with each other and in groups to commit crimes. Many of the GTTF officers were convicted of engaging in a criminal racketeering conspiracy, and one of the lead defendants, Sgt. Wayne Jenkins, himself described their behavior as a “criminal enterprise.”¹ Individually, in pairs, and sometimes in groups, the GTTF officers intentionally planned criminal misconduct, such that even BPD itself in civil litigation has described the GTTF officers’ misconduct as a “criminal conspiracy.”²

The GTTF officers engaged in serious, destructive criminal acts that would undermine any citizen’s confidence in the trustworthiness of law enforcement. Instead of carrying out their oaths to protect and serve the community, the GTTF officers preyed upon Baltimore residents, abusing their power as police officers for personal gain. The GTTF officers stole money, assaulted citizens, conducted unlawful searches and seizures, lied in internal documents and to the judicial system in testimony and affidavits, and illegally planted evidence, resulting in unfair and improper convictions. The GTTF officers’ actions led to at least two deaths—one involving a high-speed and illegal chase with false evidence planted, and one involving theft of money from a drug dealer who thereafter was unable to repay a drug-related debt and was killed. Not the least of the officers’ crimes was cheating and stealing from the public, by falsely obtaining overtime payments that were not earned.

In addition to the number of officers involved, the coordinated nature of their actions, and the severity of their crimes, the Commission has found that the misconduct did not occur over a short timeframe but instead continued to occur over a course of many years involving many dozens

¹ BAYNARD WOODS & BRANDON SODERBURG, I GOT A MONSTER 42 (2020).

² Balt. Police Dep’t v. Potts, 468 Md. 265, 279 (2020).

of incidents. Some of the involved officers were actively engaged in criminal misconduct for several years before they were assigned to the Gun Trace Task Force.

Another upsetting feature of the GTTF scandal is that the misconduct was not committed only by low-level officers, but also by supervisors. Three sergeants are among those who have pleaded guilty. Those individuals were experienced officers who were well-respected by command and presumably promoted into squad leadership roles because of their perceived quality of performance, but in fact, those individuals participated in and led the criminal behavior. Two of the involved sergeants used their leadership roles to solicit others to join the conspiracy and deflect investigations of wrongdoing. The Commission has not found evidence that anyone within BPD above the rank of sergeant either participated in criminal misbehavior or had knowledge of the GTTF officers' criminal misconduct before the federal criminal indictments were made public in 2017. However, the lack of effective supervision and oversight from the BPD command staff and the failure to institute well established integrity protocols by BPD Commissioners enabled the GTTF to operate undetected for years.

The GTTF scandal has caused unprecedented havoc that goes far beyond the criminal convictions and punishment for the BPD officers involved in misconduct. The officers' crimes had devastating consequences to the citizens who were victimized. The GTTF officers' criminal acts involve far more than stolen money or property. Innocent citizens were stopped, searched and arrested, with some convicted and sent to jail. Those criminal proceedings negatively affected the lives of the defendants and their families in many ways. The Office of the State's Attorney for Baltimore City has moved to undo/set aside criminal convictions or charges in approximately 759 cases where the convicted GTTF officers played a role in the arrest and/or prosecution of the defendant. A small number of federal convictions/charges were also set aside. The public can never truly know in how many of those cases the citizens were actually guilty of the crimes charged, or whether those citizens were in fact innocent. If the citizens committed the crimes but the charges were dropped because the credibility of the convicted GTTF officers was in doubt, the criminal actions of the GTTF officers interfered with and prevented the administration of justice in those cases. If citizens were in fact innocent, the GTTF officers' actions unjustly and seriously impacted the citizens and their families' lives because of the unlawful arrest, incarceration, possible loss of job or other consequences, and family trauma caused by unjust criminal proceedings.

In addition to disrupting the criminal justice process and the lives of defendants and their families in several hundred cases, the GTTF officers have left BPD and the City with a trail of wreckage in the form of civil litigation that can be expected to last for many years. To date, approximately 87 lawsuits and claims have been filed by persons claiming to have been unjustly assaulted, stopped, searched, arrested, incarcerated or otherwise injured by one or more of the GTTF officers. More civil lawsuits may be filed in the future by others whose criminal convictions have only recently or may in the future be set aside. The ultimate total cost to Baltimore City taxpayers in the form of civil settlements, judgments and attorneys' fees resulting from the GTTF officers' misconduct will be enormous; it is already into eight figures.

The GTTF scandal has also negatively impacted BPD itself. Almost every officer interviewed by the Commission justifiably expressed anger and embarrassment at the actions of the GTTF officers. Many said that their jobs had become more difficult, as citizens perceive them to be part of a corrupt organization. The scandal has affected morale within the Department and made recruitment more difficult.

Finally, the misbehavior of the GTTF officers has further soured what was already a difficult relationship between the community and BPD. Community surveys confirm that there is a low level of trust in BPD in many Baltimore neighborhoods. The criminal acts of the GTTF officers confirmed the pre-existing view, in the minds of many in Baltimore, that the police are the “enemy” and cannot be trusted. The broken trust in law enforcement will likely reverberate for many years to come. Citizens may choose to interfere with police activities, refuse to report crimes, hesitate to assist the police in investigating crimes, or when serving as jurors decline to convict criminal defendants despite strong evidence of guilt, because they mistrust the police and feel the police are corrupt.

Other aspects of the GTTF scandal have compounded the damage and caused additional public concern. First, through interviews conducted with Baltimore Police personnel, from frontline supervisor through three police commissioners who oversaw the agency during GTTF’s reign of criminal activity, the Command staff failure to properly put in place widely accepted safeguards and provide basic supervisory oversight falls woefully short of acceptable standards.

Despite recognizing effective tactics to ensure integrity throughout the agency, the failure of past BPD Commissioners to utilize and implement detection and deterrence protocols aided and enabled the GTTF criminal enterprises. Each interviewed Commissioner agreed that early warning programs, integrity tests, polygraph tests, and application of COMPSTAT mapping to track complaints are needed in an agency. Each Commissioner, to varying degrees proffered an excuse for why they did not implement needed safeguards. Their failure to act and prioritize integrity in the agency plays an undeniable role in the GTTF wrongdoing.

The Commission routinely heard BPD officials express the sentiment that integrity is the backbone of effective policing. However, little evidence exists to demonstrate that this sentiment was a true priority of the BPD; it was not reflected in internal affairs staffing or proactive measures to discover and deter misconduct. In fact, no commander beyond Commissioner Bealefield truly took responsibility for the failure to supervise effectively the GTTF instead police personnel pointed up or down the chain of command as the source of failure.³ Due to Baltimore’s high violent crime rate, the Department’s focus on crime reduction was prioritized and the agency

³ At the beginning of his interview, Commissioner Anthony Batts stated that he had no knowledge of GTTF activities during or after his tenure as police commissioner. In fact, Batts stated that he only became aware of the GTTF activities in preparation for the Commission’s interview. The exchange occurred as follows:

- Commission Counsel: “Are you aware there were more than a dozen officers in Baltimore who were prosecuted by the U.S. Attorney’s Office here and either convicted or pleaded guilty of stealing money from drug dealers, unlawful stops and seizures, making false statements, planting evidence, committing overtime fraud - were you aware of that, sir?”
- Batts: “I was not aware. With your conversation in mind – I should say is – I kind of disconnected from the City of Baltimore. But based on being here today I did go back and look at some news reports, yes.”

resources marshalled to that end; internal affairs and integrity reinforcement efforts were afterthoughts and Internal Affairs was ineffective and under resourced.

As an outcome of the continued failure to truly invest in systemic self-policing, the BPD was unable to detect the criminal misconduct of its own officers. Instead, the criminal enterprise was discovered by federal law enforcement—not BPD—through an unrelated federal wiretap investigation. The command staff within BPD were blind to what was happening and perceived the GTTF to be a high-performing group based upon their numbers of arrests and guns seized. The Department was ineffective in investigating complaints against at least two of the GTTF officers, pursuing administrative charges, and meaningfully disciplining these officers for known violations of policy. It has been the Office of the United States Attorney for the District of Maryland (“USAO”) and the FBI, not BPD, that has conducted the GTTF investigation. Once the wrongdoing was discovered, federal law enforcement authorities zealously and very capably pursued the criminal investigation. The Commission believes that the public can have great confidence in the quality and thoroughness of the federal criminal investigation. The Commission has not identified any BPD officer who engaged in misconduct who is not already known to the USAO. Although BPD failed to detect the misconduct of its own officers, through the federal criminal investigation the involved officers have been appropriately charged, convicted and punished, such that the public can have confidence that justice has been served to the GTTF wrongdoers.

However, a second concerning aspect of the GTTF scandal is BPD’s decision not to conduct promptly a thorough internal investigation with a root cause analysis of how and why the GTTF officers were able to commit their criminal misconduct, on so many occasions over so many years, without being detected. In his September 19, 2019 appearance before the Commission, current BPD Commissioner Michael Harrison, who was appointed in March 2019—two years after the GTTF indictments were made public—explained that during his tenure, no such investigation was undertaken due to concerns about civil liability. It appears the decision to not conduct an investigation was a decision to mitigate civil liability of the BPD. Concern that an investigation would publicly reveal that BPD was negligent or knew that the GTTF officers were engaged in criminal misconduct resulted in a decision to not investigate. The decision to prevent providing ammunition for plaintiffs’ lawyers who have sued the City on behalf of GTTF victims is contrary to sound public policy and true police reform. The Commission finds the failure to promptly conduct such an investigation regrettable and not in the long-term public interest of understanding with transparency what occurred, why it occurred, and how to restore the community’s trust in BPD. Furthermore, the failure to adequately investigate the root causes of the massive systemic and supervisory shortfalls that enabled the GTTF to fester renders the BPD vulnerable to future undetected misconduct.

During his interview with the Commission, former Commissioner Kevin Davis, who was in office when the federal indictments became public, falsely indicated that he had initiated an internal BPD investigation of the GTTF officers. The Commission reviewed materials provided by former Commissioner Davis and BPD Internal Affairs records. It is true that an IA investigation was ongoing at the time of Mr. Davis’s departure as Commissioner. However, the investigation does not appear to have been a thorough root cause analysis of how and why the GTTF officers had been able to accomplish their crimes without detection by BPD, so that lessons could be

learned and reforms could be implemented. Rather, the IA investigation focused principally on just one aspect of the GTTF officers' misconduct—overtime fraud—and whether certain supervisory personnel should be disciplined for the manner in which the GTTF officers had successfully cheated the City by engaging in overtime fraud. Furthermore, and inexplicably, no investigation was done to determine and address the significant Command failures that enabled the GTTF's conduct.

Commissioner Harrison appeared before the Commission on September 19, 2019, and was questioned as to why no internal investigation had been completed. Chief U.S. District Judge James K. Bredar, who oversees the Consent Decree between BPD and the Department of Justice, had also urged BPD to undertake a comprehensive “autopsy” to evaluate the “systemic and structural issues that contributed to this scandal to ensure that nothing like GTTF ever happens again.”⁴ BPD thereafter finally determined to conduct its own investigation. On October 23, 2019, BPD engaged Michael Bromwich of Steptoe & Johnson to lead the investigation. Mr. Bromwich's retention was approved by Judge Bredar with no objection from the Department of Justice in the consent decree process, and Commissioner Harrison directed all BPD officers to cooperate with the Bromwich GTTF probe. In his appearance before the Commission, Mr. Bromwich committed to a full, thorough and transparent investigation, without limits on resources or the scope of his investigation. The Commission is aware of Mr. Bromwich's experience in investigations, law enforcement and organizational compliance and expects that his report, when issued, will shed additional light on the GTTF scandal, the culture within BPD, and how that culture can be changed. The Commission and Mr. Bromwich's team conducted a large number of joint interviews, and Mr. Bromwich has cooperated fully with the Commission.

Why did the GTTF officers engage in criminal misconduct? And why was BPD unable to detect the criminal activities of its own officers over a course of many years? The Commission finds several elements that contribute to the answers to these questions.

Obviously, each of the officers involved in the GTTF scandal made a conscious decision to violate their oaths, cross the line and engage in criminal misconduct for personal gain. Unlike more than two thousand of their fellow officers who chose to be law-abiding and honest, the GTTF officers made a deliberate choice to compromise their integrity and profit unlawfully at the expense of Baltimore citizens. These officers were experienced in law enforcement, knew how to avoid detection, and realized that the victims of their misbehavior—often persons involved in the drug trade with criminal histories—would likely not complain or, if they did, would be perceived as unreliable.

BPD's inability to deter and detect the criminal misconduct was the product of a series of internal deficiencies that were noted by the U.S. Department of Justice in its 2016 Report concerning the BPD. These deficiencies included: (1) a focus on raw numbers of stops, arrests and guns seized, instead of constitutional policing and improving community trust; (2) poor training, in particular a lack of supervisor training; (3) poor supervision; and (4) lack of accountability, including deficient processes to investigate and adjudicate complaints, a “persistent

⁴ Commissioner Michael S. Harrison. Testimony before the Commission to Restore Trust in Policing Hearing (Sept. 19, 2019), <http://dls.maryland.gov/policy-areas/commission-to-restore-trust-in-policing>.

failure to discipline officers for misconduct even in cases of repeated or egregious violations,”⁵ and an internal culture resistant to corrective discipline with officers concerned about possible retaliation if they reported misconduct. In its investigation, the Commission found that each of these factors contributed to an environment where the GTTF could engage in criminal misbehavior without being detected and punished by BPD.

Consistent with the 2016 DOJ Report, the Commission found that prior to the public announcement of the GTTF criminal indictments, within BPD, there was still an emphasis on raw numbers of stops, arrests, and guns seized, and little concrete efforts to establish community trust and lawful policing. The BPD move toward a model of community policing under former Commissioners Anthony Batts and Kevin Davis, failed to put in place accepted police misconduct deterrence and detection practices. Additionally, the Commission’s investigation revealed that Wayne Jenkins and the GTTF squad were considered to be high-achieving “golden boys” who were respected for their supposed strong work ethic and ability to make arrests and seize guns. The ability and reputation of the GTTF officers in seizing guns undoubtedly helped to mask their illegal activities. The failure to internally investigate, perform integrity audits or even probe the means which yielded abnormally high gun seizures aided the GTTF existence.

Sgt. Jenkins and the other GTTF officers were allowed by the BPD Command staff to avoid close supervision, making their unlawful misconduct more difficult to detect. Front-line supervisors struggled to manage Jenkins and his squad, who were permitted to operate out of Department Headquarters downtown, even though their supervising lieutenant and the other units under the lieutenant’s command operated out of “the Barn,” a satellite office in Northwest Baltimore. Jenkins and the GTTF squad were allowed to roam freely throughout the City instead of in a prescribed zone or district. The GTTF regularly went outside the chain of command, were afforded certain privileges, and tested the span of control of their supervisor. No system of integrity checks existed to inspect the GTTF tactics. On their best behavior on those occasions when personally supervised by their lieutenant, the GTTF took advantage of what, in hindsight, could be characterized as a fundamental command failure to ensure proper supervision; this failure enabled their illegal activities.

Poor training and a culture of aggressive policing also likely contributed to the GTTF scandal. As DOJ noted in its Report, as of 2016 BPD’s training fueled overly-aggressive tactics that led officers to have an “us (police) versus them (community)” frame of mind. In his testimony before the Commission, former Commissioner Batts described that aggressive officer mindset as “a culture of people trying to be badasses instead of a police department focused on community policing.” Despite recognizing this destructive culture, Commissioner Batts failed to implement measures to effectively transform the BPD, citing a myriad of other priorities he was forced to address as the reason. Commissioner Batts cites many structural problems of the BPD and rhetorically asked the Commission where a Commissioner should start. The answer in the Commission’s view was the implementation of effective internal integrity controls.

The GTTF officers’ criminal behavior was an extreme example of this culture. On occasion when seizing guns, Sgt. Jenkins circulated emails throughout BPD, praising his squad for

⁵ U.S. DEP’T OF JUSTICE CIVIL RIGHTS DIVISION, INVESTIGATION OF THE BALTIMORE CITY POLICE DEPARTMENT (2016) [hereinafter DOJ REPORT], <https://www.justice.gov/crt/file/883296/download>.

their success and promoting their aggressiveness in street enforcement. Moreover, DOJ found supervisory training to basically be non-existent. With supervisory span of control stretched, little supervisory training, and a failure by Command to make supervisors aware of internal affairs complaints and histories, it is an expected consequence that the lieutenants and higher ranking officers in the chain of command did not suspect or detect criminal misconduct by the GTTF officers.

Finally, and perhaps most important, BPD lacked internal systems of accountability designed to deter, detect and punish officer misconduct and the fortitude to make it a priority. The Commission finds that prior to the GTTF indictments, and continuing through today, the BPD has under-emphasized integrity and accountability. As the Consent Decree Monitoring Team recently put it, “BPD must completely overhaul an internal affairs system that has been broken for years and that, because of its dysfunction, bears considerable responsibility for the community’s lack of faith in the Department.”⁶ BPD continues to struggle to find resources to support internal affairs and accountability measures, consistently failing to even fully staff integrity units. The GTTF scandal demonstrates that the cost of failing to emphasize ethics and integrity can be enormous. Effective crime reduction and ethical policing are not incompatible principles but rather equally important elements of a good agency.

The lack of accountability measures within BPD designed to deter, detect and address officer misconduct was noted by DOJ in its 2016 Report and contributed to an internal culture resistant to discipline. The GTTF officers clearly made a choice to engage in criminal misconduct, and their experiences within BPD undoubtedly led them to conclude that the benefits of illegal activity outweighed the risk that they would be caught and punished. The Internal Affairs division appears to have been understaffed, lacking sufficient resources, and not viewed within BPD as an effective check on officer behavior. Detection and deterrence of police misconduct was deemed by operational commanders as Internal Affairs’ sole responsibility and in the Commission’s findings improperly siloed.

GTTF officers had IA complaint histories that may have generated concerns, had the complaints been tracked and had an effective intervention system been in place at the time. But Internal Affairs and officer discipline appear to have taken a back seat to metrics concerning guns seized and arrests made, and the tactics utilized by the GTTF, blindly accepted without inspection or inquiry by police commanders solely focused on crime reductions. Indeed, during one of the few internal affairs investigations in which a citizen complaint was sustained against one of the GTTF officers, the Internal Affairs recommendation of demotion was reduced by senior level command staff to a mere written counseling. Despite escaping a serious internal charge with virtually no punishment, the GTTF officer railed against what he thought was an unfair and biased IA investigation.

⁶ BALT. CONSENT DECREE MONITORING TEAM, FIRST COMPREHENSIVE RE-ASSESSMENT at 30, United States v. Police Dep’t Balt., No. JKB-17-0099 (D. Md. Sept. 30, 2020), <https://static1.squarespace.com/static/59db8644e45a7c08738ca2f1/t/5f74e69c2982fc0cb82f4140/1601496732748/BPD+-+Comprehensive+Re-Assessment+9-30-20.pdf>.

The Commission recognizes positive signs within BPD in recent years following the detection of the GTTF officers' misconduct and their arrests beginning in March 2017. After DOJ issued its August 2016 Report, the City of Baltimore entered into a Consent Decree with DOJ on April 7, 2017. Chief Judge James K. Bredar of the U.S. District Court for the District of Maryland is presiding over the Consent Decree. An independent Monitor has been appointed, and the Consent Decree monitoring team includes experts in policing, organizational change and community engagement. The monitoring team has advised the Court that BPD is making good progress in carrying out its obligations under the Consent Decree, which calls for a complete overhaul of BPD with emphasis on constitutional law enforcement and community policing. The Consent Decree will likely be in place for many years to come, with BPD subject to oversight by the Monitor and the U.S. District Court to ensure full compliance by BPD.

Changes that have occurred within BPD since 2017 should help to detect and prevent future criminal misconduct by BPD officers. Body-worn cameras are now fully in place with footage audited periodically to detect officer misconduct. BPD has rolled out policies and training on use of force. The overtime process has been revised in an effort to prevent fraud of the type carried out by the GTTF officers. The Monitor has reported to the Court that the current leadership team under BPD Commissioner Harrison is highly qualified and committed to carrying out the reforms required by the Consent Decree. BPD is working to improve its training and technology. However, BPD continues to face challenges, including in reorganizing and staffing its Public Integrity/Internal Affairs unit, which is responsible for officer discipline. The Commission believes that BPD has long neglected accountability and internal affairs and must receive full support for expedited and full implementation of its integrity systems. Proper resources should be devoted to overhauling Internal Affairs; full staffing should happen immediately; experienced, dedicated investigators must be assigned to Internal Affairs; and the City should provide quantitative data driven oversight to ensure that complaints are handled efficiently and that officer discipline is carried out appropriately.

The Commission's investigation has demonstrated that the failures of police officers on the street are the byproduct of dysfunction and neglect within the Command ranks. Command staff is responsible for the hiring, training, supervision, intervention and discipline of police officers. As public discussion and focus on police reform takes place, the Commission urges policy makers to focus on the decisions, actions, and inactions of police executives; true reform at the Command level will severely mitigate and most effectively address police misconduct. Police executives must be held accountable for the actions of the officers that they direct and supervise and pushed to implement and sustain integrity protocols.

Based upon these findings and the facts, testimony and analysis presented to the Commission over the past two years, the Commission has created a set of recommendations (1) designed to deter and detect future misconduct by BPD officers and improve the level of trust in the BPD by the Baltimore community; (2) to amend the Law Enforcement Officers' Bill of Rights (LEOBR) to increase transparency and the public visibility in police discipline throughout the State; (3) to amend the Maryland Public Information Act (MPIA) and establish a publicly-accessible state-wide database of police misconduct complaints to provide for greater public access to information concerning police officer discipline; and (4) aimed at helping to restore community trust in policing, both in Baltimore City and throughout the State of Maryland. Recommendations

specific to the BPD will only be effective if Command staff is held accountable for their implementation.

The Commission's recommendations are divided into four (4) parts. Part 1 contains specific recommendations to BPD designed to detect and deter future misconduct, including recommendations for increased accountability measures, ethics training, and recommendations to aid in creating a culture of compliance within BPD. Part 2 sets forth recommended amendments to LEOBR. Part 3 contains recommendations to amend the MPIA and create a police misconduct complaint database. Part 4 contains additional recommendations intended to help restore trust in law enforcement, including reconstituting the Baltimore City Criminal Justice Coordinating Council, a recommendation that all Maryland law enforcement agencies use body-worn cameras, and recommendations concerning community policing, use of plainclothes units in Baltimore City, and release and review of the police disciplinary history for purposes of hiring officers.

II. THE COMMISSION'S RECOMMENDATIONS

Part 1. Recommendations to BPD to Detect and Deter Future Misconduct

Based upon the commission's investigation of the criminal misconduct committed by the Gun Trace Task Force officers, the commission makes the following recommendations to the Baltimore Police Department (BPD). These recommendations are designed to deter and detect future misconduct by BPD officers and improve the level of trust in the BPD by the Baltimore community. Each recommendation in Part 1 contains a suggested time frame within which BPD should act on the item. A chart outlining the quarterly implementation schedule can be found in Appendix 1 of this document.

1A. Increased Accountability Measures⁷

Recommendation: The commission recommends that BPD implement accountability measures designed to detect, deter, and correct officer misconduct to include:

- i. BPD should conduct regular and random integrity tests. Tests will be designed by Internal Affairs and implemented in all enforcement units and at every command rank; they should be random as well as targeted, based upon information of misconduct. The results of tests will be reported monthly to the Mayor's Office and posted on the BPD website, assigning a number to any officer tested. Information will include the number of officers tested, officers who passed, officers who failed, and the action of the agency to address failed tests, without identifying officers by name. (Implement by Quarter 2 of 2021)
- ii. Drug testing and polygraphs of officers involved in narcotics enforcement and gun task forces who regularly encounter drugs and money should be required upon application to a unit and as a condition of remaining in the unit. The number of tests performed should be reported quarterly to the mayor and published on the BPD's website. (Implement by Quarter 2 of 2021)

⁷ Adopted unanimously.

- iii. Oversight and periodic audits of searches and seizures should be implemented to ensure compliance with legal requirements. Identified deficiencies by officers should result in training. (Implement by Quarter 2 of 2021)
- iv. BPD may also wish to consider periodic rotation of officers in and out of drug enforcement units, gun enforcement units, and any related units. (Report on Status by Quarter 2 of 2021)
- v. Within a period of not to exceed one year, Internal Affairs should be fully staffed, assigning and utilizing experienced detectives to reduce the Internal Affairs backlog and caseloads of current staff. BPD shall ensure there is sufficient funding and resources to fully staff Internal Affairs. (Complete by Quarter 4 of 2021)
- vi. BPD should implement its Early Intervention System to identify and retrain officers who garner the highest levels of public complaints over a 24-month period. A quarterly retraining curriculum should be developed and implemented. The department should provide a monthly report to the mayor and post the report on its website, stating the number of officers removed from the street for retraining each month and the number of officers completing training. The department should track complaints for those officers who undergo retraining for 24 months after completion of retraining. Officer names should not be included in public reporting. (Implement by Quarter 4 of 2021)
- vii. Require 6 months Internal Affairs experience for those obtaining promotion to lieutenant or above as a condition of promotion. Members who earn a promotion without Internal Affairs experience will be assigned to Internal Affairs within 18 months of promotion. (Implement by Quarter 4 of 2021)
- viii. Each Internal Affairs case should be reviewed by the Internal Affairs Division commander and the Charging Committee to identify Command Failures, *i.e.*, officers reporting outside their chain of command, inappropriate issuance of orders, tactical commands, failure to supervise, training deficiencies, *etc.* (Implement by Quarter 2 of 2021)
- ix. Legal Affairs should continue to be assigned by and report to the city solicitor and should be bifurcated into two sections. One section should handle agency training, specialized unit and command advice and civil defense of the agency; another section, headed by an experienced prosecutor and staffed by attorneys with prosecutorial experience, should handle the prosecution of internal hearing boards, advice to Internal Affairs, and act as a liaison to the State's Attorney's Office for police misconduct matters. (Implement by Quarter 2 of 2021)
- x. Legal Affairs should reduce its trial board backlog to ensure each case is resolved or tried within 90 days of charging. Legal affairs should report its active case load to the mayor on a monthly basis and publish its trial board docket with case numbers on its public website to ensure the expedient resolution of administrative hearing boards. (Complete by Quarter 4 of 2021)

- xi. Legal Affairs should publish to the mayor and the public quarterly reports that identify the gender and race of charged officers, punishments offered, offers accepted, and results of hearing boards. (Implement by Quarter 1 of 2021)

These accountability measures should be communicated to the workforce so that officers understand that theft of drugs and money, planting of evidence, and other misconduct of the type committed by the Gun Trace Task Force (GTTF) officers will not be tolerated within BPD and that officers who engage in such misconduct will be caught and punished.

Background: BPD failed to detect the criminal misconduct of the GTTF officers over a period of many years. The U.S. Department of Justice (DOJ) 2016 report found that “BPD lacks meaningful accountability systems to deter misconduct.” BPD does appear to be conducting audits of body-worn cameras, which may help to reveal misconduct. BPD also has improved its overtime process and technology, making it harder for officers to commit overtime fraud. However, the department’s use of other techniques to detect misconduct has been haphazard and, at times, non-existent. Many of the officers interviewed by the commission support the use of polygraphs, integrity stings, financial audits, and audits of confidential informants. Former BPD commissioners, and the experiences of certain members of this commission who have served in law enforcement, also support this recommendation.

1B. Ethics Training⁸

Recommendation: The commission recommends that BPD implement ethics training based on the GTTF officers’ misconduct, as part of or in addition to its new Ethical Policing is Courageous (EPIC) program within six months of the issuance of this report.

- i. Ethics training for new recruits at the academy, for field training officers, for supervisors, and for the workforce generally should be designed to demonstrate to all BPD officers that BPD is focused on detecting and punishing police misconduct. Supervisors, in particular, should receive training in how to detect and address misconduct by officers under their command. Training modules could include scenarios involving theft of drugs and money, planting of evidence, unconstitutional searches and seizures, overtime fraud, and misuse of body-worn cameras, based upon the criminal misconduct of the GTTF officers. (Implement by Quarter 3 of 2021)
- ii. Supervisors and officers working in specialized units or prior to being assigned to such units should be required to take an intensive fourth amendment course and pass an examination to demonstrate a working understanding of the principles of constitutional policing. (Implement by Quarter 3 of 2021)
- iii. All ethics training should focus on educating officers to exercise their discretion in a manner driven by principles of integrity, fairness, and decency. (Report on Status by Quarter 2 of 2021)

⁸ Adopted unanimously.

- iv. Ethics and EPIC training should be open to viewing by the Community Relations Council, the Civilian Review Board, and other community groups with opportunity for the community to provide feedback. (Report on Status by Quarter 3 of 2021)
- v. BPD should report to the mayor and post on its website a monthly update of the number of officers assigned to and completing ethics training to include the percentage of the agency having completed training. (Implement by Quarter 1 of 2021)

Background: During the initial stages of the consent decree process, BPD was focused on reforming and updating its policies and procedures. The commission has been advised that the new training facility at the University of Baltimore is operational and that the EPIC program will soon be implemented. Interviews with BPD officers have indicated that to date, there appears to have been no ethics training that specifically focused on the illegal activities of the GTTF officers. The criminal prosecutions of those officers and the evidence developed during the criminal process provide BPD with fact-specific materials that could be used to train new recruits, recent academy graduates, supervisors, and the entire workforce concerning what the GTTF officers did, the severity of their punishment, and why such misconduct is totally unacceptable and will be punished.

1C. Creating a Culture of Compliance within BPD⁹

Recommendation: The commission recommends that BPD take additional steps to create a culture of compliance, where officers value integrity and voluntarily report any misconduct they might observe, for the good of BPD and the community. The commission notes that organizational culture can be difficult to change and that reforms under the consent decree, the EPIC program, and changes in Internal Affairs are still underway. The commission recommends:

- i. Internal Affairs should be fully staffed by March 2021. Staffing should be put in place to eliminate the backlog of cases, helping meet Deputy Commissioner Nadeau's goal of timely investigations. The emphasis on enforcement over integrity enabled GTTF to exist within the Baltimore Police Department. Internal Affairs must be fully staffed and equipped to provide timely and thorough investigations. Internal Affairs backlogs are demoralizing to the agency and the public. The Department should report monthly to the mayor and on its public website staffing levels for Internal Affairs. (Complete by Quarter 1 of 2021)
- ii. Deputy Commissioner Dean Palmere testified that he never met with Internal Affairs during his tenure and in essence, police misconduct was a matter for Internal Affairs to handle. The silo that separates integrity from enforcement is systemic and problematic in BPD. As a condition of promotion, or upon promotion, supervisors should be required to serve in Internal Affairs in accordance with Commission Recommendation 1(A)(vii). Internal Affairs must become a valued and integral part of the agency, not a pariah. (Implement by Quarter 4 of 2021)

⁹ Adopted unanimously.

- iii. BPD should retain a compliance consultant who is familiar with techniques used in the private sector to reform the culture in large organizations that have run afoul of the law. The consultant can help develop initiatives based on the GTTF scandal and offer advice on reforming BPD's internal culture. (Implement by Quarter 2 of 2021)
- iv. The agency should develop incentives for officers who demonstrate ethics and report misconduct. (Report on Status by Quarter 3 of 2021)
- v. Methods for anonymous reporting of officer misconduct should be developed. (Implement by Quarter 2 of 2021)
- vi. The agency should place retaliation against officers who report misbehavior in the F category (dismissal) of the discipline matrix. (Implement by Quarter 1 of 2021)
- vii. The agency should encourage equitable treatment of officers in discipline and promotion. (Report on Status Quarterly)
- viii. Integrity and ethics training and testing should be considered an essential criteria for promotion. (Implement by Quarter 2 of 2021)
- ix. There should be continuous messaging by command staff and supervisors of the importance of ethical behavior by everyone within BPD, including at roll calls and meetings, to include practical scenarios and explanations of expected conduct. (Implement by Quarter 1 of 2021)
- x. The agency should map citizen complaints against officers as well as officer-involved shootings and use of force for weekly review at COMPSTAT and by the mayor. (Implement by Quarter 1 of 2021)
- xi. Continued reform within the Internal Affairs division should occur to ensure that all complaints are handled swiftly and fairly. BPD should create and implement a public complaint database by June of 2021 that will enable citizens to track their complaints through the disciplinary process. (Implement by Quarter 3 of 2021)
- xii. BPD should analyze the span of supervisor control, particularly at the lieutenant level, to ensure that the sergeants and squads under their command are closely supervised and are behaving ethically and lawfully. BPD should institute a command discipline matrix to address failure to supervise, inappropriate commands, and other supervisory lapses. (Implement by Quarter 3 of 2021)
- xiii. BPD should strengthen and reinvigorate an Inspections Unit to ensure compliance with agency protocol and general orders. (Implement by Quarter 4 of 2021)

- xiv. BPD should establish an integrity control officer at the rank of lieutenant in each command to maintain the integrity of citizen complaints and oversee, monitor, and assist officer interaction with the public. (Implement by Quarter 4 of 2021)
- xv. BPD should strengthen the Inspections and Audit Unit to ensure that crime reports are audited for accuracy and integrity and matched with calls for services; body camera footage should be audited for general order compliance. The Inspections Unit should monitor and audit the disciplinary system to ensure backlogs are reduced, monitor officer court appearances, check citizen courtesy, audit confidential informant files and property room process, monitor education and training attendance; and conduct inspections for general order and protocol compliance. The number of inspections and type should be reported publicly. (Implement by Quarter 3 of 2021)

Background: The commission believes that BPD must take steps to reform the culture within BPD and create an organizational culture of accountability and compliance, where officers consistently engage in ethical behavior and voluntarily report misconduct by other officers, without fear of retaliation. In its 2016 report, the U.S. Department of Justice noted that BPD's internal culture was resistant to effective discipline and that BPD officers were hesitant to report misconduct out of concern for retaliation. Some of the officers interviewed by the commission observed that historically, good officers would attempt to avoid or separate themselves from peers who engaged in misconduct, rather than report the misbehavior. Some officers continue to have concerns about retaliation, as demonstrated by the commission's survey. Recent instances of misconduct, such as the actions of a BPD homicide detective and three of his colleagues concerning a dispute over a patio, demonstrate that the internal culture within BPD needs improvement. In that instance, an experienced officer's own personal motivation led to an abuse of power and criminal charges, and three other officers in his unit helped to facilitate the misconduct instead of discouraging and reporting it – similar to what happened with the GTTF officers.

Part 2. Recommendations Regarding the Law Enforcement Officers' Bill of Rights

The Law Enforcement Officers' Bill of Rights (LEOBR), codified in Title 3, Subtitle 1 of the Public Safety Article, provides uniform administrative protections to law enforcement officers in two major components of the disciplinary process: (1) measures for internal investigations of complaints that may lead to a recommendation of disciplinary action against a police officer; and (2) procedures that must be followed once an investigation results in a recommendation that an officer be disciplined. While the commission understands that LEOBR is administrative-in-nature, the commission found that many of these procedural safeguards do not provide for a transparent process.

The 16 recommendations listed below are intended to provide reforms that drastically increase transparency through a number of substantive alterations. The commission envisions that these recommendations would apply only prospectively and not have any effect on any collective bargaining agreement or disciplinary matter that was in effect or occurred prior to the effective date of the bill. However, any collective bargaining agreement in effect may not renew, renegotiate, or otherwise extend any provisions that are in conflict with the legislative changes.

The commission requests that the General Assembly consider these measures in the 2021 legislative session.

2A. Police Accountability Boards¹⁰

Recommendation: The commission recommends adding a provision to LEOBR requiring each county and Baltimore City to establish and maintain a police accountability board (PAB). PAB will:

- include majority civilian representation and reflect the racial, geographic, ethnic, cultural, and gender diversity of the jurisdiction where it was established;
- be authorized to file misconduct complaints with a law enforcement agency on behalf of an aggrieved individual;
- advise the county on policing matters, including best practices and departmental deficiencies; and
- appoint civilians to serve on disciplinary committees and hearing boards on a term-limited basis.

This provision is intended to set baseline requirements for PABs and is not intended to replace an already existing board, such as the Baltimore City Civilian Review Board.

Background: Except for Baltimore City, current law does not require local jurisdictions to establish an independent, civilian-run body to advise on policing matters.

2B. Charging Committees¹¹

Recommendation: The commission recommends amending LEOBR to require the formation of charging committees to review a law enforcement agency's investigation of a misconduct allegation and decide whether to charge or not charge an officer for matters involving allegations of misconduct made by a member of the public and any allegation relating to dishonesty, sexual harassment, racial harassment, or a violation of a criminal statute. If a charging committee brings charges against an officer, the committee would be required to recommend discipline in accordance with the agency's disciplinary matrix. The decisions and recommendations of a charging committee would be issued in writing and are binding on the law enforcement agency. In lieu of a hearing board, a law enforcement officer would be authorized to accept the punishment recommended by a charging committee.

¹⁰ Adopted unanimously.

¹¹ Adopted unanimously.

A charging committee would be composed of the following members:

- the head of internal affairs for the law enforcement agency whose officer is the subject of the allegation or the head of internal affairs' designee;
- an appointee of the State's Attorney for the jurisdiction where the alleged misconduct occurred so long as the appointee is a member of the Maryland Bar and is not employed by the Office of the State's Attorney making the appointment;
- an appointee of the district public defender for the jurisdiction where the alleged misconduct occurred so long as the appointee is a member of the Maryland Bar and is not employed by the Office of the Public Defender;
- an appointee of the head attorney for the jurisdiction where the misconduct occurred so long as the appointee is a member of the Maryland Bar and is not employed by the office of the head attorney making the appointment; and
- a Maryland Police Training and Standards Commission (MPTSC)-trained civilian representative appointed by PAB from the jurisdiction where the misconduct occurred.

A charging committee may:

- determine whether the allegations against a law enforcement officer are unfounded or if the officer should be exonerated;
- in the course of its review, issue a written memorandum that identifies deficiencies in the law enforcement agency's policies and procedures that must be responded to by the agency;
- in the course of its review, issue a written memorandum that identifies deficiencies in the law enforcement agency's chain of command; and
- request more investigatory information and action for and by a law enforcement agency, including requiring the agency to issue subpoenas.

A small law enforcement agency may refer a matter to a charging committee of a larger law enforcement agency.

Background: Under current law, LEOBR details the process for initiating, investigating, and trying allegations of misconduct; however, current law does not address how a final decision on charges must be rendered. As a result, the process for charging is not transparent to outside observers.

2C. Hearing Boards¹²

Recommendation: The commission recommends amending LEOBR to alter the composition of hearing boards. A hearing board should be composed of the following five members: three members who are law enforcement officers appointed by the chief and two members who are civilians appointed by the applicable PAB. All hearing board participants must be trained by MPTSC, including the officers serving on the board. In amending LEOBR to provide such a composition, statutory authority to form alternative hearing boards would be repealed.

The commission further recommends amending LEOBR to:

- prohibit an officer from being entitled to a hearing board if the officer pled guilty, received probation before judgment, or was convicted of a misdemeanor assault, misdemeanor theft, or a felony in connection with the matter that would be the subject of the hearing board;
- require that a hearing board be video recorded and made available as a public record; and
- require that a reconvened hearing be open to the public.

A small law enforcement agency may refer a matter to a hearing board of a larger law enforcement agency.

Background: LEOBR outlines the processes and procedures for the operation and composition of hearing boards. Under current law, if an allegation of misconduct could result in demotion, dismissal, transfer, loss of pay, reassignment, or similar action that is considered punitive, an officer is entitled to a hearing board unless the officer is convicted of a felony.

Hearing boards must consist of at least three voting members who are law enforcement officers; however, current law provides that law enforcement agencies may negotiate alternative hearing boards. Additionally, while current law affords the opportunity to provide civilian representation on a hearing board, as of the drafting of this recommendation, no law enforcement agency has taken advantage of this provision.

2D. Initiation of a Complaint Alleging Brutality¹³

Recommendation: The commission recommends repealing a requirement in LEOBR that a complaint alleging brutality must be signed and sworn to under penalty of perjury. The individuals authorized to file a complaint must be expanded to include (1) an attorney in their capacity as a prosecutor or representative of the aggrieved part and (2) the chair of a PAB.

Additionally, the commission recommends extending the timeframe that an individual has to file a complaint alleging brutality to three years from the date of the incident.

¹² Adopted unanimously.

¹³ Adopted unanimously.

Background: Under current law, a complaint that alleges brutality must be sworn to, under penalty of perjury, and filed within 366 days from the date of the incident. If filed within 366 days, the law enforcement agency is required to investigate the matter. A complaint may only be filed by an aggrieved individual, a member of the individual's immediate family, specified individuals with firsthand knowledge of the event; or a parent or guardian of a minor child, if the minor child was involved.

2E. Administrative Expungements¹⁴

Recommendation: The commission recommends amending LEOBR to provide that a formal complaint against a law enforcement officer may only be expunged after five years from the date that a charging committee exonerates the officer of all charges in the complaint or determines that the charges were unfounded.

Background: Under current law, an officer may apply for the expungement of certain formal complaints after three years from the final disposition of the complaint if the disposition resulted in:

- a law enforcement agency that investigated the complaint (1) exonerating the law enforcement officer of all charges in the complaint or (2) determining that the charges were unsustained or unfounded; or
- a hearing board acquitting the law enforcement officer, dismissing the action, or making a finding of not guilty.

There is no prohibition on the types of formal complaints that may be expunged.

2F. Financial Audits of Law Enforcement Officer¹⁵

Recommendation: The commission recommends repealing a provision in LEOBR that prohibits a law enforcement agency from requiring that a law enforcement officer disclose records related to an officer's finances.

This recommendation is intended to provide law enforcement agencies with another tool to investigate its officers.

Background: Under current law, a law enforcement officer may not be required to disclose records related to the officer's finances unless a conflict of interest exists or the disclosure is required by federal or State law.

¹⁴ Adopted unanimously.

¹⁵ Adopted unanimously.

2G. Terminations and Suspensions¹⁶

Recommendation: The commission recommends amending LEOBR to explicitly authorize the chief of a law enforcement agency to:

- terminate and demote a law enforcement officer in order to regulate the competent and efficient operation and management of the law enforcement agency, so long as the action is in the best interest of the agency and not punitive or retaliatory; and
- impose an emergency suspension of a law enforcement officer's police powers without pay if the officer is charged with misdemeanor assault, misdemeanor theft, or misdemeanor sexual assault.

The commission further recommends amending LEOBR to require that an officer that was subject to an emergency suspension of police powers without pay is entitled to back pay if the officer was acquitted of the charges that were the basis for the emergency suspension.

Background: Under current law, a chief is explicitly *authorized* to regulate the competent and efficient operation and management of a law enforcement agency by any reasonable means, including transfer and reassignment if the action is in the best interest of the agency and not punitive. Additionally, a chief is *authorized* to impose an emergency suspension of a law enforcement officer's police powers *only if* the officer is charged with a felony.

2H. Final Authority of the Chief¹⁷

Recommendation: The commission recommends amending LEOBR to prohibit a collective bargaining agreement from including a provision that takes final disciplinary authority away from the chief.

Background: Under current law, there is no explicit provision barring this action.

2I. Maryland Police Training and Standards Commission¹⁸

Recommendation: The commission recommends amending Title 3, Subtitle 2 of the Public Safety Article to require MPTSC to:

- train civilians recommended by PABs and law enforcement officers recommended by their respective agencies to serve on charging committees and hearing boards;
- develop guidelines for PABs and local law enforcement agencies to train civilians and officers in lieu of training administered directly by MPTSC;

¹⁶ Adopted unanimously.

¹⁷ Adopted by a vote of four (Robey, Wilson, Parker, and Robb) to one (McLhinney). Two commissioners abstained (Williams and Malone).

¹⁸ Adopted unanimously.

- maintain a roster of civilians and law enforcement officers that have undergone such training;
- ensure that civilians and law enforcement officers on the roster are chosen by PABs and law enforcement agencies on a rotating basis; and
- provide staff to charging committees.

Background: MPTSC is an independent commission within the State’s Department of Public Safety and Correctional Services (DPSCS). Under current law, MPTSC has a number of duties, including the certification of law enforcement officers and the training of civilians to serve on hearing boards.

2J. Defining LEOBR Terminology¹⁹

Recommendation: The commission recommends amending LEOBR to provide for and define the following terms:

- ***Administratively Charged:*** This term would mean that an officer has been formally accused of misconduct in an administrative proceeding.
- ***Chain of Command Deficiency:*** This term would mean that an act or omission of a superior officer contributed to or was the reason for the act that led to an allegation of misconduct.
- ***Departmental Policy Deficiency:*** This term would mean that a policy or procedure instituted by a law enforcement agency is faulty or inadequate.
- ***Not Administratively Charged:*** This term would mean that a determination has been made not to administratively charge an officer in connection with alleged misconduct.
- ***Unfounded:*** This term would mean that the allegations against an officer are not supported by fact.
- ***Exonerated:*** This term would mean that a law enforcement officer acted in accordance with the law and agency policy.

Background: Currently, the terms sustained, not sustained, unfounded, and exonerated are used by law enforcement agencies to specify whether an officer will face discipline, a trial board, and whether and to what extent certain allegations are untrue. These terms are not defined in State law.

¹⁹ Adopted unanimously.

2K. Civilians Authorized to Conduct Investigations²⁰

Recommendation: The commission recommends amending LEOBR to authorize a civilian to oversee, direct, and conduct an investigation, including the interrogation, of a law enforcement officer.

Unless the law enforcement agency that employs the officer under investigation is a sheriff's office, the civilian must:

- be an employee of the law enforcement agency; or
- be appointed by and report to the superior governing authority that oversees the law enforcement agency.

If the law enforcement agency that employs the officer under investigation is a sheriff's office, the civilian must be an employee of the Office of the Attorney General (OAG).

Background: Under current law, only sworn officers or, if requested, the Attorney General, may conduct an investigation.

2L. Information in the Investigative File²¹

Recommendation: The commission recommends amending LEOBR to provide that, in the context of the investigative file, a law enforcement agency may only exclude from the file the identity of confidential sources.

Background: Under current law, a law enforcement agency may exclude from the exculpatory information provided in an investigative file nonexculpatory information and recommendations as to charges, disposition, and punishment.

2M. Obtaining Counsel and Submission to Interrogations²²

Recommendation: The commission recommends amending LEOBR to narrow the timeframe within which an officer subject to interrogation must obtain representation to a three-business-day period. If the officer fails to obtain representation within that period, the chief of the law enforcement agency may extend the time period for good cause or order the officer to submit to interrogation.

Background: Under current law, the period to obtain representation is five business days, and there is no explicit statutory provision that authorizes a chief to require an officer to submit to interrogation after a certain period of time.

²⁰ Adopted unanimously.

²¹ Adopted unanimously.

²² Adopted unanimously.

2N. Recording of Interrogations²³

Recommendation: The commission recommends amending LEOBR to require the audiovisual recording and transcription of interrogations.

Background: Under current law, a record of an interrogation may be written, taped, or transcribed.

2O. Subpoenas Issued in Connection with a Hearing Board²⁴

Recommendation: The commission recommends amending LEOBR to authorize the designee of the chief of a law enforcement agency to issue subpoenas in connection with a proceeding before a hearing board.

Background: Under current law, only the chief or a hearing board may issue subpoenas.

2P. Subpoenas Issued in Connection with an Investigation²⁵

Recommendation: The commission recommends amending LEOBR to authorize an individual investigating an alleged complaint regarding officer misconduct to issue subpoenas in a fashion that parallels the issuance of subpoenas in the context of a hearing board.

Background: Under current law, an officer investigating a misconduct claim does not have the express authority to issue subpoenas. Subpoenas, however, may be issued in connection with compelling the attendance of witnesses for the purpose of a hearing board.

Part 3. Recommendations Regarding Police Disciplinary Records and Complaint Tracking

3A. Personnel Records of Law Enforcement Officers²⁶

Recommendation: The commission recommends that the General Assembly amend the Maryland Public Information Act (MPIA) to provide that records relating to certain formal complaints of job-related misconduct against a law enforcement officer are public records. While the commission does not make a specific recommendation as to the types of information that should be made public, the commission recommends that any amendments to current law provide for greater public transparency while balancing the privacy interests of an officer when there is no basis for a complaint.

²³ Adopted unanimously.

²⁴ Adopted unanimously.

²⁵ Adopted unanimously.

²⁶ Adopted unanimously.

Background: Title 4 of the General Provisions Article – otherwise known as the MPIA – provides that all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees. A custodian, however, is required to deny access to a public record or any part of a public record of a personnel record of an individual, unless the individual requesting access is the person in interest or other statutorily specified individuals. As a result, personnel records, which include any record relating to hiring, discipline, promotion, dismissal, or any matter involving the status of an employee, are generally exempt from disclosure under the MPIA. *Kirwan v. The Diamondback*, 352 Md. 74, 83 (1998).

In the context of law enforcement agency personnel records, internal affairs records of an investigation into the conduct of a law enforcement officer are considered “personnel records.” *Montgomery County Maryland v. Shropshire*, 420 Md. 362 (2011). Such records are exempt from public disclosure even if the officer who was the subject of the complaint was identified in a public forum and the allegations against the officer were sustained. *Police v. Teleta S. Dashiel*, 443 Md. 435 (2015). Additionally, an individual who filed a complaint that resulted in an investigation is not a “person in interest” under the MPIA and, therefore, is not eligible to view the investigatory record. *Id.*

The commission heard testimony from a number of entities who testified that access to the internal affairs records of officers is key to creating a transparent process where problem officers and deficient police policies and procedures can be identified.²⁷ The commission also faced its own challenges in obtaining pertinent GTTF personnel records.²⁸

3B. Publicly Accessible Tracking Database²⁹

Recommendation: The commission recommends that the State, each county, and Baltimore City establish a publicly accessible electronic database that records police misconduct complaints.

The databases should contain:

- aggregate statistical data on the type and disposition of complaints; and

²⁷ See December 18, 2018 testimony by Deborah Katz Levi and Kirsten Gettys Downs of the Baltimore City Public Defender’s Office that internal affairs records help identify patterns of untruthfulness and bias in an officer’s conduct and, if criminal defendants were able to regularly review internal affairs records, problem officers might be identified sooner; January 28, 2019 testimony by the Community Oversight Task Force regarding the task force’s finding that the lack of access to police personnel records inhibits transparency and the ability of external entities to identify when and if officers are following proper policies and procedures; and October 17, 2019 testimony by the Baltimore City Civilian Review Board that the lack of access to law enforcement personnel records has inhibited them from conducting thorough investigations.

²⁸ When asked to provide the personnel records of the indicted members of the Gun Trace Task Force, the Baltimore City Solicitor’s office refused to provide the records unless the commission members and staff signed a nondisclosure agreement that subjected commission members and staff to liability as individuals as well as public officials and employees. As a result, the General Assembly passed Chapters 459 and 460 of 2019, which provided that commissioners and commission staff may not be required to sign a confidentiality to receive properly subpoenaed law enforcement personnel files.

²⁹ Adopted unanimously.

- allow complainants to track the status of a complaint from initiation through final disposition.

The confidentiality of a complaint's details, including final disposition and information that identifies an officer against whom the complaint is lodged, should comport with Commission Recommendation Part 3A that addresses the confidentiality of law enforcement personnel records under the MPIA.

Background: State law does not require the establishment of police misconduct tracking databases.

Part 4. Other Recommendations to Restore Trust in Policing

4A. Baltimore City Criminal Justice Coordinating Council³⁰

Recommendation: The commission recommends reconstituting the Baltimore City Criminal Justice Coordinating Council (BCCJCC) to facilitate communication, collaboration, and coordination amongst stakeholders within Baltimore City's criminal justice community and to provide a forum to discuss public safety issues, including police corruption, reform, and accountability.

Background: BCCJCC was formed in January 1999 as an *ad hoc* volunteer group whose mission was to work cooperatively to enhance public safety and reduce crime in Baltimore City, to advance the fair and timely disposition of cases, and to ensure justice for those accused of crimes and the victims of crimes. BCCJCC's operations were formalized by a memorandum of understanding in 2001.

BCCJCC included representatives of the Baltimore City Mayor's Office, the Circuit Court for Baltimore City, the District Court for Baltimore City, the Baltimore City Council, DPSCS, the Baltimore City Office of the State's Attorney, the Office of the Public Defender, the Baltimore Police Department, the U.S. States Attorney for the District of Maryland, the Baltimore City Sheriff's Office, the Baltimore City Bar Association, Baltimore Substance Abuse Systems, OAG, the Department of Juvenile Services, and the Governor's Office. Monthly meetings of BCCJCC were open to the public and were regularly attended by private and public agencies and groups interested in the criminal justice system. The substantive work of BCCJCC was carried out through committees including the Domestic Violence Coordinating Committee, the Domestic Violence Fatality Review Team, the Warrant Committee, the Technology Committee, the Transportation Committee, the Post-Arrest Practices Committee, and the Continuity of Operations Planning Committee.

BCCJCC operated for nearly 17 years before being disbanded in September 2017 due to a loss of grant funding.

³⁰ Adopted unanimously.

4B. Body-worn Cameras³¹

Recommendation: The commission recommends that the General Assembly enact legislation that (1) requires law enforcement agencies to use body-worn cameras and (2) establishes clear and concise policies regarding body-worn camera usage and data storage.

All law enforcement agencies should use body-worn cameras by fiscal 2023.

Background: Section 3-511 of the Public Safety Article requires MPTSC to develop and publish online a policy for the issuance and use of a body-worn camera by the police that addresses several key items including when camera recording is mandatory, prohibited, or discretionary; access to and confidentiality of recordings; the secure storage of data; and the review and release of recordings. The State does not require local law enforcement agencies to use body cameras, and while MPTSC publishes rules and best practices for police body cameras, it does so in an advisory capacity; it does not develop or implement these policies at each law enforcement agency.

The commission heard testimony from multiple BPD officers in support of body cameras. More specifically, testimony indicated that body cameras have reduced complaints of police theft, can protect officers from false complaints, has changed officers' manners with the community during incidents, and can even reduce the need for integrity stings because so much day-to-day police activity is now documented.

Legislation enacted by the General Assembly could comport with current MPTSC policies and best practices and include the recommendations of the Maryland Law Enforcement Body Camera Task Force established by Chapter 309 of 2020.

4C. Community Policing³²

Recommendation: The commission strongly recommends that BPD adhere to and expand upon the best practices and standards outlined by the consent decree, the Task Force on 21st Century Policing, and MPTSC regarding community policing.

Specifically, BPD should enhance in-person and virtual opportunities for:

- positive interactions between officers and community members; and
- community input during officer recruitment, training, and promotion.

The public should be provided with reasonable notice of these opportunities through public service announcements on radio, television, and social media. BPD should maintain a file that lists each in-person and virtual opportunity and the date and medium of its public service announcements.

³¹ Adopted unanimously.

³² Adopted unanimously.

The commission further recommends that all other law enforcement agencies in the State follow similar community policing practices and standards.

Background: As of April 2020, BPD, pursuant to its consent decree with DOJ, developed an expanded community policing program that requires patrol officers to spend 40% of their time engaged in community-centered policing, which will be implemented by the Patrol Support Services Division. Additionally, BPD has created a Community Training Review Committee that will consist of residents and community organizations in each area to ensure that local stakeholders shape both training and policy outcomes.

Certain community policing standards are also required throughout the State. Chapter 519 of 2016 requires that MPTSC develop best practices for the establishment and implementation of a community policing program in each jurisdiction. It also requires the following:

- each law enforcement agency in the State must adopt a community policing program and post information about its program online;
- each agency must file a detailed description of the its community policing program with MPTSC on an annual basis; and
- MPTSC must review each program and offer comments to each agency to ensure adherence to nationally-recognized community policing standards, particularly those from President Barack H. Obama’s Task Force on 21st Century Policing.

4D. Plainclothes Units³³

Recommendation: The commission recommends that BPD maintain a policy that requires members of each District Action Team (DAT) to wear outer clothing that clearly identifies members as police officers. BPD should develop detailed policies regarding appropriate clothing to be worn by DAT members while working plainclothes assignments and limit the wearing of plainclothes to assignments that require such clothing be worn for operational reasons only.

Background: Currently, BPD Policy 1504 states that:

Plainclothes officers and detectives, while acting in their official capacity at the scene of a serious crime or other police emergency where their identity should be known, shall affix their badges in a similar manner on the left side of their outer garments, or wear them around the neck on a secure chain or similar device. This does not apply to investigations in which they must perform their duties in an inconspicuous manner.

³³ Adopted unanimously.

4E. Release of Disciplinary History as a Condition of Employment³⁴

Recommendation: The commission recommends that the General Assembly enact legislation requiring that an individual who applies for a position as a sworn officer with a law enforcement agency to, as a condition of hiring, authorize the release of the individual's full disciplinary record to the hiring agency if the individual is or was employed as a sworn officer at another agency. If applicable and prior to extending an offer of employment, the hiring agency must certify to MPTSC that the hiring agency received and reviewed the individual's full disciplinary record.

The commission intends for this recommendation to be applicable regardless of whether an individual seeking employment served or serves as a sworn officer at a law enforcement agency within or outside of the State.

Background: MPTSC is an independent agency within DPSCS that certifies individuals as police officers who meet commission standards and establishes minimum policing training requirements.

Currently, COMAR 12.04.01.05 requires a law enforcement agency to conduct a comprehensive background investigation to determine if an applicant (1) is of good moral character; (2) is emotionally stable; and (3) displays the behavior necessary to perform the duties of a police officer. While COMAR sets forth the types of background checks and interviews that an agency must conduct, a review of prior law enforcement disciplinary records is not explicitly required.

III. ORIGIN AND MEMBERS OF THE COMMISSION

During the 2018 legislative session, the Maryland General Assembly passed Senate Bill 1099 (Chapter 753), sponsored by Senator Bill Ferguson, to establish the Commission to Restore Trust in Policing ("the Commission").³⁵

The Commission was created to "review the operation" of the Baltimore Police Department's ("BPD" or "the Department") Gun Trace Task Force ("GTTF"). The GTTF was created in 2007 as an elite unit of the BPD that was charged with pursuing violent criminals and other persons unlawfully possessing and using guns in Baltimore City. Many of the GTTF's members—all of whom were sworn officers of the BPD—have since been indicted for participation in a criminal conspiracy that included, among other things, theft, conducting unlawful searches of citizens, collecting fraudulent overtime pay, and planting evidence.³⁶

³⁴ Adopted unanimously.

³⁵ Baltimore City Police Department – Commission to Restore Trust in Policing and Audit Review, ch. 753, 2018, Md. Laws; CHARTER OF BALT. CITY, art. II, § 71.

³⁶ Justin Fenton, *15th Baltimore Officer Charged in Connection to Corruption Scandal*, WASH. POST (Apr. 19, 2020), https://www.washingtonpost.com/local/public-safety/15th-baltimore-officer-charged-in-connection-to-corruption-scandal/2020/04/19/572a68aa-8022-11ea-9040-68981f488eed_story.html; Jayne Miller, *Former BPD Detective Sentenced in GTTF Gun-Planting Case*, WBALTV (Feb. 6, 2020), <https://www.wbalTV.com/article/carmine-vignola-former-baltimore-police-detective-sentenced-gun-trace-task-force-gun-planting-case/30799307#>.

The Commission was charged with scrutinizing the establishment, oversight, personnel, and operations of the GTTF, as well as its misconduct, and with making appropriate recommendations. To aid in its investigation, the Commission was authorized to conduct hearings, administer oaths and affirmations, issue subpoenas, and issue process to compel the appearance of witnesses and the production of evidence. The Commission's authorization expires on January 15, 2021.

Senate Bill 1099 set the following membership requirements for the Commission: (2) individuals appointed by the President of the Senate, (2) individuals appointed by the Speaker of the House, (2) individuals appointed by the Governor, and (1) commission chair jointly appointed by the President of the Senate, Speaker of the House, and Governor. Additionally, SB 1099 mandated that three members of the Commission be residents of Baltimore City. In accordance with these statutory requirements, the following individuals were appointed to the Commission.

Hon. Alexander Williams, Jr., Chair

The Honorable Alexander Williams, Jr. served as a United States District Judge for the District of Maryland from August 1994 until his retirement in January 2014. Since his retirement from the federal bench, Judge Williams has served as the co-chair of the Maryland Redistricting Reform Commission, co-chair of the Emergency Commission on Sixth Congressional District Gerrymandering, chair of the Appellate Courts Judicial Nominating Commission, a member of the Work Group on Collateral Consequences of Convictions, and a member of the University of Maryland Medical System Corporation Board of Directors. Earlier in his career, Judge Williams was elected State's Attorney for Prince George's County Maryland and clerked for the Honorable James H. Taylor of the Seventh Judicial Circuit of Maryland. Judge Williams earned his juris doctor, *cum laude*, from the Howard University School of Law, master's degrees from Howard University and Temple University, and his bachelor's degree from Howard University. He is Executive Director of the Judge Alexander Williams, Jr. Center for Education, Justice and Ethics at the University of Maryland, College Park, and is affiliated with the law firm of Silverman, Thompson, Slutkin & White.

Sean R. Malone, Esq.

Sean R. Malone is a member and attorney at law at Harris Jones & Malone, LLC. At HJM, Mr. Malone provides strategic advice and counsel on a range of legal, labor and municipal/state government issues. In addition to his work in the private sector, Mr. Malone served as Deputy Legislative Officer in the Governor's Office of Legislative Affairs, Chief Labor Negotiator for the State of Maryland, Labor Commissioner for Baltimore City, and Chief Legal Counsel and Chief of Professional Standards for the Baltimore Police Department. Following law school, he was an Assistant State's Attorney for Baltimore County. Mr. Malone earned his juris doctor, *magna cum laude*, from the University of Baltimore School of Law, his master's degree from Lehigh University, and his bachelor's degree from St. Mary's College of Maryland.

Gary W. McLhinney

Gary W. McLhinney is the Assistant Secretary for the Maryland Department of Public Safety and Correctional Services (DPSCS). He previously served as Director of Professional Standards and Police/Correctional Officer and Labor Liaison at DPSCS. A veteran law enforcement officer, Mr. McLhinney is the former Chief of the Maryland Transportation Authority Police, former President of the Baltimore City Fraternal Order of Police, and a former police officer in Baltimore City.

Ashiah S. Parker

Ashiah Parker is a longtime resident of the Sandtown neighborhood in Central West Baltimore. She is committed to working to make her neighborhood and Baltimore City as a whole a better place. Ashiah works as the Executive Director of the No Boundaries Coalition. The No Boundaries Coalition is a resident-led advocacy organization building a unified and empowered Central West Baltimore. The Coalition mobilizes residents from seven different neighborhoods in the 21217 zip code to address racial and economic inequality in Baltimore City and improve the quality of life for Central West Baltimore residents. Before becoming an executive at No Boundaries, Ms. Parker served as the President of the Board of Directors. Ashiah is also a partner at Tidemore Group, a public affairs firm, and serves on various boards and organizations throughout Baltimore. Ms. Parker holds a Master of Public Administration from the University of Baltimore and lives with her two children, Aaliyah and Jeremiah, and her partner, Keith.

Inez C. Robb

Inez C. Robb is Chairwoman of the Western District Community Relations Council.

James N. Robey

James N. Robey's career in public service includes stints as a Maryland State Senator, Howard County Executive, Chief of the Howard County Police Department, and a police officer in Howard County. He formerly served on the Workplace Harassment Commission and currently serves on the State Ethics Commission. During his time in the Maryland General Assembly, Senator Robey was the Senate's majority leader and chaired the Health & Human Services Subcommittee. Senator Robey earned his master's degree from Hood College and his bachelor's degree from the University of Maryland University College.

Alicia Lynn Wilson, Esq.

Alicia Wilson is the Vice President for Economic Development at the Johns Hopkins University and Johns Hopkins Health System. She also serves as board chair for the CollegeBound Foundation and a board member for the Center for Urban Families, the University of Maryland Francis King Carey School of Law, the Open Society Institute, the Walters Art Museum and the Diverse Attorney Pipeline Program. Before joining the Office of the President at Hopkins, Ms. Wilson was Senior Vice President of Impact Investments and Senior Legal Counsel for the

Port Covington Development Team. Ms. Wilson earned her juris doctor, *magna cum laude*, from the University of Maryland Francis King Carey School of Law and her bachelor's degree from the University of Maryland Baltimore County.

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IV. PUBLIC HEARINGS HELD BY THE COMMISSION

Over the years since its inception, the Commission held 20 public meetings over 2 years, beginning October 2018 and ending October 2020. A detailed summary of each meeting can be found in Appendix 2 of this document. Additionally, audiovisual recordings and meeting materials can be found on the Commission's webpage at: <http://dls.maryland.gov/policy-areas/commission-to-restore-trust-in-policing#!>.

V. BACKGROUND TO THE GTTF SCANDAL

A. The Revolving Door of Baltimore Police Commissioners

Over the last 20 years, the Baltimore Police Department has had little stability in its chief law enforcement officer. During that period, only one person, former Commissioner Frederick H. Bealefeld III, has served as commissioner for longer than three years. The last five years have

been particularly turbulent ones for the Department, with four different commissioners serving as police chief since 2015.

Mr. Bealefeld, a career BPD officer, served as Commissioner from 2007 to 2012. Following his retirement, Mayor Stephanie Rawlings-Blake hired Anthony Batts, whose career included service as the Chief of Police in the California cities of Long Beach and Oakland. In his testimony before the Commission on October 13, 2020, former Commissioner Batts noted that in Baltimore City, the police commissioner position is not respected and has high turnover, which negatively impacts a commissioner's ability to accomplish reform.

In 2015, less than three years after his appointment, Mr. Batts was ousted by Mayor Rawlings-Blake, who said Mr. Batts had become "a distraction" that hindered the Department's efforts to fight a surge in violent crime that overwhelmed the city following the April 2015 death of Freddie Gray in police custody.³⁷ Mr. Batts was replaced by Kevin Davis, who like his predecessor was a newcomer to the Baltimore Police Department. Mr. Davis had served in the role of Deputy Police Commissioner of the BPD since January 2015, and before that, he served as the chief of the Anne Arundel County Police Department.

Less than three years later, Mr. Davis suffered the same fate as Mr. Batts, when Mayor Catherine Pugh said she had grown "impatient" with the Department's inability to stem the historic wave of crime in the City that had not subsided since Mr. Davis took office.³⁸

Mayor Pugh appointed Darryl De Sousa, a career Baltimore City police officer and then the Department's Deputy Commissioner of Patrol, to succeed Mr. Davis. Mr. De Sousa served for only five months before he was indicted on federal criminal charges for failing to file tax returns.

Gary Tuggle, a former Drug Enforcement Agency special agent whom Mr. De Sousa had recruited to be one of his deputies, ascended to the post of interim commissioner and served in that role from May 2018 to March 2019.

On March 12, 2019, following a lengthy search, Michael Harrison was sworn in as the Baltimore Police Department's 41st Commissioner. Before his appointment, Commissioner Harrison served in the New Orleans Police Department for nearly three decades, culminating in a tenure of more than four years as Superintendent. Commissioner Harrison's experience in New Orleans included leading that department under a federal consent decree.

B. Other Examples of Urban Police Corruption — New York and Los Angeles

Baltimore is not alone in attempting to address a major police corruption scandal. All large law enforcement departments have the potential for corruption. By way of example and for

³⁷ Sheryl Gay Stolberg & Richard A. Oppel Jr., *Baltimore Fires Police Chief in Wake of Unrest and Crime Surge*, N.Y. TIMES (July 8, 2015), <https://www.nytimes.com/2015/07/09/us/baltimore-police-commissioner-is-fired-by-mayor.html>.

³⁸ Kevin Rector, *Baltimore Police Commissioner Kevin Davis Fired by Mayor Pugh, Citing Rising Crime*, BALT. SUN (Jan. 19, 2018), <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-ci-davis-replaced-20180119-story.html>.

purposes of comparison and analysis, the Commission has reviewed well-publicized police corruption scandals in New York and Los Angeles.

1. New York City — The Knapp and Mollen Commissions

a. Knapp Commission

In 1972, the Knapp Commission concluded a 2-1/2 year investigation into corruption in the New York Police Department. The Knapp Commission included a staff of up to 30 persons at times, with funding provided by nearly a dozen private foundations in New York City. The Commission addressed “widespread” corruption in New York that included plainclothes officers accepting regular bribes from gambling and other business establishments throughout the city.³⁹ Prior to the Knapp Commission’s existence, former officer Frank Serpico exposed the corruption, and 19 officers in the Bronx were criminally charged. The Commission conducted public hearings and an undercover operation, and thereafter 37 additional officers in Brooklyn were charged.

In addition to finding that many officers had a long-standing practice of illegally collecting payments, the Knapp Commission also discovered corruption in narcotics enforcement. The Knapp Commission found that corrupt narcotics officers regularly collected money from narcotics violators that were either kept by individual officers or shared with a partner or supervisor. The payments “ranged from minor shakedowns to payments of many thousands of dollars, the largest narcotics payoff uncovered in one investigation having been \$80,000.”⁴⁰

The Knapp Commission found that corruption permeated the NYPD, involving plainclothes officers, uniformed patrolmen, sergeants and lieutenants. The Knapp Commission categorized corrupt officers as either “meat-eaters”— those who aggressively used their police powers for personal gain — or “grass-eaters,” who simply accepted payoffs. The investigation determined that the large number of “grass-eaters” in the NYPD made corruption “acceptable” and led to a culture of silence. In the words of Officer Frank Serpico, “Ten percent of the cops in New York City are absolutely corrupt, ten percent are absolutely honest, and the other eighty percent — they wish they were honest.” The Knapp Commission noted that police corruption in New York City had been a recurring problem, with major scandals and investigations occurring on the average of every 20 years.

The Knapp Commission found that identifying, exposing and addressing corruption “could only enhance the Department’s credibility” in promoting trust in the community.⁴¹ The Knapp Commission was able to obtain the cooperation of several officers who agreed to testify publicly and engaged in undercover work to expose corruption. This helped lead to more open self-criticism within NYPD concerning corruption, and the hope that in the future officers would be willing to report evidence of corruption by other officers.⁴²

³⁹ THE KNAPP COMMISSION REPORT ON POLICE CORRUPTION 1 (1972), <http://digitallibrary.usc.edu/cdm/ref/collection/p15799coll69/id/3893/> [hereinafter KNAPP REPORT].

⁴⁰ *Id.* at 2.

⁴¹ *Id.* at 8.

⁴² *Id.* at 12–13.

The Knapp Commission found that citizens mistrusted the NYPD's ability to investigate itself. The Commission concluded that the public and police officers needed a means to complain about police behavior with confidence and without fear of retaliation. To that end, the Knapp Commission recommended that the governor appoint a Special Deputy Attorney General to investigate and prosecute all police corruption crimes. The Knapp Commission also recommended major reforms, including holding every commander responsible for rooting out corruption in his/her command, and creating a separate anti-corruption office with sole responsibility to detect misbehavior and assist in prosecution of corrupt officers.

The Knapp Commission's general recommendations included the following:

First, corrupt activity must be curtailed by eliminating as many situations as possible which expose policemen to corruption, and by controlling exposure where corruption hazards are unavoidable.

Second, temptations to engage in corrupt activity on the part of the police and the public must be reduced by subjecting both to significant risks of detection, apprehension, conviction and penalties.

Third, incentives for meritorious police performance must be increased.

Fourth, police attitudes toward corruption must continue to change.

Fifth, a climate of reform must be supported by the public.⁴³

In support of these general recommendations, the Commission identified a large number of managerial, operational and legal changes designed to address and reduce police corruption.⁴⁴

b. Mollen Commission

Some twenty years after the Knapp Commission Report, police corruption reared its ugly head again in New York City in the early 1990s. Following the arrest of a police officer for engaging in the narcotics trade, the Mollen Commission with a staff of twenty investigators and attorneys was created to investigate corruption in the NYPD. "Anatomy of Failure: A Path for Success, Report of Commission to Investigate Allegations of Police Corruption and the Anti-Corruption Procedures of the Police Department"⁴⁵ The Mollen Commission included undercover field operations that revealed that "in every high-crime precinct with an active narcotics trade that this Commission examined, we found some level of corruption to exist." The Commission's investigation led to the arrest of 14 police officers in a single precinct alone,

⁴³ *Id.* at 17.

⁴⁴ *Id.* at 17-34.

⁴⁵ THE CITY OF NEW YORK COMMISSION TO INVESTIGATE ALLEGATIONS OF THE POLICE CORRUPTION AND ANTI-CORRUPTION PROCEDURES OF THE POLICE DEPARTMENT 1 (1994) [hereinafter MOLLEN REPORT].

demonstrating that a “significant percentage of the precinct routinely engaged in corruption ... [and] numerous other officers were complicit through their silence and protection of these corrupt cops.”⁴⁶ The Mollen Commission found a different type of corruption within the NYPD than had existed a generation earlier, a type that is similar to that engaged in by the GTTF officers in Baltimore:

Today’s corruption is far more criminal, violent and premeditated than traditional notions of police corruption suggest and far more invidious than corruption of a generation ago. Testimony and field investigations demonstrated that its most salient forms include groups of officers protecting and assisting drug traffickers for often sizable profits—stealing drugs, guns and money—and often selling the stolen drugs and guns to or through criminal associates; committing burglary and robbery; conducting unlawful searches of apartments, cars and people; committing perjury and falsifying statements; and sometimes using excessive force, often in connection with corruption. Greed is the primary motive behind these activities, but a complex array of other powerful motives and conditions also spur corruption.⁴⁷

Former police officer Michael Dowd, for example, did not just take bribes from drug traffickers to turn his head; he became a drug dealer himself and actually assisted and protected major drug operations. Former Police officer Kevin Hembury did not only steal drugs, guns and money in the course of a series of unlawful searches; he was part of a gang of cops that raided drug locations almost daily for the sole purpose of lining their pockets with cash. Former police officer Bernard Cawley – nicknamed “the Mechanic” by his sergeant because he so openly and frequently “tuned people up,” or beat them – not only used informants to identify drug locations for robberies, but beat people indiscriminately in crime-infested housing projects in his precinct. And it is alleged that former police officer Alfonso Compres, one of the fourteen officers arrested thus far in the Commission’s year-long 30th Precinct investigation, did not just steal from drug dealers on the streets; he demanded regular payments to allow them to operate freely in his precinct and robbed those who did not pay – he even used his service revolver to shoot a dealer while stealing a package of cocaine while in uniform. To cover up their corruption, officers created even more: they falsified official reports and perjured themselves to conceal their misdeeds. Thus, while more limited in extent, police corruption has become more serious and threatening than ever before.⁴⁸

⁴⁶ *Id.* at 11.

⁴⁷ *Id.* at 10.

⁴⁸ *Id.* at 2.

The Mollen Commission found that the NYPD — a law enforcement agency much larger than Baltimore’s, with a workforce of 31,000 members and a budget of over a billion dollars as of the mid-1990s — “allowed its systems for fighting corruption virtually to collapse.”⁴⁹

For at least the past decade, the system designed to protect the Department from corruption minimized the likelihood of uncovering it. In a Department with a budget of over one billion dollars, the basic equipment and resources needed to investigate corruption successfully were routinely denied to corruption investigators; internal investigations were prematurely closed and fragmented and targeted petty misconduct more than serious corruption; intelligence-gathering was minimal; integrity training was antiquated and often non-existent; Internal Affairs undercover officers were often placed in precincts where corruption was least prevalent; reliable information from field associates was ignored; supervisors and commanders were not held accountable for corruption in their commands; and corruption investigators often lacked investigative experience and almost half never had taken the department’s “mandatory” basic investigative training course. Most Internal Affairs investigators and supervisors embraced a work ethic more dedicated to closing corruption cases than to investigating them. Most volunteered for Internal Affairs to get on a quick promotion track rather than to get corrupt cops off the job. Indeed, a survey of Internal Affairs investigators we conducted through an Internal Affairs “insider” revealed that over 50 percent of Internal Affairs investigators’ time was spent on non-investigatory matters. And no one said a word about this state of affairs until this Commission commenced its investigations.

The Mollen Commission proposed a variety of recommendations designed to detect and eliminate corruption.

The Department also failed – or refused – to recognize that police corruption is a multi-dimensional problem that cannot be overcome by focusing solely on the corrupt cop and inadequate investigations. In so doing, the Department failed to insure that corruption controls operated on a variety of fronts and in the daily operations of the Department, including: recruitment, screening, integrity training, supervision, deterrence, accountability and police culture. Because of that failure, the Department abandoned some of its best tools for conquering corruption: the honest cop and the community.

⁴⁹ *Id.* at 2.

Enlisting the support of the honest cop who comprises the bulk of the Department is critical to effective integrity controls. First, most corrupt officers start off as honest and idealistic. The focus must be on *keeping* [emphasis in original] them honest. We found that over time the constant and repeated exposure to certain conditions and temptations – especially those in high-crime and drug-ridden precincts – erodes the values and principles of many officers. This makes them more susceptible to corruption and to a culture that accepts and protects it. Second, it is honest cops who, by their silence, allow corruption to continue. Reforms must focus on making honest officers feel responsible for keeping their fellow officers honest, and ridding themselves of corrupt ones. Despite this, until recently no effort was made to encourage the honest cop to become part of the solution to corruption. To the contrary, honest cops, like the community, were often discouraged from doing so. Scores of officers told us that they believed the Department did not want them to report corruption, that such information was often ignored, and that their careers would be ruined if they did so. The evidence shows that this belief was not unfounded.⁵⁰

Based on its investigation, the Mollen Commission determined that independent oversight was necessary to “keep the Department’s feet to the fire,” since vigilance within the Department concerning corruption had sagged after the conclusion of the Knapp Commission. The Mollen Commission recommended “a dual-track strategy” for improving police corruption controls. The first track focused on the Department’s own controls with focus on improving the quality of recruits, enhancing training, strengthening supervision, upgrading methods of preventing corruption, improving the quality of internal investigations, enforcing command accountability, and attacking the root causes that spawn corrupt acts. The second track involved the creation of permanent external Commission, independent of NYPD, that would “(i) perform continuous assessments and audits of the Department’s systems for preventing, detecting and investigating corruption; (ii) assist the Department in implementing programs and policies to eliminate the values and attitudes that nurture corruption; (iii) insure a successful system of command accountability; and (iv) conduct, when necessary, its own corruption investigations to examine the state of police corruption.”⁵¹

The Mollen Commission envisioned an independent Police Commission that would provide regular oversight and serve as a “watchdog for the public” as well as a management tool for the New York Mayor and Police Commissioner.⁵² The Mollen Commission recommended that this new, independent Commission have a small staff of persons with expertise, have subpoena power, and have full access to Department records. Based upon the Mollen Commission’s recommendation, the Commission to Combat Police Corruption (CCPC) was created in 1995 and continues to exist today. The CCPC has issued annual reports as well as substantive reports that

⁵⁰ *Id.* at 5.

⁵¹ *Id.* at 152.

⁵² *Id.* at 153.

focus on specific issues within NYPD regarding anti-corruption tactics, including reports on recruitment and retention in Internal Affairs, screening of new recruits, death-in-custody cases, and pro-active integrity programs. All of the CCPC reports are available on its public website.

2. Los Angeles — The Rampart Area Corruption

In May 1998, following “three incidents in which Los Angeles Police Officers were identified as suspects in serious criminal activity,” the Los Angeles Police Department (“LAPD”) formed a Task Force “to investigate any criminal and significant administrative charges” related to those three incidents — (1) a bank robbery, (2) the false imprisonment and beating of a handcuffed arrestee at the Rampart Substation, (3) and the theft of three kilograms of cocaine from LAPD’s Property Division.⁵³ The Task Force was created as a result of the “seriousness of the criminal activity, commonality among the officers and potential for involvement of more Department employees. . . .”⁵⁴ The officer arrested in the third incident, Rafael Perez, cooperated with the Task Force and provided details of the Rampart CRASH Unit’s corruption in exchange for a possible sentence reduction.⁵⁵

While the Task Force continued its work, the LAPD Chief convened a Board of Inquiry (“BOI”) to further investigate the Rampart CRASH Unit corruption.⁵⁶ The BOI’s findings were released in a public report on March 1, 2000. In addition to the BOI’s Rampart Area Corruption Incident Public Report, the Los Angeles Police Protective League asked then-Professor Erwin Chemerinsky of the University of Southern California Law School⁵⁷ “to prepare an independent analysis of the Board of Inquiry’s report.”⁵⁸ In essence, the Chemerinsky report served as a report about the BOI Report—and identified shortcomings in the BOI’s investigation.

The BOI was organized into seven subcommittees and two work groups, with over 300 individuals involved in the BOI investigation in total.⁵⁹ This included a Working Group Profiling the Involved Officers, a Subcommittee on Work Product Analysis, a Subcommittee on Rampart Management and Supervision, a Working Group on Risk Management Profile of Rampart, a Subcommittee on Department Operations Systems, a Subcommittee on Administrative Investigations, a Subcommittee on Officer-Involved Shooting Investigative Protocol, a Subcommittee on Corruption Investigative Protocol, and a Subcommittee on Police Integrity Systems.⁶⁰

⁵³ BOARD OF INQUIRY, LOS ANGELES POLICE DEPARTMENT BOARD OF INQUIRY INTO THE RAMPART AREA CORRUPTION INCIDENT: PUBLIC REPORT 1–3 (2000), http://lapd-assets.lapdonline.org/assets/pdf/boi_pub.pdf [hereinafter BOI REPORT].

⁵⁴ *Id.* at 1.

⁵⁵ *Id.* at 3.

⁵⁶ *Id.* at 4–5.

⁵⁷ The Los Angeles Police Protective League is “the recognized bargaining organization [that] represent[s] Los Angeles police officers from the rank of police officer to lieutenant.” LOS ANGELES POLICE PROTECTIVE LEAGUE, <https://www.lapd.com/about> (last visited Nov. 15, 2020).

⁵⁸ Erwin Chemerinsky is a prolific constitutional law scholar who now serves as Dean of the UC Berkeley School of Law. See Stephanie Francis Ward, *Erwin Chemerinsky Named to Lead Berkeley Law*, ABA J. (May 17, 2017), https://www.abajournal.com/news/article/chemerinsky_named_to_lead_berkeley_law.

⁵⁹ BOI REPORT at 5.

⁶⁰ *Id.* at 5–6.

The BOI Report found a stunning and routine lack of supervision over the daily operations of the Rampart CRASH Unit.⁶¹ At one point “there was only one sergeant supervising the Rampart CRASH unit which consisted of about 18 officers per DP during that time.”⁶² As the BOI Report found, “Rampart CRASH saw itself as an entity separate and apart from the rest of the command.”⁶³ Among its observations and recommendations, the BOI observed the following:

Personnel Investigations and Management of Risk

Time and again, the Board found clear patterns of misconduct that went undetected. Nowhere was this more apparent than in the investigation of personnel complaints made by the Rampart community. Regardless of the source, complainants all seemed to be viewed as recalcitrant and their allegations were not taken seriously by some of the supervisors assigned to conduct the investigations. Equally significant was the failure of management to recognize those clear patterns and correct the behavior of the officers involved. Many of the complaints involved serious allegations that should have been handled by Internal Affairs Group rather than divisional supervisors.

We must improve our capacity to investigate personnel complaints including proactive measures to ferret out behavioral patterns that may be indicative of corrupt behaviors. If we are to prevent a recurrence of the Rampart scandal, it is also critical that we build the Department’s ability to look at critical risk-management factors in a broad, Department wide sense in order to identify the patterns of individuals, work units and commands.

Operational Controls

Essentially, many of the problems found by this BOI boil down to people failing to do their jobs with a high level of consistency and integrity. Unfortunately, we found this to be true at all levels of the organization, including top managers, first-line supervisors and line personnel. Clearly, pride in one’s work and a commitment to do things correctly the first time seems to have waned. The old adage that “reading and signing a document are two separate functions” was all too apparent in some of the shoddy work we found. This is not to say that every document was riddled with errors or that every employee’s performance was deficient, as that is hardly the case. For example, the Work Product Subcommittee examined over 5,000 arrest reports completed by officers assigned to specialized units and identified about 50 with problems. While the vast majority of those reports were done correctly, those with errors should have been caught and corrected when they were reviewed. Equally important, the quality of those reports should have been scrutinized by staff and command officers whose job it is to oversee their commands and ensure that things are being done correctly. That simply did not happen.

⁶¹ *Id.* at 121.

⁶² *Id.* at 34.

⁶³ *Id.* at 34.

In order to correct these problems, we simply must build a better Department infrastructure, one that will allow sufficient time for proactive supervision and sufficient management personnel to perform essential leadership and oversight functions. We also must change our “specialist” culture and recognize that our evolvment toward Community Policing/Government can only take root when most community problems are dealt with through our Basic Cars, not by creating more specialized units.

Anti-Corruption Inspections and Audits

If there is one aspect of the Board of Inquiry that has been more discouraging than others, it is the degree to which our employees are failing to follow established Department procedures. That failure is compounded by the failure of their supervisors and managers to oversee their work. In some cases, those failures are due to a lack of training or volume of work which has overwhelmed some of our people. But, in many other cases it appears people have figured out that the likelihood of anyone discovering the use of shortcuts is practically nil. Unfortunately, that latter motivation—no fear of detection—is all too true and has created an opportunity for some of our employees to take dangerous shortcuts.

Clearly, there has been serious erosion in the quality and emphasis of audits and inspections over the years. Without a routine system of in-depth audits, we are unable to ensure the quality of our employees’ work or hold their command structure accountable for the performance of their command.

If we are to ensure that people follow the rules and comply with our standards, we must embark on an aggressive system of audits and inspections. These efforts must ensure that individual work is completed up to standards and that work done in high-risk areas is inspected regularly to identify trends and potential problems early. It was interesting to note that every vice unit we inspected was virtually error free. After several corruption incidents in the 1950s and 1960s, a system of checks and balances was set up for our vice units which are virtually “bullet proof.” This is not to say that problems do not arise in our vice operations, but they are generally detected very early and dealt with effectively. Systemic problems, such as those we encountered in other places, are virtually unheard of in our vice operations. Therefore, we believe it necessary to emulate those systems for our other critical operational entities where integrity breaches can be far more serious and the liability aspects extremely costly.⁶⁴

But, as the Chemerinsky Report observed, the BOI Report was far from comprehensive. For example, it is unclear how many officers were involved in unlawful conduct connected to the Rampart Area Unit.⁶⁵ Moreover, the BOI report “fail[ed] to recognize or discuss the culture of the Los Angeles Police Department and how it gave rise to the Rampart scandal.”⁶⁶

⁶⁴ BOI REPORT at 336–37, 341, 347–348.

⁶⁵ Erwin Chemerinsky, *An Independent Analysis of the Los Angeles Police Department’s Board of Inquiry Report on the Rampart Scandal*, 34 LOY. L.A. L. REV. 545, 553–554 (2001).

⁶⁶ *Id.* at 645.

C. President Obama’s Task Force on 21st Century Policing

On December 18, 2014, President Obama signed an executive order establishing a Task Force on 21st Century Policing. The President charged the Task Force with identifying best practices and offering recommendations on how police practices can promote effective crime reduction while building public trust. The Task Force was co-chaired by the Philadelphia Police Commissioner and was supported by the U.S. Department of Justice. The Task Force conducted listening sessions across the country and heard from more than 100 persons from diverse stakeholder groups, including law enforcement executives and officers, civic leaders, community members, and academics, as well as many others who presented both live and written testimony.⁶⁷

The Task Force issued a 116-page report in May 2015. The Report identified six pillars that the Task Force concluded would build community trust in law enforcement, the central issue that is the focus of this Commission.⁶⁸

Pillar 1 involves building trust and legitimacy. The Task Force reported that the public confers legitimacy only on those persons they believe are acting in procedurally just ways, and concluded that law enforcement cannot build trust if the police are seen as an occupying force coming from outside to impose control on a community.⁶⁹ The Task Force recommended that the police adopt a “guardian” rather than a “warrior” mindset.⁷⁰ Procedural justice should be the guiding principle for a police department, both as to internal and external policies. A culture of transparency and accountability will build public trust and legitimacy. The Task Force urged police departments to proactively promote trust through positive, non-enforcement activities within the community. Recommendations to build trust included annual community surveys to track and analyze the level of the trust the community has for the police, and the hiring of a diverse workforce to improve the department’s understanding and effectiveness in dealing with all communities.⁷¹

Pillar 2 involves policy and oversight. The Task Force concluded that police policies must reflect the values of the communities they protect.⁷² The Task Force recommended that police collaborate with community members, especially in neighborhoods disproportionately affected by crime, to develop policies and strategies designed to reduce crime by improving relationships, increasing community engagement and fostering cooperation. Key policies include those involving use of force (with de-escalation emphasized), mass demonstrations, consent before searches, gender identification, prohibition on racial profiling, prosecution of officers involved in shootings, and in-custody deaths.⁷³ The Task Force recommended that departments collect detailed data on demographics and make the data and policies publicly available. The Task Force encouraged non-punitive peer review of critical incidents and the establishment of civilian oversight

⁶⁷ FINAL REPORT OF THE PRESIDENT’S TASK FORCE ON 21ST CENTURY POLICING (2015), https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf. [hereinafter TASK FORCE REPORT].

⁶⁸ *Id.* at 1–4.

⁶⁹ *Id.* at 9–11.

⁷⁰ *Id.*

⁷¹ *Id.* at 16.

⁷² *Id.* at 19.

⁷³ *Id.* at 20–21.

mechanics.⁷⁴

Pillar 3 involves the use of technology and social media. The Task Force recommended that police departments use social media to engage and educate communities about their expectations for transparency, accountability and privacy, and consider new technologies to improve law enforcement efficiency.⁷⁵

Pillar 4 focuses on community policing and crime reduction. The Task Force recommended that community policing be the guiding philosophy, with the police and neighborhood residents working cooperatively to co-produce public safety.⁷⁶ Police departments were urged to work cooperatively with citizens to identify crime problems and collaborate on solutions.⁷⁷ The Task Force urged multidisciplinary approaches for planning and responding to crisis situations. Police departments should create an internal culture focused on protecting the dignity of each person, including children, vulnerable adults and those with mental health issues, with proactive collaboration with juveniles and young adults.⁷⁸

Pillar 5 emphasized the importance of training and education. The Task Force recommended that police must be carefully trained to handle a wide variety of challenges, including immigration, terrorism, mental health issues and gun violence.⁷⁹ The Task Force encouraged community involvement in police training.⁸⁰ Leadership training within the police departments is essential, so that officers have proper supervision and solid role models. Quality training that includes crisis intervention and de-escalation is necessary.⁸¹

The final Pillar (6) focuses on officer safety and wellness. The Task Force noted that officer safety is key to public safety.⁸² Recommendations included implementing shift lengths; collection of data on police deaths, injuries, and “near-misses;” proper equipment to promote officer health and safety; and peer review error management to promote higher quality decisions and officer safety.

The Task Force Report provides useful information and a valuable lens through which to view the problems of the GTTF and possible reforms to restore the Baltimore community’s trust in BPD.

D. The DOJ Investigation of the Baltimore City Police Department

On August 10, 2016, the Special Litigation Section of the Civil Rights Division of the Department of Justice issued a comprehensive, 164-page report concerning the Baltimore City

⁷⁴ *Id.* at 22.

⁷⁵ *Id.* at 31–33.

⁷⁶ *Id.* at 41–42.

⁷⁷ *Id.* at 44.

⁷⁸ *Id.* at 48.

⁷⁹ *Id.* at 51.

⁸⁰ *Id.* at 54.

⁸¹ *Id.* at 56.

⁸² *Id.* at 61.

Police Department.⁸³ The DOJ Report was the product of a 14-month investigation into the activities of BPD that began in May 2015 following the death of Freddie Gray and the ensuing unrest in Baltimore City. Blessed with far greater resources than this Commission, the Department of Justice conducted a thorough investigation that included interviews with over 500 persons, including officers, community members, city leaders and other stakeholders; review of hundreds of thousands of documents; statistical analyses of BPD activities; and support from more than a dozen law enforcement experts.⁸⁴

1. Summary of DOJ Findings

The DOJ found “reasonable cause to believe that the BPD engages in a pattern or practice of conduct that violates the Constitution and Federal law.”⁸⁵ The DOJ concluded that BPD engaged in unconstitutional stops, searches and arrests; used racially discriminatory enforcement strategies that lead to a disparate impact on the African-American community; and used excessive force.⁸⁶ The report found that these unlawful and discriminatory practices were “driven by ‘systemic deficiencies in BPD’s policies, training, supervision, and accountability structures that fail to equip officers with the tools they need to police effectively and within the bounds’ of the Constitution.”⁸⁷

In its Report, the DOJ noted the severe and complex challenges facing BPD officers who must carry out law enforcement responsibilities. Baltimore City has suffered a long, well-recognized history of segregation and racial discrimination. The median income in Baltimore City is 20% lower than the national average. The City contains large tracts of poverty, with 100,000 African-Americans and nearly 25% of City residents living below the federal poverty level. Unemployment in Baltimore City exceeds the national average, and the City is ranked as the least upwardly mobile urban area in America. Baltimore City ranks below the national average in education, and has three times the national rate of lead poisoning. The DOJ noted that as of 2014, Baltimore had the sixth highest rate of violent crimes out of 76 American cities with more than 250,000 residents. In the last full year before the Report was issued (2014), the City had its highest-ever number of homicides per capita (344), with 900 people shot in the City that year.⁸⁸

The DOJ found that “[m]ost BPD officers work hard to provide vital services to the

⁸³ DOJ REPORT, *supra* note 5.

⁸⁴ *Id.* at 22.

⁸⁵ *Id.* at 3.

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.* at 12–14. Baltimore has continued to experience a high rate of homicides in the past few years following issuance of the DOJ REPORT. In 2019, Baltimore City had the second-highest per capita homicide rate of all U.S. cities, behind only St. Louis, and also ranked second among U.S. cities in killings per capita in the years 2015–2018. See U.S. DEPT. OF JUSTICE, FEDERAL BUREAU OF INVESTIGATION, UNIFORM CRIME REPORTING DATA, <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019> (last visited Nov. 16, 2020). The number of homicides in Baltimore in 2019 was the second-highest in the City’s history, behind only 1993, when the City had 125,000 more people. See Tim Prudente, 2019 Closes with 348 Homicides in Baltimore, Second-Deadliest Year on Record,” BALT. SUN (Jan. 1, 2020), <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-2019-homicide-final-count-20200101-jnauuukbdh3edsyypspm3he-story.html>. As of November 12, 2020, there have been 290 homicides in the City during calendar year 2020. See BALT. HOMICIDES, <http://homicides.news.baltimoresun.com> (last visited Nov. 12, 2020). At this pace, the City will experience slightly fewer killings in 2020 than in 2019.

community.”⁸⁹ But the DOJ was highly critical of the BPD, finding “systemic deficiencies” that led to long-standing practices of unconstitutional policing including insufficient policy guidance and training; failing to collect and analyze data regarding officers’ activities; failing to hold officers accountable for misconduct; and failing to equip officers with the necessary equipment and resources they need to police safely, constitutionally and effectively.”⁹⁰

The DOJ concluded that Baltimore City’s complicated racial, economic and social problems do not “excuse BPD’s violations of the constitutional and statutory rights of the people living in these challenging conditions.”⁹¹ Rather, the BPD’s practices “perpetuate and fuel a multitude of issues rooted in poverty and race” and “at times exacerbate the longstanding structural inequalities in the City by encouraging officers to have unnecessary, adversarial interactions with community members that increase exposure to the current justice system and fail to improve public safety.”⁹²

The Department of Justice investigators stated that the relationship between the BPD and the Baltimore community is “broken.”⁹³ The DOJ found a “profound lack of trust” between BPD and the African-American community in Baltimore. The DOJ noted the common perception of “two Baltimores” “one wealthy and largely white, the second impoverished and predominantly black.”

Community members living in the City’s wealthier and largely white neighborhoods told us that officers tended to be respectful and responsive to their needs, while many individuals living in the City’s largely African-American communities informed us that officers tend to be disrespectful and do not respond promptly to their calls for service. Members of these largely African-American communities often felt they were subjected to unjustified stops, searches and arrests, as well as excessive force. These challenges amplify the importance of using policing methods that build community partnerships and ensure fair and effective enforcement without regard for affluence or race through robust training, close supervision, data collection and analysis, and accountability for misconduct.”⁹⁴

⁸⁹ DOJ REPORT at 3.

⁹⁰ *Id.* at 4.

⁹¹ *Id.* at 20.

⁹² *Id.* at 20.

⁹³ *Id.* at 157.

⁹⁴ *Id.* at 5.

The DOJ described the BPD's history since the late 1990s of "zero tolerance" street enforcement, leading to enormous numbers of stops, searches and arrests by officers with "minimal training and insufficient oversight from supervisors or through other accountability structures" that resulted in regular, repeated violations of citizens and constitutional rights, further eroding the community's trust in BPD.⁹⁵ During the period January 2010–May 2015, the BPD made over 300,000 pedestrian stops, concentrated in African-American neighborhoods, with 44% of those stops in two black districts with only 11% of the City's population. Stops were often made without legal bases, and only 3.7% of the stops led to a citation or arrest. During that period over 11,000 charges were rejected because the officer lacked probable cause or prosecutors determined the case should be dropped.⁹⁶ The DOJ concluded that the "zero tolerance" era gave little or no consideration for whether the BPD's activities were actually promoting public safety, community trust or constitutional compliance.⁹⁷

The DOJ found that during the "zero tolerance" era, the BPD engaged in targeted policing of certain neighborhoods with minimal oversight or accountability, leading to large racial disparities in enforcement and a pattern of unconstitutional excessive force in black communities. The DOJ found virtually no oversight associated with excessive force. Although there were 2,818 complaints for excessive force during a nearly six-year period of review, the DOJ found that the BPD investigated only ten of those complaints. In only one case was the use of force found to be excessive.⁹⁸

In its August 2016 Report, the DOJ noted that the BPD was already beginning to move away from the "zero tolerance" approach to more of community policing. The DOJ found "widespread agreement" that BPD needed significant reform.⁹⁹ The DOJ stated that under then-Commissioner Davis, BPD had revised its use of force policies, taken steps toward accountability, equipped officers with body-worn cameras, and increased community outreach.¹⁰⁰ The DOJ concluded that "[a] commitment to constitutional policing builds trust that enhances crime fighting efforts and officer safety. Conversely, frayed community relationships inhibit effective policing by denying officers important sources of information and placing them more frequently in dangerous, adversarial encounters."¹⁰¹

2. DOJ Findings Pertinent to the GTTF Scandal

The DOJ Report was issued six months prior to the initial indictments of seven (7) GTTF officers. Despite its thorough review of the BPD activities, the DOJ investigators did not detect the illegal activities of the GTTF, which instead were discovered through a separate criminal investigation conducted by the Office of the United States Attorney for the District of Maryland. Indeed, some of the criminal acts of the GTTF officers were occurring even as the DOJ Office of

⁹⁵ *Id.*

⁹⁶ *Id.* at 5–6.

⁹⁷ *Id.* at 5.

⁹⁸ *Id.* at 9.

⁹⁹ *Id.* at 4.

¹⁰⁰ *Id.* at 5.

¹⁰¹ *Id.* at 4.

Civil Rights was investigating the BPD. Although the DOJ report does not focus on the GTTF or identify any criminal misconduct by GTTF officers, the DOJ findings paint a picture of an environment and culture within the BPD where criminal misconduct could arise and flourish. In particular, four general findings set forth in the August 2016 DOJ Report are pertinent in examining the root causes of the GTTF scandal: (1) an undue focus on raw numbers as a metric of performance, instead of constitutional policing and improving community trust; (2) poor training; (3) poor supervision; and (4) lack of accountability.

a. BPD's Focus on Raw Numbers Instead of Constitutional Policing and Improving Community Trust

The DOJ Report noted that under then-current Commissioner Kevin Davis and his predecessor, Commissioner Anthony Batts, the BPD moved away from the zero-tolerance approach toward more community-based policing. However, as of 2016, DOJ found that “[m]any supervisors who were inculcated in the era of zero tolerance continue to focus on the raw numbers of officers’ stops and arrests, rather than more nuanced measures of performance.”¹⁰² Foreshadowing the problems associated with the GTTF’s focus on the metric of number of guns seized as the measure of performance, the DOJ quoted a July 11, 2012 report from the Fraternal Order of Police (“FOP”) that noted:

[N]umbers drive everything in the BPD, which has led to misplaced priorities. As a result, officers in the BPD feel pressure to achieve numbers for perceptions’ sake...The focus on assigning blame for less-than-satisfactory numbers...rather than problem-solving, is completely unproductive and weakens the collective morale of the BPD.¹⁰³

The Department of Justice noted “a persistent perception among officers that their performance continues to be measured by the raw numbers of stops and arrests they make, particularly for guns and drug offenses.”¹⁰⁴ The DOJ found that officers believed that “the path to promotions and favorable treatment, as well as the best way to avoid discipline,” was to increase the numbers of stops and arrests.¹⁰⁵ The DOJ investigators found that BPD’s mid-level supervisors continued to embrace the principles of “zero tolerance” and prioritized numbers over community policing and longer, more intensive investigations.¹⁰⁶ Some officers told the DOJ that they were treated less favorably by being “denied the opportunity to work overtime because supervisors believed they did not make enough stops and arrests.”¹⁰⁷ The DOJ questioned the practice of rewarding officers based on statistics, a practice that clearly contributed to the GTTF scandal.¹⁰⁸

¹⁰² *Id.* at 17.

¹⁰³ *Id.* at 17 (quoting FRATERNAL ORDER OF POLICE LODGE 3, BLUEPRINT FOR IMPROVED POLICING (2012), <http://www.fop3.org/wp-content/uploads/2015/05/blueprint.pdf>).

¹⁰⁴ *Id.* at 42.

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* at 42.

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 65.

b. Poor Training

In its Report, the DOJ was critical of the training used by the BPD as of 2016. The DOJ blamed officers' frequent use of excessive force on improper, overly-aggressive tactics taught at the Academy, including when to point a gun at an individual. The DOJ found that "BPD's trainings fuel an 'us vs. them' mentality, we saw some officers display toward community members, alienating the civilians they are meant to serve."¹⁰⁹

The DOJ generally found both academy training and mandatory in-service training to be "lacking."¹¹⁰ Officers were taught "an erroneous legal standard for excessive force."¹¹¹ Training on how to identify an armed person was found to be "ineffective" and lacking in guiding officers on how to safely and constitutionally approach an individual who is armed.¹¹² The DOJ found that only in 2015 did the BPD begin comprehensive training on how to resolve incidents without resorting to force.¹¹³ "Officers have not been properly trained in numerous important topics from the use of force and de-escalation to stops, searches, and arrests, to how to supervise and investigate misconduct."¹¹⁴ "The Department has failed to establish a robust training program and lacks the basic organizational capacities, infrastructure, and support required to effectively train police officers to respond to situations that arise in law enforcement encounters."¹¹⁵

"A significant number of officers" interviewed by the DOJ "had no training beyond Maryland's basic requirements."¹¹⁶ The DOJ found that "BPD lacks adequate staff to train its officers efficiently; its training facilities are outdated, ill-repaired, and often unable to accommodate modern training methods; and BPD lacks mechanisms to track officer attendance and performance to ensure that officers receive and understand the training they need to engage in safe, effective, constitutional policing."¹¹⁷

The DOJ found that training units responsible for supervisor training for new sergeants and lieutenants "were entirely vacant with no personnel staffing them."¹¹⁸ As of 2016, BPD had only 17 computers available to train its nearly 4,000 employees.¹¹⁹ Training buildings were in disrepair, without drinking water or workable air conditioning and heating, such that the Academy itself described its facilities as "decrepit" that gave officers "the impression that they are party to a fly-by-night, poverty-stricken department."¹²⁰ Nor did BPD have the ability to evaluate and track officer training, with no "mechanism to track the follow-up remedial training required after a disciplinary incident."¹²¹

¹⁰⁹ *Id.* at 79.

¹¹⁰ *Id.* at 100.

¹¹¹ *Id.* at 101.

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.* at 130.

¹¹⁵ *Id.*

¹¹⁶ *Id.* at 130.

¹¹⁷ *Id.* at 131.

¹¹⁸ *Id.* at 131.

¹¹⁹ *Id.* at 132.

¹²⁰ *Id.*

¹²¹ *Id.*

The DOJ identified three particular types of training in need of improvement for BPD to effectively implement reforms: “real world” scenario-based simulation training; an improved Field Training Officer (FTO) program to reinforce training and values to new officers who graduate from the Academy; and better supervisor and leadership training.¹²²

c. Poor Supervision

The Department of Justice found that officers were not properly supervised. “BPD fails to use effective measures to review stops, searches, and arrests to identify and correct constitutional violations or provide counseling and support to its officers.”¹²³ DOJ found “minimal” substantive review of officers’ behavior by supervisors.¹²⁴ As of 2016, officers were not required to document the facts justifying a stop or search except in cases that resulted in an arrest or use of force.¹²⁵ Accordingly, there was no supervisor review for the large majority of stops. BPD supervisors did not review day-to-day stop and search activities for compliance with policy or the law.¹²⁶ DOJ found that BPD front-line supervisors “consistently sign off on incident reports describing the basis for warrantless arrests, even where the reports describe egregious constitutional violations.”¹²⁷ Remarkably, the DOJ investigation “did not identify a single arrest questioned by a front line supervisor. BPD supervisors told us that they see their role as documenting officer activity, not reviewing to ensure it conforms to constitutional standards.”¹²⁸

The DOJ investigation also revealed that the BPD failed to collect and analyze data “to help identify officers whose activities may warrant further scrutiny.”¹²⁹ DOJ noted:

For example, BPD’s data systems cannot identify whether specific officers or units bear a disproportionate share of responsibility for illegal stops and searches. During the course of our investigation, we received a large number of anecdotes specifically identifying plainclothes officers enforcing violent crime and vice offenses (the names and organization of the units have changed multiple times over the years covered by the investigation) as particularly aggressive and unrestrained in their practice of stopping individuals without cause and performing public, humiliating searches. A disproportionate share of complaints likewise accuse plainclothes officers of misconduct. Yet much of BPD’s stop data does not even identify the unit of the officers involved in the stop, making unit-level analysis impossible.¹³⁰

¹²² *Id.* at 133.

¹²³ *Id.* at 44.

¹²⁴ *Id.*

¹²⁵ *Id.* at 45.

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *Id.* at 45.

¹³⁰ *Id.* at 45–46.

BPD similarly fails to track data on arrests made by officers. For example, one measure that could be used to assess whether individual officers or units are engaged in a pattern of illegal arrests would be to monitor arrest outcomes to determine if prosecutors filed or dismissed charges in cases stemming from arrests by certain officers, units or supervisors. Doing so would identify officers who make arrests that cannot be prosecuted due to lack of probable cause, failure to collect evidence in a constitutional manner, or other improprieties. Tracking arrest outcomes is an important tool for imposing accountability as well as identifying officers who would benefit from additional training, guidance or other early intervention. Yet BPD does not take any steps to track or identify officers or units who make arrests that cannot be prosecuted, or to identify supervisors who sign off on such arrests.¹³¹

In its investigation, DOJ found evidence indicating that BPD failed to properly train sergeants on how to be effective supervisors. “One sergeant informed us during our interview that judging an officer’s tactics is simply not part of use of force investigations; he did not deem it to be his job to ‘second-guess’ an officer’s tactics.”¹³² But, as the DOJ noted, it is a sergeant’s job to mentor officers and to review officer behavior to prevent future misconduct.¹³³ DOJ concluded that:

BPD fails to adequately supervise its officers. This lack of supervision manifests itself in multiple ways, including a failure to guide officer activity through effective policies and training; a failure to collect and analyze reliable data to supervise officer enforcement activities; and the lack of a meaningful early intervention system (EIS) to identify officers who may benefit from additional training or other guidance to ensure that they do not commit constitutional violations.¹³⁴

The DOJ found that an Early Intervention System (EIS) is an effective tool that allows sergeants, lieutenants, and command staff “to proactively supervise the officers under their command and to continually assess officers’ risk of engaging in problematic behavior.”¹³⁵ The DOJ found that as of 2016, “BPD has an early intervention system in name only; indeed, BPD commanders admitted to us that the Department’s early intervention system is effectively nonfunctional.”¹³⁶ The DOJ found that the thresholds alerting supervisors to misconduct were too high, such that supervisors did not become aware of troubling patterns “until after officers commit

¹³¹ *Id.* at 46.

¹³² *Id.* at 106.

¹³³ *Id.*

¹³⁴ *Id.* at 128.

¹³⁵ *Id.* at 135.

¹³⁶ *Id.*

egregious misconduct.”¹³⁷ Additionally, even if alerted that a particular officer may have issues, supervisors did not consistently follow up to intervene to correct the bad behavior. And certain data concerning command investigations was expunged, interfering with BPD’s ability to detect and correct negative patterns of behavior.¹³⁸

DOJ’s investigation “found that numerous officers had recurring patterns of misconduct that were not adequately addressed.”¹³⁹ From 2011-2016, 25 BPD officers were sued four or more times for Fourth Amendment violations.¹⁴⁰ DOJ also cited an example of an officer criminally charged in a shooting who had previously been involved in two other officer-involved shootings within the prior five years, had a long history of complaints for harassment and excessive force, and claimed to suffer from post-traumatic stress related to the prior shootings. This officer’s behavior triggered the EIS alert, but BPD failed to respond to the alert in a meaningful way.¹⁴¹

d. Lack of Accountability

The DOJ investigative report criticized the BPD for lack of accountability, including failing to take corrective action when third parties, including local prosecutors, identified officers engaged in misconduct.¹⁴²

Even where prosecutors have provided BPD with specific information on problematic officers who routinely make improper arrests, searches or seizures, the Department has failed to meaningfully investigate the information or take appropriate action. For several years, the States Attorney’s Office maintained a “Do Not Call” list of officers that prosecutors should not subpoena to testify because prosecutors determined that the officers did not testify credibly about their enforcement actions. Although the State’s Attorney’s Office regularly shared this list with BPD, the Department rarely used the information to identify officers who may need support or discipline. As a result, problematic officers remain on the street, detaining, searching and arresting people even though the State’s Attorney’s Office has determined that it cannot prosecute a crime based on the officers’ testimony. The State’s Attorney’s Office no longer maintains a written “Do Not Call” list, but prosecutors informally maintain a registry of problematic BPD officers who cannot be used to support criminal prosecutions. In recent years, the State’s Attorney’s Office has contacted BPD leadership on several occasions to identify officers that prosecutors determined can no longer testify credibly due to misconduct. In most of these cases,

¹³⁷ *Id.* at 136.

¹³⁸ *Id.*

¹³⁹ *Id.* at 136.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*

¹⁴² *Id.* at 26–27.

BPD leadership took no action against the identified problem officers.¹⁴³

The DOJ cited other examples of lack of accountability. In one instance where officers gave conflicting statements, it appeared that a Lieutenant Colonel was opposed to investigating this discrepancy and “may have attempted to cover up the report that identified potentially problematic officer conduct.”¹⁴⁴

DOJ described the lack of accountability within BPD as follows:

BPD lacks meaningful accountability systems to deter misconduct. BPD does not consistently clarify, investigate, adjudicate and document complaints of misconduct according to its own policies and accepted law enforcement standards. Indeed, we found that BPD personnel sometimes discourage complaints from being filed and frequently conduct little or no investigation—even of serious misconduct allegations. As a result, a culture resistant to accountability persists throughout much of BPD, and many officers are reluctant to report misconduct for fear that doing so is fruitless and may provoke retaliation.¹⁴⁵

The DOJ was highly critical of BPD’s efforts to control its own workforce:

BPD relies on deficient accountability systems that fail to curb unconstitutional policing. For years, the Department’s process of investigating and adjudicating complaints has been plagued by systemic failures, including: discouraging individuals from filing complaints; poor investigative techniques; unnecessary delays; minimal review and supervision; and a persistent failure to discipline officers for misconduct, even in cases of repeated or egregious violations. BPD likewise fails to provide information about officer misconduct in a transparent manner or receive input on the accountability process from the community it serves. As a result, a cultural resistance to accountability has developed and been reinforced within the Department. This culture further undermines accountability by discouraging officers from reporting misconduct and discouraging supervisors from sustaining allegations of it. BPD’s persistent failure to hold officers accountable for misconduct contributes to an erosion of the community trust that is central to effective law enforcement.¹⁴⁶

¹⁴³ *Id.* at 46.

¹⁴⁴ *Id.* at 105–106.

¹⁴⁵ *Id.* at 128.

¹⁴⁶ *Id.* at 139.

The DOJ investigators found that because of deficiencies in BPD’s complaint intake and investigation processes, the BPD had an “extremely low rate of sustaining allegations of officer misconduct, which in turn leads to a lack of discipline and accountability in the Department.”¹⁴⁷ Out of 1,382 allegations of excessive force tracked by the BPD from 2010 through 2015, only 31 allegations (2.2%) were sustained.¹⁴⁸ For those complaints that were sustained and challenged by the involved officers through trial board proceedings, DOJ found that the trial board process suffered from delay, lack of civilian participation, and lack of transparency.¹⁴⁹

The DOJ found that Baltimore’s Civilian Review Board has been ineffective, “in large part because it has never been provided with adequate authority or resources to perform its intended function of providing a check on police misconduct.”¹⁵⁰ DOJ cited several problems with the Civilian Review Board and concluded that as of 2016 the Board was “ineffective, heightening community perceptions that BPD is resistant to accountability.”¹⁵¹

Critically, the DOJ concluded that BPD’s internal culture as of 2016 was resistant to effective discipline, for several reasons.¹⁵² BPD allowed policy violations to go unaddressed, even when they were widespread or involved serious misconduct.¹⁵³ The DOJ found evidence that some of the BPD officers engaged in criminal behavior—*i.e.*, targeting sex workers to coerce sexual favors, cash or narcotics—that were not adequately investigated by the Department.¹⁵⁴ The BPD failed to take disciplinary action against officers known to have engaged in serious or repeated misconduct, such as those listed by the State’s Attorney’s Office on the “Do Not Call” list that existed through at least 2011.¹⁵⁵ The DOJ found that the BPD officers were reluctant to identify misconduct by their fellow officers out of fear of retaliation.¹⁵⁶ The Department had well-publicized incidents of retaliation, leading officers to remain silent when misconduct occurred.

Foreshadowing the GTTF scandal, DOJ noted that “an officer in a specialized drug unit observed one of his fellow officer’s plant drugs on a suspect after a foot chase.”¹⁵⁷ The officer declined to report the incident out of fear of retaliation. This example, which describes exactly one of the types of criminal behavior engaged in by the convicted GTTF officers, demonstrates a destructive, unethical culture where silence and protection of fellow officers who engaged in wrongdoing took precedence over ethics, compliance, and the high standards expected of police officers.

¹⁴⁷ *Id.* at 146.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.* at 146–147.

¹⁵⁰ *Id.* at 148.

¹⁵¹ *Id.*

¹⁵² *Id.* at 149.

¹⁵³ *Id.* at 109.

¹⁵⁴ *Id.* at 149–150.

¹⁵⁵ *Id.* at 151–152.

¹⁵⁶ *Id.* at 152–153

¹⁵⁷ *Id.* at 153.

E. Consent Decree Actions & Programs

1. Terms of the Consent Decree

Following the Department of Justice investigation into the Baltimore Police Department's policing practices, the City of Baltimore and DOJ entered into a Consent Decree. The Consent Decree was approved by the Honorable James K. Bredar, United States District Judge for the District of Maryland, on April 7, 2017.

The Consent Decree addresses systemic problems identified during the DOJ's investigation and demands comprehensive change. At more than 200 pages in length, the Consent Decree focuses on fifteen discrete categories of reform.¹⁵⁸ As relevant to the work of the Commission, the Consent Decree requires reform in the areas of Community Policing and Engagement; Use of Force; Misconduct Investigations and Discipline; and Recruitment, Hiring and Retention. Not only must the BPD revise its departmental policies and create new ones to reflect the terms of the Consent Decree, it must also implement those new policies by training officers and holding them accountable.

The Consent Decree required the appointment of an Independent Monitor to assist the Court in assessing the Department's progress in implementing the Consent Decree's requirements. The City of Baltimore, BPD, and DOJ established a joint process to select the Monitor, which garnered 26 responses. On October 3, 2017, Judge Bredar appointed Kenneth L. Thompson, a partner at Venable LLP, to serve as Consent Decree Monitor. Along with Mr. Thompson, the Consent Decree Monitoring Team includes experts in policing and police reform, civil rights enforcement, psychology, social science, organizational change, data and technology, and community engagement.¹⁵⁹

Much of the Consent Decree seeks to improve the relationship between the BPD and the citizens of Baltimore. For instance, BPD has agreed to "provide eight hours of cumulative, structured in-service training" for all officers, including supervisors, on community-oriented policing practices and the value of proactive, community-oriented policing.¹⁶⁰ The Department has also committed to providing opportunities for "routine and frequent positive interactions between officers and community members," including by having sworn officers attend neighborhood and community meetings and by regularly updating the public on the Department's progress under the Consent Decree.¹⁶¹

¹⁵⁸ The complete list of areas of reform is as follows: (1) Community Oversight Task Force, (2) Community Policing and Engagement, (3) Stops, Searches, Arrests, and Voluntary Police-Community Interactions, (4) Impartial Policing, (5) Responding to and Interacting With People with Behavioral Health Disabilities or in Crisis, (6) Use of Force, (7) Interactions with Youth, (8) Transportation of Persons in Custody, (9) First Amendment Protected Activities, (10) Handling of Reports of Sexual Assault, (11) Technology, (12) Supervision, (13) Misconduct Investigations and Discipline, (14) Coordination with Baltimore City School Police, and (15) Recruitment, Hiring and Retention.

¹⁵⁹ CONSENT DECREE MONITORING TEAM FOR BALTIMORE CITY (2017), <https://www.bpdmonitor.com> (last visited Nov. 15, 2020).

¹⁶⁰ Consent Decree, *United States v. Police Dep't of Balt.*, JKB-17-0099 at 6, 16 (D. Md. Jan. 12, 2017) [hereinafter Consent Decree].

¹⁶¹ *Id.* at 7–9, 19–21.

The Consent Decree also mandates that officers use de-escalation techniques, rather than resorting to force, whenever possible. In addition to prohibiting officers from using chokeholds or neckholds unless deadly force is authorized, the Consent Decree instructs that BPD officers may not use force as a means of punishment against an individual who has fled, resisted arrest, or assaulted an officer.

A substantial portion of the Consent Decree is focused on reforms to the internal structure and daily operations of the Department. The Consent Decree highlights the need for “a robust and well-functioning accountability system” to investigate complaints of officer misconduct made by civilians and officers.¹⁶² To that end, the Department is required to “encourage and protect officers who report violations of policy by other officers,” properly classify all misconduct complaints received, and ensure that its misconduct investigators “conduct objective, comprehensive, and timely administrative investigations of all allegations of officer misconduct.”¹⁶³

The Consent Decree further recognizes that BPD must “successfully attract[] and hire[] a diverse group of qualified individuals” to substantially comply with the terms of the Consent Decree and to achieve its objectives as a law enforcement agency.¹⁶⁴ Similarly, it must assess its ability to retain high-performing officers, including by surveying employee satisfaction and analyzing officer exit interviews to identify deficiencies and opportunities for improvement.

2. Progress Under the Consent Decree

Since the Consent Decree was entered in 2017, Judge Bedar has taken an active role in holding the parties accountable for implementing its terms. The Court has held quarterly hearings at which the DOJ, the BPD, and the Monitoring Team report on the Department’s progress toward achieving substantial compliance with the Consent Decree. At the hearing held on July 23, 2020, Judge Bedar acknowledged that “the national spotlight has shined brightly” on the issue of police reform since the killing of George Floyd at the hands of police in Minneapolis, but he reminded the parties (and the public) that Baltimore City leaders have already agreed on the method to reform policing in Baltimore: the Consent Decree.¹⁶⁵ Thus, the possibility of defunding, abolishing, or fundamentally restructuring the police department is not one that exists here. The City of Baltimore and its police department are obligated to achieve substantial compliance with the Consent Decree. However, according to Judge Bedar, more than three years after the Consent Decree was entered, “[t]he evidence shows that we still remain closer to the beginning of this reform effort than to its end.”¹⁶⁶

¹⁶² *Id.* at 112, ¶ 329.

¹⁶³ *Id.* at 115–16, ¶ 337; 120, ¶ 343.

¹⁶⁴ *Id.* at 151, ¶ 419.

¹⁶⁵ Statement of the Honorable James K. Bedar at 2–3, *United States v. Police Dep’t of Balt.*, JKB-17-0099 (D. Md. July 23, 2020).

¹⁶⁶ *Id.* at 12.

Indeed, from the time the Consent Decree was entered until now, the Department has primarily focused on the tasks of policy writing and planning. In other words, BPD has laid the groundwork for the improvements required under the Consent Decree but largely has not begun to implement those improvements. As Judge Bedar observed, “we’re long on plans and policies, but short on execution.”¹⁶⁷

Despite slow progress, Judge Bedar has expressed confidence in the ability of Commissioner Michael Harrison and his leadership team to execute these plans.¹⁶⁸ In the Court’s view, the instability of leadership at BPD and in City Hall “slowed and impaired progress on the road to compliance” but “for *over* a year now, in sharp contrast with the preceding period, the Court has observed steady and consistent leadership and messaging from the top of the Police Department.”¹⁶⁹ Judge Bedar cautioned that it is “critical” for BPD to retain its police leadership as the Department seeks to implement Consent Decree reforms.¹⁷⁰

For its part, the Monitoring Team has described the implementation process as “mostly on track.”¹⁷¹ In addition to BPD’s substantial overhaul of departmental policies, the Monitoring Team recently acknowledged that the Department has “transformed” its training academy and begun to modernize its technological capabilities.¹⁷² The Monitoring Team also praised Commissioner Harrison’s reorganization of BPD’s Internal Affairs Division, crediting him with “acting aggressively to address a culture that has been overly tolerant of misconduct and poor performance.”¹⁷³ The Monitoring Team also noted that, though not required by the current monitoring plan, the Department is “proactively implementing policies mandating a duty to intervene and prohibiting retaliation for reporting misconduct.”¹⁷⁴ However, the Monitoring Team also emphasized that “the serious challenges BPD faces in the area of accountability cannot be overstated.”¹⁷⁵ As the Monitoring Team put it, there is no guarantee that the Consent Decree will succeed, but “early-stage threshold reforms have taken shape and are showing that BPD has the capability to reform.”¹⁷⁶

During the quarterly public hearing on October 29, 2020, Judge Bedar and the Department of Justice expressed concerns about BPD’s staffing levels. Although BPD has narrowed the gap between its attrition and its hiring, “[h]iring the additional officers recommended in the [Department’s] Staffing Plan will be a tall order.”¹⁷⁷ The staffing deficit is especially pronounced within the Public Integrity Bureau (“PIB”), which is responsible for leading officer misconduct investigations. The Monitoring Team’s Comprehensive Re-Assessment described the current

¹⁶⁷ *Id.* at 5.

¹⁶⁸ Statement of the Honorable James K. Bedar at 2–3, *United States v. Police Dep’t of Balt.*, JKB-17-0099 (D. Md. Oct. 29, 2020) (noting that “[s]ome institutions and elements of government have experienced uncertainty and even instability in anticipation of the election,” but that he has “been encouraged to see that...the leadership and management of the Baltimore Police Department has remained *uncharacteristically stable*”) (emphasis in original).

¹⁶⁹ Statement of the Honorable James K. Bedar, *supra* note 139, at 3 (emphasis in original).

¹⁷⁰ *Id.* at 4.

¹⁷¹ BALT. CONSENT DECREE MONITORING TEAM, *supra* note 5 at 7.

¹⁷² *Id.* at 9.

¹⁷³ *Id.* at 10.

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ *Id.*

¹⁷⁷ *Id.* at 42–43.

status of misconduct investigations as “inadequate” and noted that investigations “take far too long.”¹⁷⁸ Another challenge for BPD is developing “a fully functional, modern” Early Intervention System (“EIS”), which the Monitoring Team estimated, as of September 30, 2020, was more than a year from completion.¹⁷⁹

BPD has, however, made strides in launching Ethical Policing is Courageous (“EPIC”)—its department-wide peer intervention program. EPIC is now in its pilot stage, and the Department has rolled out a series of videos that promote EPIC and its ability to “keep officers from getting into situations that could adversely affect their physical and mental health.”¹⁸⁰ BPD anticipates that all officers will be trained in EPIC no later than March 2021.¹⁸¹

In addition, BPD is in the process of implementing a new records management system (“RMS”) that will shift the Department away from its “cumbersome, siloed, paper-reporting systems to integrated, electronic, field-based reporting, which will increase officer efficiency, facilitate more effective supervision, and enable necessary. . . analysis of . . . trends in performance and constitutional policing metrics.”¹⁸² As of September 30, 2020, the Monitoring Team reported that the Department had hired a vendor to design and install the new RMS, scheduled to be completed next year.¹⁸³ During the October Quarterly Public Hearing, BPD noted that BPD officers were involved in the selection of the RMS and its specific configuration for BPD.

VI. THE HISTORY OF THE GTTF AND THE CRIMINAL ACTIVITIES OF THE GTTF OFFICERS

The Gun Trace Task Force was founded in 2007, under the leadership of then-Commissioner Frederick H. Bealefeld, III. The GTTF grew out of Baltimore City’s Gun Offender Registry Act, which was modeled after a New York law, and which requires people convicted of certain gun offenses to register with the Police Commissioner of Baltimore. When the Act passed, the BPD needed officers to track gun offenders (the Gun Offender Registry Unit) and other officers to trace the guns after the offenders were arrested (GTTF). Commissioner Bealefeld established the GTTF in conjunction with the Mayor’s Office of Criminal Justice.

As Commissioner Bealefeld explained in an interview with the Commission, around the time of the Gun Trace Task Force’s creation, there were more than twice as many new guns being sold each year in Maryland (approximately 30,000) as there were guns seized by law enforcement (at most 15,000). Bealefeld recognized that police could not seize guns quickly enough to create a measurable, demonstrable impact on violent crime. Bealefeld credited the research of Professor Daniel Webster of Johns Hopkins University with informing his judgment on how best to impact violent crime in Baltimore. Webster’s research showed that even if the police could not make cases against firearms dealers who sold a high volume of unlawfully recovered weapons, they could at least inspect those dealers, and those inspections would drive compliance and diminish

¹⁷⁸ *Id.* at 43.

¹⁷⁹ *Id.* at 35.

¹⁸⁰ *Id.* at 93.

¹⁸¹ *Id.* at 28–29.

¹⁸² *Id.* at 9.

¹⁸³ *Id.*

the dealers' ability to facilitate straw purchases.¹⁸⁴ The Gun Trace Task Force was created, in part, to keep a watchful eye on gun distributors and conduct routine check-ups to make sure these distributors were adhering to the law.

In 2008, the BPD executed a Memorandum of Understanding ("MOU") with the Baltimore County Police Department and the Maryland State Police ("MSP") as participating agencies in the Gun Trace Task Force. The MOU provided that the mission of the GTTF was "to address the increasing problem of violent gun crimes in our combined jurisdictions and to bring those persons and/or businesses illegally obtaining and supplying firearms to criminals to justice."¹⁸⁵ The participating agencies hoped that by increasing their efforts "to identify and suppress illegal possession, purchasing, or trafficking of guns," they would reduce the number of firearms involved in violent criminal activity in the Baltimore metropolitan region, and in turn, reduce violent crimes in their communities.¹⁸⁶ A year later, the Anne Arundel County Police Department signed the MOU and joined the Task Force.¹⁸⁷

The MOU identified several investigative techniques that the GTTF would employ: interviewing individuals arrested for gun offenses and using the information collected to assist in firearm trafficking investigations; working in partnership with gun dealers and pawn shops; and working with the U.S. Attorney's Office and the State's Attorney's Office to successfully prosecute cases involving firearms violations.¹⁸⁸ To the extent possible, all investigations and enforcement were to be conducted jointly by officers from at least two of the participating agencies, such that no agency would act unilaterally.¹⁸⁹ The GTTF's progress would be reported at GunStat, made up of representatives of the Baltimore Mayor's Office, the Governor's Office of Crime Control and Prevention, the Department of Public Safety and Correctional Services, the Department of Juvenile Services, the Baltimore County Executive's Office, and the Anne Arundel County Executive's Office.¹⁹⁰

At the outset, the agencies agreed that the GTTF would operate under the supervision of a Detective Lieutenant assigned to the BPD's Violent Crime Impact Division ("VCID"), with each participating agency assigning at least one member holding a supervisory rank.¹⁹¹ The BPD committed to assign one detective sergeant and five detectives; the Baltimore County Police Department agreed to assign one detective sergeant, MSP agreed to assign five troopers, and the Anne Arundel County Police Department agreed to assign one officer.¹⁹² All officers would report to a base of operations designated on the 7th Floor of BPD Headquarters.¹⁹³

Sergeant Richard Willard was the unit's first sergeant, and he served in that role until 2009,

¹⁸⁴ A "straw purchase" is when a person who cannot legally own a firearm has another person purchase a gun on their behalf and illegally transfer it to them.

¹⁸⁵ Memorandum of Understanding for the Multi-Jurisdictional Gun Tracing Task Force at 1, May 29, 2008.

¹⁸⁶ *Id.*

¹⁸⁷ Memorandum of Understanding for the Multi-Jurisdictional Gun Tracing Task Force at 12, April 4, 2009.

¹⁸⁸ *Id.* at 2.

¹⁸⁹ *Id.* at 4.

¹⁹⁰ *Id.*

¹⁹¹ *Id.* at 3.

¹⁹² *Id.*

¹⁹³ *Id.*

when he was succeeded by then-Sergeant Kevin Jones, who continued in that role until 2012. Early members of the unit recalled that the unit's work was investigating the pipeline of guns into Baltimore. The unit investigated straw purchases and burglaries in which guns were stolen. Officers followed up on handgun arrests, checked ammunition logs for convicted felons, and consulted with the Maryland State Police to trace guns. The GTTF officers typically did not do street-level enforcement; however, like officers in other task forces they were sometimes pulled into enforcement activity with other BPD squads.

Over time, the mission of the GTTF changed. In about 2011, MSP, Baltimore County, and the other partner agencies began to pull out.¹⁹⁴ The GTTF's focus shifted from the investigative work of tracking the flow of guns into the City to instead responding directly to handgun violations—in other words, street enforcement. As one officer who previously served in the GTTF described it, the officers in the squad started doing “street work,” acting as “jump out boys.”

One officer observed that the mission shift of the GTTF was hastened by then-Commissioner Bealefeld's retirement. According to this officer, when Bealefeld left the Department in 2012, there was no longer a voice in the room to push back against the “mission creep” of the GTTF. Thomas Allers was named the GTTF's sergeant in July 2013. Wayne Jenkins took over the role in June 2016.

On February 23, 2017, the Office of the United States Attorney for the District of Maryland filed under seal a criminal indictment against seven officers of the Baltimore Police Department: Police Officer Momodu Gondo, Police Officer Evodio Hendrix, Police Officer Daniel Hersl, Police Officer Jemell Rayam, Police Officer Marcus Taylor, Police Officer Maurice Ward, and Sergeant Wayne Jenkins.¹⁹⁵ The officers were charged with participation in a racketeering conspiracy and substantive acts of racketeering, in violation of the federal Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1962(c) and (d). The officers were charged with:

- Stealing, money, drugs, and other items from members of the community, including during traffic stops, and after illegally entering residences;
- Swearing out false affidavits to obtain search warrants in order to rob community members, and then preparing false arrest, incident, and property reports to conceal their robberies;

¹⁹⁴ One officer interviewed by counsel to the Commission attributed the departure of the partner organizations, in part, to the arrival of Gondo and Rayam to the squad in about 2010.

¹⁹⁵ Although the indictment refers to the officers other than Jenkins by the title “Detective,” there is no rank of “Detective” in the BPD. An officer holds the rank of “Police Officer” unless and until he is promoted to “Sergeant.” In the BPD, the distinction between the titles of “Officer” and “Detective” turns on the officer's unit; those who serve in patrol are called “Officer,” while those who serve in investigative units are called “Detective.” Notably, there is no increase in pay and no additional training associated with the transfer from a patrol unit to an investigative unit. Detectives receive no particular training in investigations before acquiring the title. Other than Sgt. Jenkins, each of the six officers indicted by the USAO on February 23, 2017, held the rank of “Police Officer,” and because each was serving in an investigative unit, each was informally referred to as “Detective.” This Report will use the titles “Officer” and “Detective” interchangeably when referring to a BPD officer of the rank “Police Officer.”

- Evading court proceedings involving arrestees from whom the officers stole money;
- Obstructing and evading law enforcement efforts to uncover their criminal conduct, including;
 - alerting one another to potential investigations into their criminal conduct;
 - coaching one another to give false testimony to investigators from the Internal Investigations Division of the BPD;
 - turning off their body-worn cameras to avoid recording law enforcement encounters with citizens in which they were participants; and
- Defrauding the BPD and the State of Maryland by submitting false and fraudulent time and attendance records in order to obtain salary and overtime payments for times when the officers did not work.

The indictment alleged more than a dozen overt acts in furtherance of a RICO conspiracy and described ten incidents over a ten-month period in which one or more of the indicted officers robbed and extorted a member of the community.

On March 1, 2017, the seven officers were arrested and the indictment was unsealed. Ultimately, as of the date of this Report, a total of 14 BPD officers have been charged criminally by federal authorities in connection with the GTTF scandal.

A. Sergeant Wayne Jenkins

Sergeant Wayne Jenkins joined the Baltimore Police Department in February 2003.

After being promoted to the rank of Sergeant in November 2012 and serving for several years as the officer-in-charge of a plainclothes enforcement squad in what was then known as the BPD's Special Enforcement Section ("SES"), Jenkins was named the officer-in-charge of the GTTF in June 2016. As the GTTF Sergeant, Jenkins directly supervised each of the other six officers indicted by the U.S. Attorney's Office in February 2017.

On June 22, 2017, Jenkins was charged in a superseding indictment with Daniel Hersl and Marcus Taylor.¹⁹⁶ The superseding indictment charged Jenkins with six criminal counts, including RICO conspiracy, substantive acts of RICO, Hobbs Act robberies, and possession of a firearm in furtherance of a crime of violence.¹⁹⁷ On November 30, 2017, the USAO filed an additional five-count indictment against Jenkins, alleging that he planted heroin at the scene of an accident

¹⁹⁶ Superseding Indictment, United States v. Jenkins, Hersl & Taylor, No. CCB-17-106 (D. Md. June 22, 2017), ECF No. 137.

¹⁹⁷ *Id.*

following a high-speed car chase and filed a false statement of probable cause that resulted in the driver and passenger of the vehicle being charged with and imprisoned for federal drug charges.¹⁹⁸

After Gondo, Rayam, and Ward entered into plea agreements in June 2017, and Hendrix followed suit in July 2017, Jenkins pleaded guilty some six months later. On January 2, 2018, Jenkins agreed to plead guilty to one count of racketeering, one count of racketeering conspiracy, two counts of Hobbs Act robbery, one count of falsification of records, and three counts of depriving citizens of their civil rights.¹⁹⁹

In the agreed-upon statement of facts associated with his guilty plea, Jenkins admitted committing a wide variety of criminal acts, including stealing drugs from detainees, saying that he was “cutting them a break” by not arresting them but instead taking their drugs, which he then sold for personal gain instead of turning the drugs over to the BPD. As sergeant of his GTTF squad, Jenkins took custody of money seized from detainees and kept it, or shared it with other officers. Jenkins admitted engaging in robberies with Taylor, Hendrix, and Ward, both before and after these officers joined the GTTF, and with Hersl, Gondo, and Rayam after he became the officer-in-charge of his GTTF squad.²⁰⁰

Jenkins also admitted to falsely posing as a federal task force officer and as the U.S. Attorney in order to conceal his true identity from citizens.²⁰¹ Jenkins admitted authoring false reports and creating false charging documents to conceal the fact that the GTTF conspirators were stealing money, property and narcotics from citizens.²⁰² Jenkins admitted to continuing to engage in criminal conduct even after becoming aware that he and other members of the GTTF were under investigation.²⁰³ Jenkins further admitted to defrauding the public through overtime fraud, by submitting false time and attendance records to obtain wages for times when he was not working.²⁰⁴ Jenkins also admitted that after the GTTF officers were arrested and detained at the Howard County Detention Center, he told the other defendants to “keep their mouths shut” to obstruct justice.²⁰⁵ The agreed-upon statement of facts described seven different robberies carried out by Jenkins and other officers from 2011 through 2016, both before and after Jenkins joined the GTTF. On multiple occasions Jenkins stole marijuana and cocaine which he then gave to his friend Donald Stepp to sell, sharing the proceeds. Jenkins also stole prescription medicines that had been looted from a pharmacy during the unrest after Freddie Gray’s death, and gave them to Stepp to sell.²⁰⁶ Rayam also assisted Jenkins in selling heroin and split the proceeds.²⁰⁷

¹⁹⁸ Indictment, United States v. Jenkins, No. CCB-17-0638 (D. Md. Nov. 30, 2017), ECF No. 1.

¹⁹⁹ Plea Agreement, United States v. Jenkins, Nos. CCB-17-106 & CCB-17-0638 (D. Md. Jan. 5, 2018), ECF Nos. 254 & 255.

²⁰⁰ *Id.* at 16.

²⁰¹ *Id.* at 17.

²⁰² *Id.*

²⁰³ *Id.*

²⁰⁴ *Id.* at 24–25.

²⁰⁵ *Id.* at 18.

²⁰⁶ *Id.* at 22–23.

²⁰⁷ *Id.* at 23.

Jenkins admitted to illegally breaking and entering houses to steal money, property and drugs.²⁰⁸ He admitted to learning through law enforcement sources that a suspected drug dealer had a large sum of money in his car; Jenkins then illegally planted a GPS on the vehicle and sent Stepp to break into the car and steal \$15,000 - \$20,000, which they split.²⁰⁹ Jenkins also stole dirt bikes from persons illegally riding them and sold the bikes.²¹⁰ Finally, Jenkins admitted to engaging in a high-speed chase where an innocent, elderly bystander was killed in a collision.²¹¹ To justify the chase, Jenkins planted heroin in the suspect's vehicle and filed a false statement of probable cause under the penalty of perjury.²¹² The suspect was convicted and incarcerated, based upon fraudulently-planted evidence.²¹³

On June 7, 2018, U.S. District Judge Catherine Blake sentenced Jenkins to 25 years in prison and three years of supervised release.²¹⁴ On August 30, 2019, the U.S. District Court ordered Jenkins to pay restitution in the amount of \$239,300, of which he was jointly and severally responsible for \$224,000.²¹⁵

B. Police Officer Daniel Hersl

Daniel Hersl joined BPD in September 1999. He became a member of the GTTF in April 2016. Hersl was one of the seven GTTF officers indicted by the USAO on February 23, 2017. After four of the officers pleaded guilty, Hersl was charged in a superseding indictment with Jenkins and Taylor.²¹⁶ In the superseding indictment, the federal government charged Hersl with five criminal counts.²¹⁷ Hersl denied guilt and his case went to trial before a federal jury in January and February 2018. At the conclusion of the trial, Hersl was found guilty by the jury on three counts—a RICO conspiracy in violation of 18 U.S.C. § 1962(d); substantive acts of RICO in violation of 18 U.S.C. § 1962(c); and Hobbs Act robbery in violation of 18 U.S.C. § 1951.

At Hersl's trial, the government presented proof that even before joining the GTTF, Hersl on three occasions stole money from citizens. In the case of a citizen named Jimmie Griffin, Hersl stole \$5,000 off his person, another \$2,000 from his home, and also told officers that Mr. Griffin hid things in his rectum, such that the suspect would be searched and physically violated. A second victim, Herbert Tate, was robbed by Hersl. Hersl also planted drugs leading to false charges and incarceration for Mr. Tate, who as a result lost his job and his home. After joining the GTTF, Hersl participated in other robberies and attempted robberies according to the government and the proof presented at trial. Hersl was also convicted of overtime fraud, having collected wages during a

²⁰⁸ *Id.* at 23.

²⁰⁹ *Id.* at 23–24.

²¹⁰ *Id.* at 24.

²¹¹ *Id.* at 25.

²¹² *Id.*

²¹³ *Id.* at 27.

²¹⁴ Transcript of Record at 53, *United States v. Jenkins*, No. CCB-17-106 & CCB-17-0638 (D. Md. June 7, 2018), ECF No. 453.

²¹⁵ Order of Restitution, *United States v. Gondo*, No. CCB-17-106 (D. Md. Aug. 30, 2019), ECF No. 520; Mot. for Restitution Orders, *United States v. Gondo*, No. CCB-17-106 (D. Md. May 28, 2019), ECF No. 500.

²¹⁶ Superseding Indictment, *United States v. Jenkins, Hersl & Taylor*, No. CCB-17-106 (D. Md. June 22, 2017), ECF No. 137.

²¹⁷ *Id.*

time period when he was at home working on his house. At Hersl's trial, one of the cooperating defendants, Donald Stepp, a friend of Wayne Jenkins and bail bondsman who helped Jenkins sell stolen drugs and property, testified that Jenkins told him that Hersl was "one of the most corrupt cops in Baltimore City."²¹⁸ Following his conviction, Hersl was sentenced to 18 years in prison. On August 30, 2019, the U.S. District Court ordered Hersl to pay restitution in the amount of \$27,893.²¹⁹

Hersl appealed his conviction. On November 5, 2019, the United States Court of Appeals for the Fourth Circuit affirmed the conviction in a published decision. The Fourth Circuit noted:

This is a particularly sad case. The community places a noble trust in police officers to define and enforce, in the first instance, the delicate line between the chaos of lawlessness and the order of the rule of law. And when police officers breach that trust and misuse their authority, as here, a measure of despair infuses in the community, tainting far more than do similar crimes by others. The officers' convictions and sentences in this case are just and necessary, and we can only hope for a renewed commitment to the trust that we place in police officers who discharge their duties well.²²⁰

Hersl did not testify at his criminal trial. Subsequent to his conviction, in a series of letters to this Commission, Hersl has maintained his innocence, denied committing any robberies, and claimed that he was following the usual practice on overtime because he "earned" "slash days" for successfully retrieving guns. Hersl's contentions are contradicted by the evidence presented in his criminal trial.

C. Police Officer Evodio Hendrix

Evodio Hendrix was one of the seven officers named in the initial indictment filed by the U.S. Attorney's Office on February 23, 2017. Hendrix joined the BPD in April 2009 and served until his resignation, effective June 19, 2017. Prior to being assigned to the GTTF in June 2016, Hendrix served for several years in other units in what was then known as the Special Enforcement Section, sometimes under the supervision of Wayne Jenkins.

On July 21, 2017, Hendrix entered into a plea agreement with the USAO. Hendrix admitted his guilt and pleaded guilty to a racketeering conspiracy, in violation of 18 U.S.C. § 1962(d). The stipulation of facts agreed to by Hendrix and set forth in the plea agreement states Hendrix participated in three robberies, "among others."²²¹ Specifically, Hendrix admitted that in March 2016, he, Taylor, Ward, and Jenkins arrested an individual following a traffic stop, then entered the man's residence without a search warrant, and stole approximately \$200,000, as well

²¹⁸ Transcript of Record at 56:6–7, *United States v. Hersl & Taylor*, No. CCB-17-106 (D. Md. Feb. 1, 2018), ECF No. 469.

²¹⁹ Order of Restitution, *United States v. Gondo*, No. CCB-17-106 (D. Md. Aug. 30, 2019), ECF No. 520; Mot. for Restitution Orders, *United States v. Gondo*, No. CCB-17-106 (D. Md. May 28, 2019), ECF No. 500.

²²⁰ *United States v. Taylor*, 942 F.3d 205, 227 (4th Cir. 2019).

²²¹ Plea Agreement, *United States v. Hendrix*, No. CCB-17-106 (July 21, 2017), ECF No. 158.

as property, including a Breitling men's wristwatch, valued at \$4,000.²²² Hendrix's cut of the robbery proceeds was about \$20,000.²²³ Hendrix admitted to stealing cash from another residence during the execution of a search warrant in June 2016 and sharing the money with Ward.²²⁴ Hendrix also admitted that in August 2016, he stole cash from someone that the GTTF detained during a traffic stop, and again shared the cash with Ward.²²⁵ To conceal the robbery from authorities, Hendrix and Ward did not prepare an incident report or statement of probable cause regarding the traffic stop.²²⁶

The stipulation of facts also states that Hendrix "routinely" submitted false and fraudulent overtime reports.²²⁷ On these reports, Hendrix falsely certified that he worked his entire regularly assigned shift, when he did not, and that he worked additional hours for which he received overtime pay, when in truth he had not worked all and in some cases any of those overtime hours.²²⁸ Hendrix also submitted false and fraudulent overtime reports for other members of the GTTF, with their knowledge and at their direction.²²⁹

On January 29, 2018, Hendrix testified regarding his illegal conduct and the conduct of his co-defendants at the trial of Daniel Hersl and Marcus Taylor. On June 13, 2018, judgment was entered against Hendrix by the U.S. District Court for the District of Maryland.²³⁰ He was sentenced to seven years in prison, followed by three years of supervised release. On August 30, 2019, the U.S. District Court entered an order that Hendrix would be jointly and severally liable for restitution in the amount of \$204,000.²³¹

D. Police Officer Momodu "BK" Gondo

Momodu Bondevea Kenton Gondo joined the Baltimore Police Department on November 29, 2005. Gondo was assigned to the GTTF in 2010. Gondo was among the seven officers indicted by the USAO on February 23, 2017. On June 14, 2017, Gondo accepted a plea agreement and pleaded guilty to RICO conspiracy, in violation of 18 U.S.C. § 1962. In addition, Gondo pleaded guilty to Count One of the Third Superseding Indictment concurrently pending against him in *United States v. Shropshire, et al*, Case No. JKB 16-051, charging him with conspiracy to distribute and possession with intent to distribute narcotics, in violation of 21 U.S.C. §§ 846, 841(b)(1)(B).

As part of pleading guilty to a racketeering conspiracy and to conspiring to distribute 100 grams or more of heroin, Gondo agreed to a statement of facts reflecting that he participated in a series of eight robberies of citizens, "among others," during stops, arrests and seizures that

²²² *Id.* at 11.

²²³ *Id.*

²²⁴ *Id.* at 11–12.

²²⁵ *Id.* at 12.

²²⁶ *Id.*

²²⁷ *Id.* at 12–13.

²²⁸ *Id.*

²²⁹ *Id.*

²³⁰ Judgment, *United States v. Hendrix*, No. CCB-17-106 (D. Md. June 13, 2018), ECF No. 420.

²³¹ Order Granting Restitution, *United States v. Gondo*, No. CCB-17-106 (D. Md. Aug. 30, 2017), ECF No. 520; Mot. for Restitution Orders, *United States v. Gondo*, No. CCB-17-106 (D. Md. May 28, 2019), ECF No. 500.

took place from March 11, 2015 through July 8, 2016.²³² Gondo admitted stealing money at times with Rayam, Allers, Hersl and/or Jenkins.²³³ His admitted thefts included one occasion with a co-conspirator who was not a police officer.²³⁴ He also admitted to stealing marijuana and a firearm to pay-off a “drug debt” to Jenkins that Jenkins claimed Gondo owed him.²³⁵ Gondo admitted to “coaching” Allers about an Internal Affairs investigation and interview.²³⁶ Gondo also admitted to overtime fraud and to becoming a member of a heroin conspiracy in which he aided a major drug trafficking organization by providing protection and information about how to avoid being arrested.²³⁷

Gondo testified at the trial of co-defendants Daniel Hersl and Marcus Taylor on February 5, 2018. Gondo admitted to committing illegal acts while working as a Baltimore City Police Officer and testified that his misconduct began shortly after he was assigned to a specialized unit within the Department in either 2008 or 2009.²³⁸ Gondo estimated that over the course of his career, he stole up to \$100,000 from citizens in the community.²³⁹ Gondo further testified that while serving as a police officer, he assisted members of the Shropshire criminal organization in distributing heroin throughout Baltimore.²⁴⁰ Some of the members of the Shropshire organization were Gondo’s childhood friends, and he provided them information about police officers’ whereabouts, and participated with them in a home invasion that netted money, heroin, and jewelry.²⁴¹

On February 12, 2019, Gondo was sentenced by U.S. District Judge Catherine Blake to ten years in prison and three years of supervised release.²⁴² On August 30, 2019, Gondo was ordered by the U.S. District Court to pay restitution in the amount of \$47,700.²⁴³

E. Police Officer Jemell Rayam

Jemell Lamar Rayam joined the Baltimore Police Department in July 2005 and was assigned to the GTTF in 2010 or 2011. Rayam was one of the seven BPD officers named in the February 23, 2017 indictment filed by the USAO. In October 2017, Rayam accepted a plea agreement and pleaded guilty to RICO conspiracy, in violation of 18 U.S.C. § 1962.

²³² Plea Agreement, United States v. Gondo, No. CCB-17-106 (Oct. 13, 2017), ECF No. 200.

²³³ *Id.* at 12–16.

²³⁴ *Id.* at 19–23.

²³⁵ *Id.* at 14.

²³⁶ *Id.* at 16.

²³⁷ *Id.* at 18–23.

²³⁸ Transcript of Record at 6:5–13, United States v. Hersl & Taylor, No. CCB-17-106 (D. Md. Feb. 5, 2018), ECF No. 470.

²³⁹ *Id.* at 6:1–4.

²⁴⁰ *Id.* at 8:10–11:5.

²⁴¹ *Id.*

²⁴² Judgment, United States v. Gondo No. CCB-17-106 (D. Md. Feb. 13, 2019), ECF No. 489.

²⁴³ Order Granting Restitution, United States v. Gondo, No. CCB-17-106-1 (D. Md. Aug. 30, 2019), ECF No. 520; Mot. for Restitution Orders, United States v. Gondo, No. CCB-17-106 (D. Md. May 28, 2019), ECF No. 500.

In pleading guilty to a criminal racketeering conspiracy, Rayam admitted to participating in a series of robberies of citizens, beginning in at least 2009 or 2010.²⁴⁴ At times Rayam shared the proceeds of his thefts with Gondo, Jenkins, Hersl, Taylor and/or Allers; at other times he kept all the proceeds himself.²⁴⁵ Rayam referred to this practice of stealing from detainees and arrestees as “taxing” them.²⁴⁶ Rayam also admitted taking drugs that Jenkins stole from citizens, and then selling the drugs and splitting the proceeds with Jenkins.²⁴⁷ Rayam admitted robbing members of the community with another police officer who was not a GTTF officer, by illegally gaining access to a home by representing they had a warrant when in fact they did not.²⁴⁸ Significantly, Rayam also admitted robbing members of the community with other associates who were not police officers.²⁴⁹

The agreed-upon statement of facts prepared in connection with Rayam’s plea agreement sets forth 14 different occasions in which Rayam participated in robberies of citizens during the period June 27, 2014 to October 3, 2016.²⁵⁰ The amounts stolen on each occasion ranged from \$700 to \$20,000.²⁵¹ The events included a situation when Rayam involved associates who were not police officers and helped them falsely pose as officers during the thefts.²⁵² On other occasions drugs were taken and then sold by Rayam. There were also occasions where Rayam submitted false reports and presented a false affidavit under oath to a Circuit Court Judge. On one occasion, with Rayam’s assistance, Jenkins falsely posed as the U.S. Attorney to help consummate a theft and hide his identity.²⁵³

Rayam testified at the trial of Daniel Hersl and Marcus Taylor on January 29 & 30, 2018, and admitted to robbing community members and to selling guns and drugs. On May 30, 2019, Rayam was sentenced to 12 years in prison followed by 3 years of supervised release.²⁵⁴ On August 30, 2019, the U.S. District Court ordered Rayam to pay restitution in the amount of \$79,000.²⁵⁵

F. Police Officer Marcus Taylor

Marcus Roosevelt Taylor joined the Baltimore Police Department on May 18, 2009. Taylor became a member of the GTTF in June 2016. Taylor was one of the seven officers named in the February 23, 2017 indictment filed by the USAO. He was later charged in a superseding indictment with Hersl and Jenkins. In the superseding indictment, the federal government charged Taylor with four criminal counts. Taylor denied guilt and, along with Daniel Hersl, was tried before a federal jury in January and February 2018. At the conclusion of the trial, the jury found

²⁴⁴ Plea Agreement, United States v. Rayam, No. CCB-17-106 (D. Md. Oct. 10, 2017), ECF No. 196.

²⁴⁵ *Id.* at 11.

²⁴⁶ *Id.*

²⁴⁷ *Id.* at 11–19.

²⁴⁸ *Id.* at 17.

²⁴⁹ *Id.* at 14.

²⁵⁰ *Id.* at 11–19.

²⁵¹ *Id.* at 12–19.

²⁵² *Id.* at 12.

²⁵³ *Id.* at 16–17.

²⁵⁴ Judgment, United States v. Rayam, No. CCB-17-106 (D. Md. May 30, 2019), ECF No. 502.

²⁵⁵ Order Granting Restitution, United States v. Gondo, No. CCB-17-106 (D. Md. Aug. 30, 2017), ECF No. 520; Mot. for Restitution Orders, United States v. Gondo, No. CCB-17-106 (D. Md. May 28, 2019), ECF No. 500.

Taylor guilty on three counts—a RICO conspiracy in violation of 18 U.S.C. § 1962(d); substantive acts of RICO in violation of 18 U.S.C. § 1962(c); and Hobbs Act robbery in violation of 18 U.S.C. § 1951.

At Taylor’s trial the government presented testimony from over a dozen witnesses, including former GTTF officers who pleaded guilty and agreed to cooperate (Gondo, Rayam, Hendrix, and Ward). The cooperating officers all admitted that with Taylor they conducted illegal searches; stole money and drugs while acting as police officers; and committed overtime fraud. In particular, as one example, the government demonstrated that Taylor and the other officers targeted a drug dealer, Oreese Stevenson, as he was in a minivan selling cocaine to Demetrius Brown. The officers searched the vehicle and found cocaine and a backpack containing money. Stevenson expected to be paid \$21,500, but Taylor seized the backpack and turned in only \$15,000 to police headquarters. The GTTF officers then did an illegal “sneak-and-peak” of Stevenson’s house without a warrant, found \$200,000 in a safe, stole \$100,000 of that money, and split the proceeds, with Taylor receiving a share of that theft as well. In its verdicts, the jury found that Taylor committed three robberies and three acts of overtime fraud.

Taylor appealed his conviction. On November 5, 2019, the United States Court of Appeals for the Fourth Circuit affirmed the conviction in a published decision.²⁵⁶ On June 7, 2018, Taylor was sentenced to a prison term of 18 years, followed by three years of supervised release.²⁵⁷ On August 30, 2019, the U.S. District Court entered an order that Taylor would be jointly and severally liable for restitution in the amount of \$204,000.²⁵⁸

G. Police Officer Maurice Ward

Maurice Kilpatrick Ward joined the Baltimore Police Department on October 8, 2003. Ward was assigned to the GTTF on June 13, 2016. He was one of the seven officers named in the indictment filed by the USAO on February 23, 2017. On June 16, 2017, Ward accepted a plea agreement and pleaded guilty to RICO conspiracy, in violation of 18 U.S.C. § 1962.

In the agreed-upon statement of facts submitted as part of his guilty plea, Ward admitted that he participated in four different robberies of citizens during the period February – August 2016, “among others.”²⁵⁹ Ward and Taylor stole \$500 from a suspect on February 17, 2016, after chasing him down the street.²⁶⁰ Ward then authored a false incident report that failed to disclose the theft.²⁶¹ On March 22, 2016, Ward and three other GTTF officers conducted a traffic stop, arrested a suspect and then entered the suspect’s house and stole approximately \$200,000 from a safe, as well as property including a Breitling wristwatch.²⁶² Ward admitted that he and the other officers then went to Taylor’s house to divide the money, where

²⁵⁶ United States v. Taylor, 942 F.3d 205 (4th Cir. 2019).

²⁵⁷ Sentencing Order, United States v. Taylor, No. CCB-17-106 (D. Md. Aug. 30, 2019), ECF No. 408.

²⁵⁸ Order Granting Restitution, United States v. Gondo, No. CCB-17-106 (D. Md. Aug. 30, 2019), ECF No. 520; Mot. for Restitution Orders, United States v. Gondo, No. CCB-17-106 (D. Md. May 28, 2019), ECF No. 500.

²⁵⁹ Plea Agreement, United States v. Ward, No. CCB-17-106 (July 21, 2017), ECF No. 161.

²⁶⁰ *Id.* at 11.

²⁶¹ *Id.*

²⁶² *Id.* at 11–12.

Jenkins gave him \$20,000.²⁶³ Ward also admitted that he and Hendrix executed a search warrant on June 24, 2016, where Hendrix found cash, stole the money and gave a portion to Ward.²⁶⁴ The fourth robbery occurred on August 24, 2016, during a traffic stop conducted by six of the GTTF defendants, including Ward. While the suspect was detained, Hendrix stole cash and later gave some of the money to Ward.²⁶⁵

Ward also committed overtime fraud, routinely submitting false overtime reports, certifying that he worked hours that he in fact did not work. Ward admitted that he committed the overtime fraud with the assistance of his supervisor, Jenkins. Jenkins routinely directed Ward and others to claim more overtime than they actually worked and to do so in a coordinated manner to create an illusion that all squad members were owed overtime. According to the plea agreement, the “practice at the GTTF was that if a sub-set of the GTTF had a gun arrest, all members of the GTTF, regardless of whether they had actually participated in the arrest, would submit individual overtime reports as if they did. On some occasions this occurred when Ward and his co-defendants were not working at all on the day of the arrest.”²⁶⁶

On January 23 and 25, 2018, Ward testified regarding his illegal conduct and the conduct of his co-defendants in the federal trial of Daniel Hersl and Marcus Taylor. On June 8, 2018, Ward was sentenced to a prison term of seven years, followed by three years of supervised release.²⁶⁷ On August 30, 2019, the U.S. District Court ordered Ward to pay restitution in the amount of \$204,500, of which he was jointly and severally responsible for \$204,000.²⁶⁸

H. Sergeant Thomas Allers

Sgt. Thomas Allers was indicted by the USAO on August 24, 2017. Allers joined the Baltimore Police Department in July 1996. He was assigned to lead the Gun Trace Task Force in July 2013, and was re-assigned out of the GTTF in June 2016. As the sergeant-in-charge of the GTTF for three years, he directly supervised Gondo, Rayam, and other officers who were indicted.

Allers was charged with seven criminal counts of racketeering and conspiracy based upon nine separate incidents during the period March 2014 to May 2016 in which he stole cash from civilians during searches. The searches took place in Baltimore City, as well as in Baltimore County and Anne Arundel County. The amounts stolen by Allers on each occasion ranged from more than \$40,000 to less than \$1,000. Allers frequently divided the stolen funds with Officers Gondo and Rayam. Allers also released detainees and selectively chose not to charge certain persons criminally when he stole cash from them. On each occasion Allers approved false incident reports, falsely stating in writing that, “I affirm and declare that the statements above are true to the best of my knowledge.” Allers also tipped off Gondo and Rayam that they were under investigation, prior to their indictments. The government contended that Allers, Gondo, and Rayam essentially operated together as a criminal gang, with Allers in charge of the squad.

²⁶³ *Id.* at 12.

²⁶⁴ *Id.*

²⁶⁵ *Id.*

²⁶⁶ *Id.* at 13.

²⁶⁷ Sentencing Order, *United States v. Ward*, No. CCB-17-106 (D. Md. June 8, 2018), ECF No. 411.

²⁶⁸ Order Granting Restitution, *United States v. Gondo*, No. CCB-17-106 (D. Md. Aug. 30, 2019), ECF No. 520; Mot. for Restitution Orders, *United States v. Gondo*, No. CCB-17-106 (D. Md. May 28, 2019), ECF No. 500.

Sgt. Allers pleaded guilty to a single RICO conspiracy charge in November 2017. The other counts were dropped, but in his plea agreement Sgt. Allers admitted that all of the allegations in all of the counts were accurate. He admitted as well that there were other robberies of citizens. Five of the robberies occurred in 2016, shortly before he was reassigned out of the GTTF. In one of the robberies Allers stole over \$10,000 from a drug dealer, who thereafter was shot and killed, because he owed another dealer money and could not repay the debt after the money was stolen.

At sentencing Allers made no excuses, acknowledged his guilt and expressed apology and remorse. His attorney noted that Allers had a drinking problem, suffered PTSD from violent encounters as an officer, and also has an adult son with substance abuse issues. One of his former lieutenants spoke at sentencing, telling the Court that Allers was an excellent officer who never had any integrity issues. Allers' attorney also noted that Rayam told the FBI that "Jenkins' conduct was twenty times worse than Allers'."²⁶⁹

The U.S. District Judge Catherine Blake sentenced Allers to 15 years in prison, with 3 additional years of supervised probation and instructions to undergo substance abuse and mental health counseling.²⁷⁰ In her comments at sentencing, Judge Blake stated that Allers' crimes reflected a "very significant abuse of the public trust" that had deepened the "distrust that many in our community already felt toward the police; it becomes worse."²⁷¹ Judge Blake pointed out that criminal acts by the GTTF would make police work in Baltimore much more difficult, due to increased lack of community trust in the police. Judge Blake also noted the dismissal of many criminal cases, because the credibility of the GTTF officers on which the convictions had been based had been destroyed.²⁷² Judge Blake reasoned that Allers' crime "strikes at the foundation of our entire criminal justice system," since judges and juries must rely on law enforcement officers' testimony.²⁷³ Finally, Judge Blake emphasized Allers' role as a supervisor: "[W]hat makes it more serious is that he was a sergeant. He was a supervisor. He was someone who should have set an example, who should have turned people in, who should never have tolerated misconduct by his subordinates."²⁷⁴ On August 30, 2019, Judge Blake ordered Allers to pay \$59,376 in restitution.²⁷⁵

I. Sergeant Keith Gladstone

Sgt. Keith Gladstone joined the Baltimore Police Department in November 1992. He was promoted to Sergeant in December 2011. Gladstone retired from the BPD in December 2012, but returned to active duty as a sergeant in December 2013. In March 2014, Gladstone was the officer-in-charge of a Special Enforcement Section (SES) unit assigned to the Western District. Gladstone retired a second time from BPD in May 2017.

²⁶⁹ Transcript of Record at 61, *United States v. Allers*, No. CCB-17-452 (D. Md. May 11, 2018), ECF No. 46.

²⁷⁰ Judgment, *United States v. Allers*, No. CCB-17-452 (D. Md. May 31, 2018), ECF No. 42.

²⁷¹ Transcript of Record at 71, *United States v. Allers*, No. CCB-17-452 (D. Md. May 11, 2018), ECF No. 46.

²⁷² *Id.*

²⁷³ *Id.* at 72.

²⁷⁴ *Id.* at 73.

²⁷⁵ Order Granting Restitution, *United States v. Allers*, No. CCB-17-452 (D. Md. Aug. 30, 2019), ECF No. 51; Mot. for Restitution Orders, *United States v. Allers*, No. CCB-17-452 (D. Md. May 28, 2019), ECF No. 48.

On February 27, 2019, Gladstone was indicted by the USAO and charged with two counts of criminal conspiracy and one count of witness tampering.²⁷⁶ According to the indictment, on the evening of March 26, 2014, Gladstone was having dinner with Officer Carmine Vignola at a restaurant when Gladstone received a call from Sgt. Wayne Jenkins. Jenkins had run over a suspect (D.S.) with his vehicle, and wanted a gun to plant at the scene in an unlawful attempt to justify the arrest and running over the suspect.²⁷⁷ The indictment alleged that Gladstone initially asked Vignola if he had a BB gun, and then asked Vignola to call his partner (Hankard), but neither of them had a gun.²⁷⁸ Gladstone then allegedly retrieved a BB gun from the trunk of his vehicle, and drove to the scene of the arrest at Anntana Avenue and Belair Road in Northeast Baltimore City.²⁷⁹ Gladstone allegedly dropped the BB gun near a pickup truck where the suspect D.S. lay injured on the ground, and told Jenkins and another officer where the gun was located and to search by the truck.²⁸⁰ Gladstone's presence at the scene was never revealed and a false statement of probable cause was filed.²⁸¹

The indictment also alleged that in January 2018, after Jenkins and other GTTF officers were arrested, Gladstone arranged a meeting with Vignola at a swimming pool in Pennsylvania to discuss the federal criminal investigation.²⁸² Gladstone told Vignola that if he was questioned by federal law enforcement officers, Vignola should lie and tell them that he and Gladstone were only at the scene for "security," which was false.²⁸³ On May 10, 2019, Gladstone pleaded guilty to one count of conspiracy. In the agreed-upon stipulation of facts, Gladstone admitted that in fact a BB gun was retrieved from Officer Hankard and planted at the crime scene.²⁸⁴ Gladstone also admitted that he arranged the meeting with Vignola at the swimming pool and had encouraged Vignola to be untruthful by urging him to say that the BB gun came from Gladstone's trunk, rather than from Officer Hankard.²⁸⁵

As of this date, Gladstone has not been sentenced. Sentencing will occur after disposition of the pending charges against Officer Hankard, who is awaiting trial.

J. Police Officer Carmine Vignola

On September 10, 2019, the USAO filed a one-count criminal information against Officer Carmine Vignola. Officer Vignola was charged with making a false statement to the federal grand jury investigating the GTTF scandal, in violation of 18 U.S.C. § 1623(a).

According to the criminal charge, on the evening of March 26, 2014, Vignola was having dinner with Sgt. Keith Gladstone at a restaurant in Baltimore when Gladstone received a call from

²⁷⁶ Indictment, United States v. Gladstone, No. CCB-19-94 (D. Md. Feb. 27, 2019), ECF No. 1.

²⁷⁷ *Id.* at 2.

²⁷⁸ *Id.*

²⁷⁹ *Id.*

²⁸⁰ *Id.* at 3.

²⁸¹ *Id.* at 6.

²⁸² *Id.* at 7.

²⁸³ *Id.* at 7–8.

²⁸⁴ Plea Agreement, United States v. Gladstone, No. CCB-19-94 (June 3, 2019), ECF No. 19.

²⁸⁵ *Id.* at 9–10

Sgt. Wayne Jenkins.²⁸⁶ Jenkins had run over a suspect with his vehicle, and wanted a gun to plant at the scene in an attempt to justify the arrest and running over the suspect.²⁸⁷ Gladstone allegedly asked Vignola if he had a BB gun.²⁸⁸ Vignola responded that he did not.²⁸⁹ Gladstone asked Vignola to call his partner, who had a BB gun at his home.²⁹⁰ Gladstone and Vignola drove to the officer's home and retrieved the BB gun, with the understanding that the gun would be planted at the arrest scene.²⁹¹ Gladstone and Vignola then drove to the site of the arrest at Anntana Avenue and Belair Road in Northeast Baltimore City.²⁹² At the arrest scene, Gladstone exited the vehicle with the BB gun and returned without it.²⁹³ The suspect was charged with possession of drugs and possession of the BB gun planted at the scene.²⁹⁴

The criminal information alleges that in January 2018, after Jenkins and other GTTF officers were arrested, Vignola and Gladstone met at a swimming pool to discuss the federal criminal investigation.²⁹⁵ Vignola asked Gladstone if he had any concerns about the investigation, and Gladstone responded that his only concern was the incident on Belair Road.²⁹⁶ The two officers then agreed that if asked, Vignola was to say he was present for “scene assessment” and that the BB gun had been taken from Gladstone's trunk instead of from Vignola's partner, which was not true.²⁹⁷

On February 13, 2019, Vignola testified under oath before the federal grand jury investigating the GTTF scandal.²⁹⁸ In his grand jury testimony, Vignola testified under oath that this partner said he did not have a BB gun.²⁹⁹ Instead, Vignola testified that Sgt. Gladstone left the restaurant, opened the trunk to the vehicle he was driving, came back into the restaurant, and then said they needed to leave because Jenkins had hit somebody with a vehicle.³⁰⁰ Gladstone then drove to the scene at a high rate of speed, with Vignola suspecting that Gladstone and Jenkins were looking for a BB gun to plant as evidence.³⁰¹ Under questioning by one of the grand jurors, Vignola admitted that he was “close” to his partner and sergeant, and that he was ordered by his sergeant to call his partner (Robert Hankard).³⁰² In his testimony, Vignola failed to disclose that in fact his partner had supplied the BB gun, and that he and Gladstone went to Hankard's home and obtained the BB gun before going to the arrest scene on Belair Road.³⁰³

²⁸⁶ Information, United States v. Vignola, No. CCB-19-431 (D. Md. Sept. 10, 2019), ECF No. 1.

²⁸⁷ *Id.* at 2.

²⁸⁸ *Id.*

²⁸⁹ *Id.*

²⁹⁰ *Id.*

²⁹¹ *Id.*

²⁹² *Id.*

²⁹³ *Id.* at 3.

²⁹⁴ *Id.*

²⁹⁵ *Id.* at 3–4.

²⁹⁶ *Id.* at 4.

²⁹⁷ *Id.*

²⁹⁸ *Id.*

²⁹⁹ *Id.* at 6.

³⁰⁰ *Id.* at 8.

³⁰¹ *Id.*

³⁰² *Id.* at 10–11.

³⁰³ *Id.* at 11.

On September 23, 2019 Officer Vignola entered into a plea agreement with the USAO.³⁰⁴ As part of the agreement, Vignola admitted his culpability and pleaded guilty to making the false statement to the grand jury.³⁰⁵ The agreed-upon stipulation of facts set forth in the plea agreement states that Sgt. Jenkins “deliberately” ran over the arrestee; that Vignola called his partner to ask if he had a BB gun; that Vignola and Gladstone retrieved the BB gun from Vignola’s partner (Robert Hankard) so that it could be planted at the scene to justify Jenkins’s actions; and that Vignola lied about the incident in the grand jury.³⁰⁶

During his sentencing proceedings, Officer Vignola acknowledged his guilt and emphasized his otherwise clean record and that he was instructed to lie by his supervisor, Gladstone.³⁰⁷ Vignola claimed that other than his false testimony before the grand jury concerning the Belair Road incident, he “did not play a significant part in the pervasive culture of police misconduct and corruption that was prevalent at BPD during that time [and] [h]e was not involved in the crimes” of the other GTTF officers.³⁰⁸

Vignola became a police officer in September 2007 and served until his resignation in September 2019 when he pleaded guilty. During his sentencing proceedings, Vignola’s family indicated that Vignola’s father had been a police officer and that Vignola had wanted to follow in his father’s footsteps.³⁰⁹ In February 2020, Vignola was sentenced to 18 months in prison in his criminal case.³¹⁰

K. Police Officer Robert Hankard

On January 14, 2020, the USAO filed a five-count indictment against Officer Robert Hankard.³¹¹ A superseding indictment was filed on August 11, 2020.³¹² Detective Hankard joined BPD in December 2007 and became a detective in March 2014. In 2014 and 2015, Hankard served on a Special Enforcement Section unit assigned to the Western District. Sgt. Keith Gladstone was the officer in charge of the unit. Detective Carmine Vignola was Hankard’s partner.

Hankard was charged with two conspiracy counts, two counts of falsification of records, and making a false statement to the grand jury. The indictment alleges that on the evening of March 26, 2014, Hankard was off duty and received a call from Vignola.³¹³ Vignola asked Hankard if he had any “toys” or “replicas” such as a BB gun that could be planted on a suspect, because Sgt. Wayne Jenkins was “hemmed up” in an incident.³¹⁴ Allegedly, Hankard told Vignola

³⁰⁴ Plea Agreement, United States v. Vignola, No. CCB-19-431 (Sept. 23, 2019), ECF No. 11.

³⁰⁵ *Id.* at 16.

³⁰⁶ *Id.* at 8–9.

³⁰⁷ Defendant’s Sentencing Memorandum, United States v. Vignola, No. CCB-19-431 (Jan. 23, 2020), ECF No. 16.

³⁰⁸ *Id.* at 10.

³⁰⁹ *Id.* at 10–11.

³¹⁰ Judgment, United States v. Vignola, No. CCB-19-431 (D. Md. Feb. 7, 2020), ECF No. 19.

³¹¹ Indictment, United States v. Hankard, No. CCB-20-17 (D. Md. Jan. 1, 2020), ECF No. 1.

³¹² Superseding Indictment, United States v. Hankard, No. CCB-20-17 (D. Md. Aug. 11, 2020), ECF No. 29.

³¹³ *Id.* at 2.

³¹⁴ *Id.*

that he had a BB gun.³¹⁵ Vignola then came to Hankard's house, and Hankard gave him the BB gun.³¹⁶ Vignola then gave the BB gun to Gladstone, who planted it at the scene of the arrest of D.S., who had been run over by Jenkins's vehicle in a chase.³¹⁷ No drugs or guns were recovered from D.S. at the time of his arrest, but he was charged with possession of the BB gun and drug offenses.³¹⁸ The charges were later dismissed.³¹⁹

The indictment also focuses on a search and seizure at the Cross Keys Apartments in Baltimore on March 2, 2015.³²⁰ The indictment alleges that Hankard, Vignola, and other BPD officers arrested a suspect in the 5100 block of Falls Road and took the suspect's keys from him. Hankard used one of the keys to open the door to an apartment at Cross Keys, which the suspect had been seen leaving earlier in the day.³²¹ Hankard entered the apartment without a warrant, and once inside Hankard searched a bag that he found inside a closet and discovered that it contained narcotics and drug paraphernalia.³²² Hankard then left the scene to execute a search warrant for the apartment, falsely claiming that he and his squad had secured "the exterior" of the apartment, while failing to disclose that they had already entered the dwelling.³²³ After the search warrant was executed and the drugs were seized, Hankard authored an incident report in which he made the same false statement that he made in the search warrant affidavit.³²⁴

The indictment further alleges that Hankard executed a false search warrant in connection with an arrest at a motel in 1401 Bloomfield Ave. in Baltimore City on September 24, 2015.³²⁵ According to the indictment, Hankard and Vignola arrested a suspect in a pickup truck, but found no drugs in the truck.³²⁶ Other officers then went into a room in the motel, where they discovered a female suspect, a large quantity of heroin, and cocaine. Another officer allegedly took some of the cocaine from the motel room, and then he allegedly planted the cocaine in the pickup truck with Hankard's consent to justify the arrest of the male suspect and the entry into the motel room.³²⁷ Hankard then executed a false search warrant, falsely claiming under oath that when he initially approached the pickup truck, he observed the cocaine in plain view. In the warrant, Hankard sought authority to enter the motel room, saying he "believed" there were additional drugs in the room, when in fact he had already entered the room and knew drugs were there.³²⁸

According to the indictment, Hankard testified before the federal grand jury on February 13, 2019.³²⁹ Hankard admitted that Vignola called him on March 26, 2014 and asked him if he had a replica or toy gun, and that Hankard said he did not. Hankard testified that it was

³¹⁵ *Id.*

³¹⁶ *Id.*

³¹⁷ *Id.*

³¹⁸ *Id.*

³¹⁹ *Id.* at 3.

³²⁰ *Id.*

³²¹ *Id.*

³²² *Id.*

³²³ *Id.* at 4.

³²⁴ *Id.*

³²⁵ *Id.*

³²⁶ *Id.*

³²⁷ *Id.*

³²⁸ *Id.* at 7.

³²⁹ *Id.* at 10.

a “weird call...but nothing came about it.”³³⁰ Hankard also testified that he “suspected they wanted something to bring to the scene, a toy gun,” but denied supplying the BB gun to Vignola and Gladstone.³³¹

As of the date of this Report, Hankard has pleaded not guilty to the criminal charges. His case has not yet gone to trial.

L. Police Officer Ivo Louvado

On March 11, 2020, the USAO filed a one-count criminal information against Officer Ivo Louvado.³³² The criminal information alleges that during an interview with the FBI on May 30, 2018, Louvado made a false statement to the FBI, allegedly concealing the fact that he and two other officers had split the proceeds from the sale of three kilograms of cocaine that had been seized by the BPD on February 19 and 20, 2009.³³³

Officer Louvado joined the BPD on November 21, 1999 and became a detective in 2008. In February 2009, Officer Louvado was serving on a squad with other officers indicted as part of the GTTF scandal—Wayne Jenkins, Keith Gladstone and Victor Rivera. According to the criminal charge, Jenkins told Louvado that they had received information from a confidential informant about a large-scale narcotics trafficker operating out of a residence in the 1400 block of Ellamont Street in Baltimore City.³³⁴ The criminal information alleges that Louvado participated in the search of the residence and took photographs of items seized by the BPD, including a jacket hanging behind a door that contained a large amount of cash.³³⁵

The criminal information alleges that the officers found keys that activated an alarm sound in a nearby pickup truck.³³⁶ A large amount of cocaine was found in the pickup truck.³³⁷ A SWAT team was called and the cocaine was loaded into a BPD surveillance van to be transported to BPD headquarters, driven by Keith Gladstone, according to the criminal charge.³³⁸

The criminal information alleges that three additional kilograms of cocaine transported in the surveillance van were discovered by Officers Louvado, Gladstone, and Rivera.³³⁹ Rather than turn this cocaine over to the BPD, it is alleged that the three officers agreed to sell the cocaine and split the proceeds.³⁴⁰ The criminal charge alleges that Officer Rivera sold the cocaine to a confidential informant, with Louvado receiving \$10,000.³⁴¹

³³⁰ *Id.* at 11.

³³¹ *Id.* at 19–20.

³³² Information, United States v. Louvado, No. CCB-20-98 (D. Md. Mar. 11, 2020), ECF No. 1.

³³³ *Id.* at 5.

³³⁴ *Id.* at 2.

³³⁵ *Id.*

³³⁶ *Id.* at 3.

³³⁷ *Id.*

³³⁸ *Id.*

³³⁹ *Id.* at 4

³⁴⁰ *Id.*

³⁴¹ *Id.*

The criminal charge notes that Louvado became a federal task force officer with the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in January 2010, and thus was fully aware that it was a crime to provide false information or conceal facts in interviews with federal law enforcement officials.³⁴² The FBI allegedly questioned Louvado on May 30, 2018 about the February 2009 seizure of cocaine, and during the interview Louvado was allegedly untruthful and failed to reveal that he had received proceeds from the sale of the three kilograms of cocaine.³⁴³

Officer Louvado entered into a plea agreement with the government in January 2020. The agreement was filed with the Court on November 6, 2020.³⁴⁴ As part of his agreement, Louvado pleaded guilty to making the false statement to the FBI.³⁴⁵ He also admitted discovering the 3 additional kilograms of cocaine with Gladstone and Rivera, agreeing with those officers to sell the cocaine instead of turning it into BPD Evidence Control, and receiving \$10,000 from the sale of the cocaine.³⁴⁶ Louvado's sentencing has not yet been scheduled.

M. Police Officer Victor Rivera

On April 15, 2020, the USAO filed a criminal information against Officer Victor Rivera.³⁴⁷ Rivera joined BPD in July 1994. The criminal information alleges that during an interview with the FBI on November 1, 2019, Rivera made a false statement and concealed the alleged fact that he and two other officers had stolen three kilograms of cocaine that had been seized by the BPD on February 19 and 20, 2009 in what was publicized as one of the largest drug seizures in Baltimore City history.³⁴⁸ Rivera was charged with a single count of making a false statement to federal law enforcement, in violation of 18 U.S.C. § 1001(a)(2).

The facts alleged in the criminal information against Rivera track those in the information filed against Officer Ivo Louvado regarding the theft and sale of cocaine seized from a pick-up truck in the 1400 block of Ellamont Street.³⁴⁹ Forty-one kilograms of cocaine discovered in the truck were turned over to BPD's Evidence Control Unit.³⁵⁰ However, Rivera, Gladstone, and Louvado discovered three additional kilograms of cocaine in the surveillance van that had been used to transport the drugs to the BPD.³⁵¹ The criminal charge alleges that rather than turn the discovered cocaine in to the BPD, Rivera, Gladstone and Louvado agreed to sell the cocaine and split the proceeds from the sale.³⁵² The information alleges that Rivera took the three kilograms of cocaine, sold them to a confidential informant of his, and shared the proceeds with Gladstone

³⁴² *Id.*

³⁴³ *Id.* at 5.

³⁴⁴ Plea Agreement, United States v. Louvado, No. CCB-20-98 (D. Md. Nov. 6, 2020), ECF No. 9.

³⁴⁵ *Id.* at 10.

³⁴⁶ *Id.* at 9.

³⁴⁷ Information, United States v. Rivera, No. CCB-20-127 (D. Md. Apr. 15, 2020), ECF No. 1.

³⁴⁸ *Id.* at 4.

³⁴⁹ *Id.* at 2.

³⁵⁰ *Id.* at 3.

³⁵¹ *Id.*

³⁵² *Id.*

and Louvado.³⁵³ The government alleges that Rivera received \$20,000 as his share of the proceeds from the sale of the cocaine.³⁵⁴

On November 1, 2019, as part of the ongoing federal investigation of the GTTF, Rivera agreed to a voluntary interview with the FBI.³⁵⁵ According to the information, Rivera was told that it was a crime to lie to the FBI, but nevertheless during the interview Rivera failed to reveal that he had sold the three kilograms of cocaine and had received \$20,000. Instead, during the interview Rivera flatly denied taking any drugs, denied giving any drugs to his confidential source to sell, and denied giving money to anyone else from the sale of drugs.³⁵⁶ The FBI explained to Rivera that they had reason to believe that drugs were taken from that incident and resold. Rivera repeatedly denied any knowledge of the incident and denied splitting any money with the other officers from the sale of the cocaine.³⁵⁷

Officer Rivera retired from the BPD effective March 1, 2020, prior to the filing of his criminal charge. In March 2020, Officer Rivera pleaded guilty to making the false statement to federal agents.³⁵⁸ As of this date he has not yet been sentenced.

N. Police Officer Eric Snell

On November 9, 2017, the Office of the United States Attorney for the District of Maryland filed a one-count criminal indictment against Eric Snell.³⁵⁹ The criminal indictment alleged that Snell conspired with Jemell Rayam to unlawfully distribute and possess with the intent to distribute heroin and cocaine, in violation of 21 U.S.C. § 841(a)(1).

Snell trained with Rayam at the Baltimore Police Academy, and he served as a police officer in the BPD until about March 8, 2008. Snell later became an officer in the Philadelphia Police Department and was assigned to the 35th District in Philadelphia at the time of the indictment.

On November 1, 2018, after three days of trial in the U.S. District Court for the District of Maryland on the charge for which he was indicted, Snell pleaded guilty. At his arraignment, Snell admitted to a statement of facts read by the court.³⁶⁰ According to the statement of facts, in October 2016, Rayam, Jenkins, and other detectives in the BPD were engaged in a high-speed police chase of a vehicle, when the driver threw about 9 ounces of cocaine out of the window of the car before crashing near Mondawmin Mall.³⁶¹ Near the scene of the crash, BPD officers retrieved the cocaine, and Jenkins told Rayam to sell most of the cocaine and give Jenkins the

³⁵³ *Id.*

³⁵⁴ *Id.*

³⁵⁵ *Id.* at 4.

³⁵⁶ *Id.* at 4–9.

³⁵⁷ *Id.*

³⁵⁸ The plea agreement was filed with the Court in August 2020. *See* United States v. Rivera, No. CCB-20-127 (D. Md. Aug. 26, 2020), ECF No. 8.

³⁵⁹ Indictment, United States v. Snell, No. CCB-17-602 (D. Md. May 9, 2017), ECF No. 1.

³⁶⁰ Transcript of Record at 10–18, United States v. Snell, No. CCB-17-602 (D. Md. Nov. 1, 2018), ECF No. 80.

³⁶¹ *Id.* at 13.

proceeds of the sale, which Rayam agreed to do.³⁶² After learning from Rayam that Rayam had cocaine, Snell made arrangements to obtain the cocaine from Rayam and provide it to Snell's brother to sell for Rayam and Snell.³⁶³ Several days later, Rayam and Snell agreed that Snell would also sell heroin that Rayam had received from Jenkins.³⁶⁴

Snell deposited cash in the amounts of \$1,000 and \$2,500 from the sale of the illegal drugs into Rayam's bank account.³⁶⁵ Snell was able to distribute only some of the heroin Rayam had provided; Snell later returned approximately 40 grams of heroin to Rayam, which Rayam distributed using other associates of his.³⁶⁶

Following his arrest in connection with the indictment, Snell lied to FBI agents, saying that the payments he made to Rayam were to repay a gambling loan when, in fact, they were payment for drugs that Snell received from Rayam.³⁶⁷

On May 1, 2019, the court entered judgment against Snell, sentencing him to serve nine years in federal prison, followed by three years of supervised release.³⁶⁸

O. Donald Stepp

On December 14, 2017, the Office of the United States Attorney for the District of Maryland indicted Donald Stepp on a single count of possession with intent to distribute crack cocaine, cocaine, heroin, and MDMA, in violation of 21 U.S.C. § 841(a)(1).³⁶⁹

Stepp entered a plea agreement with the USAO on January 5, 2018.³⁷⁰ The stipulation of facts agreed to by Stepp and set forth in the plea agreement states that Stepp, a bail bondsman, was an associate of Sergeant Wayne Jenkins.³⁷¹ On December 14, 2017, law enforcement with the Baltimore County Police Department and the FBI executed a search warrant at Stepp's home and recovered approximately 423 grams of crack cocaine, 262 grams of cocaine, 14 grams of heroin, 28 grams of MDMA, digital scales, packaging material, a large sum of cash, and several high-value watches.³⁷²

In the agreed-upon stipulation of facts, Stepp admitted that he assisted Jenkins in Jenkins's robberies of community members, in which drugs, cash, and watches were stolen.³⁷³ Jenkins brought Stepp to search locations in Baltimore City, Baltimore County, and elsewhere, and lied to other law enforcement agencies by saying that Stepp was an officer with the BPD.³⁷⁴ On other

³⁶² *Id.*

³⁶³ *Id.* at 13–14.

³⁶⁴ *Id.* at 14.

³⁶⁵ *Id.* at 14–15.

³⁶⁶ *Id.* at 15–16.

³⁶⁷ *Id.* at 16–17.

³⁶⁸ Judgment, *United States v. Snell*, No. CCB-17-602 (D. Md. May 1, 2019), ECF No. 89.

³⁶⁹ *United States v. Stepp*, No. 1:17-CR- 00654-CCB (D. Md. Dec. 14, 2017), ECF No. 1.

³⁷⁰ Plea Agreement, *United States v. Stepp*, No. CCB-17-654 (D. Md. Jan. 12, 2018), ECF No. 21.

³⁷¹ *Id.* at 8.

³⁷² *Id.*

³⁷³ *Id.*

³⁷⁴ *Id.*

occasions, after Jenkins had robbed community members of drugs, Jenkins came to Stepp's residence and gave Stepp drugs or left drugs in Stepp's tool shed for Stepp to sell.³⁷⁵ From 2015 to 2017, Stepp obtained "significant quantities of narcotics" from Jenkins.³⁷⁶ Stepp sold the drugs he obtained and returned "hundreds of thousands of dollars in cash proceeds to Jenkins."³⁷⁷ Jenkins paid cash from those drug sales to other officers in the BPD who participated in the robberies with Jenkins and Stepp, including Detective Daniel Hersl.³⁷⁸

On February 1, 2018, Stepp testified regarding his illegal conduct, as well as the illegal conduct of the indicted GTTF officers, in the trial of Daniel Hersl and Marcus Taylor. In August 2018, Stepp was sentenced by the U.S. District Court for the District of Maryland to serve five years in federal prison, followed by a five-year term of supervised release.³⁷⁹

VII. THE COMMISSION INVESTIGATION

The criminal misconduct of the GTTF officers has been well-publicized in the news media, and is also the subject of a recently-published book and at least one other, soon-to-be published book by journalists. More details concerning these officers appears in these books for those interested in these officers' backgrounds and activities. Review of the GTTF officers' criminal proceedings was one of the first steps in the Commission's investigation, which also included the following steps:

A. Review of Documents from the Baltimore Police Department

In October and November 2018, the Commission requested a wide-ranging list of documents from the Baltimore Police Department. The list included:

- Baltimore City Police Department general orders and other relevant policies and procedures for the Department;
- Audit Reports completed on the Baltimore City Police Department;
- Organizational charts for the Department;
- Memoranda of Understanding that established the Gun Trace Task Force or additional documents regarding the creation of the task force;
- GUNSTAT records and reports;
- Organizational charts and rosters reflecting the membership of the Gun Trace Task Force from its inception;

³⁷⁵ *Id.*

³⁷⁶ *Id.*

³⁷⁷ *Id.*

³⁷⁸ *Id.*

³⁷⁹ Judgment, *United States v. Stepp*, No. CCB-17-654 (D. Md. Aug. 20, 2018), ECF No. 51.

- Personnel information about officers transferring into and out of the Gun Trace Task Force;
- Reports regarding the death of Detective Sean Suiter and his connection to the Gun Trace Task Force;
- Internal Affairs complaints and reports regarding members of the Gun Trace Task Force;
- Trial Board transcripts and other Trial Board documents regarding members of the Gun Trace Task Force; and
- Civilian Review Board records regarding members of the Gun Trace Task Force.

The Department produced some documents in response to these requests but withheld others citing concerns about confidentiality, the restrictions imposed by the Maryland Public Information Act, and other legal protections.

On May 1, 2019, the Commission issued a subpoena to BPD to compel the production of documents not yet provided. The subpoena incorporated the Commission's previous requests and also compelled additional documents: specifically, disciplinary records pertaining to BPD officers who were not members of the GTTF but who were involved in any of the GTTF's illegal activities or were disciplined by BPD as a result of the GTTF's activities.

Over the past 18 months, BPD has given the Commission its full cooperation in producing documents responsive to the subpoena. Over 267,000 pages of records were produced by the BPD over the course of the Commission's investigation. In addition to producing documents, the Department facilitated the Commission's interviews of current members of the Department, including members of command staff. In some cases, interviewees referenced documents during their interviews or even brought documents to the interview to share with the Commission. The Department consistently coordinated the production of such documents to the Commission.

B. Interviews of BPD Officers & Supervisors

In the course of the Commission's investigation, counsel to the Commission interviewed 25 current and former members of the BPD. Nineteen of those interviewed held the rank of sergeant or above. For the most part, the officers interviewed had either (1) served in a unit with one or more of the convicted GTTF members, or (2) supervised one or more of the convicted GTTF members. In some cases, the interviewees supervised or served with the convicted officers when those officers were assigned to the GTTF. In other cases, they worked with the convicted officers at earlier points in those officers' careers. Several of the officers interviewed served in one or more units that were supervised by Sgt. Wayne Jenkins. In a few cases, interviews were conducted of officers having particular expertise in areas of interest to the Commission, including Internal Affairs investigations, the history and evolution of the GTTF, the objectives and supervision of enforcement units in the BPD, and the experience of reporting misconduct by fellow BPD officers.

1. Experience Supervising and Working Alongside Wayne Jenkins and Other Now-Convicted Officers

A common refrain echoed among those interviewed was that Wayne Jenkins, while highly productive, was very difficult to supervise. Counsel to the Commission interviewed officers who supervised Jenkins while he was the sergeant of the GTTF, as well as officers who supervised him while he was the sergeant over other units in what was then the Special Enforcement Section. These supervisors uniformly observed that Jenkins constantly went outside the chain of command and that Jenkins and other members of his squad were given freedom and privileges not available to others in the Department.

For example, one supervisor noted that Jenkins and his GTTF squad were permitted to maintain offices at Department Headquarters, despite the fact that their direct supervisor, and the other units under the direction of that supervisor, operated out of “The Barn,” a satellite office in Northwest Baltimore at the site of the Police Academy. More than one supervisor commented that Jenkins did not check in with them to notify them when he and his squad were working overtime, or even when they were working at all. Direct supervisors would discover after the fact that Jenkins and members of his squad had been working, and would be told by Jenkins that a member of command staff had notified him of a tip and called him in to work. As one supervisor described it, Jenkins and his squad were allowed to freelance, and they worked away from close, face-to-face supervision much of the time.

Other supervisors recalled that during periods when the Department’s enforcement units were expected to operate within assigned geographic zones in service of the Department’s crime-fighting strategy, Jenkins’s squad was permitted to operate outside of the squad’s assigned zone. When supervisors would report up the chain of command, hoping for assistance in reining Jenkins in, there would be no consequence to Jenkins. In fact, on at least one occasion, it was Jenkins’ supervisor, not Jenkins, who was transferred, on the theory that the supervisor was holding Jenkins back.

Many officers described Jenkins as a “golden boy” – someone who got whatever he wanted in the Department. For example, one supervisor pointed out that Jenkins’s GTTF squad had the privilege of doing day work, meaning that any work the squad did after 4:00 p.m. counted as overtime. That same supervisor noted that Jenkins asked the Department for two minivans to do street enforcement, and he received them the following week. The supervisor explained that it was highly unusual for the Department to fill that kind of request. One officer who served with Jenkins reported that money was earmarked to give departmental vehicles to all of the officers in the GTTF under Jenkins. A supervisor reported that at one point, Jenkins added a push bumper to his departmental car without prior authorization. When the supervisor questioned Jenkins about it, Jenkins said that he had been given the car by the Department as a reward for all of his handgun arrests, and the push bumper would help with what Jenkins called “legal intervention,” i.e., ramming civilian cars. When the supervisor complained up the chain of command, Jenkins went around the supervisor to command staff and received permission for the push bumper.

Several officers observed that Jenkins seemed to have direct access to command staff. One supervisor had the impression that then-Deputy Commissioner Dean Palmere texted Jenkins

constantly. Other officers who worked with Jenkins had the impression that Jenkins could get Deputy Commissioner Palmere on the phone if Jenkins wanted to.

Multiple supervisors noted that when Jenkins was the sergeant overseeing the GTTF, he was often praised by members of command staff, including publicly in the War Room, for his volume of gun arrests. One supervisor recalled that after the 2015 Baltimore uprising following the death of Freddie Gray, a member of command staff called the supervisor and asked for Jenkins's phone number so that he could praise Jenkins for "going out and risking it all when most cops are taking a knee." A different supervisor commented that after the 2015 uprising, when most officers "pulled back," Jenkins was one of the few officers who was motivated to work, and the Department incentivized officers like Jenkins with praise and overtime.

One supervisor quipped that there was a "fog of productivity" around Jenkins. Even before Jenkins was assigned to oversee the GTTF, he managed squads that had a reputation for high productivity, and those were squads that other officers aspired to join. The supervisor explained that command staff was so impressed with Jenkins's productivity that they could not see through it to his insubordination and his overly aggressive tactics. Another supervisor speculated that because the GTTF was seizing so many guns and making so many handgun arrests, no one was going to question them.

Despite their frustration with supervising Jenkins, supervisors stated that they liked having high-producing officers like Jenkins under their command because those officers' stats made the supervisors look good. Early on, Jenkins garnered the reputation of being "one of the best drug cops in the city." Keith Gladstone, too, was well known in the Department for bringing in large seizures of drugs. Several officers recalled hearing Jenkins refer to Gladstone as "the person who taught me everything I know."

Jenkins continued that reputation for gun seizures. One supervisor referred to the GTTF under Jenkins as "superstars." Officers recalled that Jenkins's GTTF squad would make the same number of handgun arrests in a day that another unit would make in a week. One officer who worked under Jenkins recalled calling his father with pride at the end of a shift to tell him that Jenkins's squad had seized six guns in one day.

Many officers complimented Jenkins's work ethic and regarded him as someone who gave "150 percent" at all times. Officers who worked with Jenkins recalled Jenkins having no patience for officers who did not match that work ethic. One officer remembered Jenkins saying at roll call, "Some of you should be charged with stealing air," telling the squad that they were taking up space and not working hard enough.

Several officers pointed out that Jenkins was a motivating force to the members of his squad, serving as both the squad's supervisor and its lead detective. Others, with hindsight, viewed Jenkins as a manipulative and corrupting influence. Former supervisors of Maurice Ward and Marcus Taylor expressed a firm belief that those officers did not rob people or engage in other misconduct prior to working with Wayne Jenkins.

2. Suspicion of Wrongdoing

As a general matter, the officers who were interviewed did not suspect that Jenkins was corrupt and were surprised to learn of his indictment by the U.S. Attorney's Office. In fact, one supervisor rated Jenkins as "the best gun cop [the supervisor] has ever seen." The supervisor observed that Jenkins knew how to get guns and make gun arrests legally. When one supervisor attempted to do direct oversight of the officers in Jenkins's GTTF squad, the supervisor did not observe any illegal conduct. Despite doing regular ride-alongs with the officers, the supervisor reported that at most the officers' methods were unorthodox, but they were not unethical.

Officers who served with Jenkins also described his skill at getting guns and drugs. One officer described Jenkins as "gifted in knowing what to look for" to make a gun arrest. With hindsight, the officer reflected, "Jenkins would have been a great cop if he weren't so crooked."

However, those same officers called Jenkins "a cowboy," "a hotshot," and "too aggressive." Others described him as having a "loose cannon attitude." One officer recalled that Jenkins "drove like an idiot," and another recalled that he had a high number of departmental accidents. One supervisor commented that Jenkins needed direct supervision and direct guidance and implied that he had not received it.

An officer who had served in Internal Affairs recalled that even if fellow officers did not suspect Jenkins of misconduct, "guys on the street" said that Jenkins was "up to no good." That officer emphasized that complaints by community members against Jenkins were different in volume and in character than those typically lodged against other officers in enforcement units in the BPD. Several officers recalled that Hersl had a similar complaint history and reputation in the community. Another officer who previously served in Internal Affairs recalled that although Jenkins and Hersl received more complaints than other officers serving in enforcement squads, they were in a group of officers regarded as "untouchable," who received preferential treatment in discipline.

One officer who served in a squad with Gondo and Rayam recalled being highly suspicious of their behavior. The officer believed that Gondo had personal friendships with drug dealers and had the sense that Rayam was responsible whenever money seized from a residence came up short when it was being counted for evidence submission. The officer's suspicions were serious enough that the officer sometimes followed Gondo to his home to observe him and see if he would meet up with any drug dealers.

3. Reaction to GTTF Misconduct

The members of the Department interviewed by Commission counsel uniformly expressed anger toward the now-convicted officers. One supervisor likened the misconduct of the GTTF officers to someone disrespecting the family name. Another officer reported that there is "no pity in the Department for these guys at all." One supervisor said that because he trained some of the convicted officers, he views their behavior as "a personal offense"; he expected better of them. Other officers described feeling betrayed or hurt when they discovered that officers whom they thought they knew well were criminals. Others expressed guilt, worrying that there was some sign

they may have missed. Others expressed relief that apparently they were too “by-the-book” or too “square” to have been invited into criminal behavior by Jenkins and the others.

Every officer interviewed disclaimed any direct, personal knowledge that any of the now-convicted officers engaged in wrongdoing. While some of the officers interviewed recalled having a suspicion that some of the now-convicted officers, particularly Gondo and Rayam, may have been “dirty,” they never observed those officers rob community members, plant evidence, or otherwise engage in unlawful behavior.

Some officers described their reaction to the indictments as “shocked”; one officer said finding out the truth about the GTTF officers was “heart-breaking.” Others said they “never would have thought in a million years” that the officers they knew were engaging in the criminal conduct of which they were convicted. In particular, some of the officers who were interviewed were in disbelief that “an entire squad [was] on board with doing criminal activity.”

4. Recommendations

When asked what steps the BPD could take to prevent the misconduct of which the GTTF officers were convicted, the officers interviewed by Commission counsel offered a variety of recommendations.

a. Increased Accountability Measures

- **Polygraphs:** Interviewees recommended that polygraphs should be performed upon entry and annually thereafter for any officer entering a specialized unit in which the officer would be expected to handle drugs, large sums of money, or confidential informants. Some officers noted that the Department regularly polygraphed officers in high-risk units in the past, but the practice was discontinued at some point. As one detective observed, if an officer knows there is a chance he will have to take a polygraph, it might prevent him from doing something wrong.
- **Financial Audits:** Several interviewees recommended regular financial audits for officers in units that handle drugs, large sums of money, or confidential informants. Officers in financial distress may be at greater risk of succumbing to temptation to engage in theft or fraud. One officer commented that attending to officers’ financial health goes a long way toward addressing some of the incentives for corruption.
- **Integrity Stings/Tests:** Interviewees praised the value of integrity stings in deterring corruption.³⁸⁰ Several officers noted that the Internal Affairs Division conducted integrity stings in the past but had not done so recently. Officers credited the BPD’s previous integrity testing regime with giving officers the appearance of “omnipresent watchfulness” over their actions. Because officers knew that the Ethics section of the Internal Affairs

³⁸⁰ In an integrity sting, Internal Affairs would put an officer in a situation where his integrity would be tested, and Internal Affairs detectives would monitor the officer’s behavior to see if he passed the test. For example, Internal Affairs might put a stash of drugs on the street and then call police to the area to be sure that the officers who responded processed and submitted the drugs correctly.

Division was conducting integrity stings, officers were incentivized to follow procedure. One officer commented that the advent of body-worn cameras has reduced the need for integrity testing and suggested that integrity tests might be used on a more targeted basis, to confirm or refute an allegation against a particular officer.

- **Audits of Confidential Informants:** A recommendation was made that the Department conduct audits of confidential informants to confirm that a CI actually did or said what was attributed to them by a BPD officer. If the CI indicates that the officer's report is incorrect, the officer's misrepresentation could generate an investigation by the Public Integrity Bureau.
- **Oversight during the Execution of Search Warrants:** It was also recommended that the BPD engage in random auditing of search warrants, by sending a detective from the Public Integrity Bureau to monitor the execution of search warrants from time to time.

b. Improved Supervision

- **Face-to-face Supervision:** Many of the officers interviewed believe that the most effective strategy for deterring and preventing officer misconduct is effective supervision. Commission counsel interviewed sergeants who stressed that front-line supervisors should be out with their officers on the street and should ride with an officer whose behavior has raised concern. Lieutenants who were interviewed were troubled by having too many units within their span of control, particularly when the lieutenant was supervising units that worked different shifts out of different locations. As one lieutenant put it, it is very difficult to supervise people that you don't see. Several of the lieutenants who supervised the GTTF commented on the difficulty of giving adequate attention to that unit, when they had so many other supervisory responsibilities. Interviewees advocated for a reduction in the span of control, recommending that the BPD look to national best practices regarding staffing and supervision ratios. Interviewees also emphasized that supervisors should get to know the officers under their command and should be vigilant in looking for signs that an officer may be having personal or financial difficulties. Any concerns should be shared with the Health & Wellness Unit so that officers can get the resources they need.
- **Promotion of Qualified Officers:** Interviewees objected to BPD's practice of filling a vacant position with an officer who must be promoted to that rank rather than someone who already holds the required rank. Interviewees recommended that officers should have better training, better mentorship, and more experience before being promoted to a supervisory role.
- **Required Rotation or Term Limits:** It was recommended that the BPD require officers to rotate out of squads every few years. One officer took the view that if a corrupt officer who has gone undetected by his current unit is transferred, his new squad might see something that the old squad did not. Another interviewee recommended that the Department limit the number of years that an officer can serve in a narcotics or specialty unit, observing that officers get comfortable with one another, train one another, and become inured to bad habits.

c. Continued De-emphasis on Statistics Related to Gun Seizures

- Several of the officers interviewed by Commission counsel commented that in the past, the BPD appeared to prioritize arrest and gun recovery statistics above building solid cases. Many officers believe that intense focus on gun seizures and arrests is part of what allowed the GTTF to operate with so little oversight. Officers observed that the Department de-emphasized its focus on gun seizures after the GTTF indictments, but some officers believe that focus has started to return. Officers recommended that the Department instead keep its focus on information- and intelligence-gathering.

d. Internal Affairs Reform

- **Ensure that Internal Affairs complaints are investigated timely:** Interviewees commented that many officers “shut down” while they are under investigation by Internal Affairs. Officers advocated for the efficient investigation and resolution of Internal Affairs complaints, ideally within 60-90 days.
- **Provide disciplinary Histories to Supervisors upon request:** Several of the supervisors interviewed by Commission counsel reported a personal practice of asking Internal Affairs for the complaint histories of the officers under their command when taking over a unit. These supervisors were able to receive information on closed complaints only, but they received information on both sustained and unsustained complaints. The officers described varying levels of difficulty in obtaining the records they requested from Internal Affairs, and they suggested that the process should be easier.
- **Reinstitute the position of Command Investigations Sergeant:** Several interviewees advocated for the assignment of an Internal Affairs sergeant to each district. Officers noted that the Department had such a position in the past, and they viewed it as an effective way to audit the activities of officers in that district. Interviewees cautioned that officers serving in the role of Command Investigations Sergeant should be given guidance on a consistent methodology for initiating and investigating complaints. Assuming a consistent methodology, officers observed that moving some Internal Affairs investigations to the districts would take some of the caseload away from the Public Integrity Bureau, allowing that division to focus on investigating major infractions.
- **Keep the internal Affairs Process Separate from Command Staff:** One interviewee who previously served in Command Investigations recalled that in the past, there were “too many hands in the pot” on matters of discipline in the Department. In this officer’s view, some officers like Wayne Jenkins and Daniel Hersl were “untouchable” because they were protected by senior leadership. Interviewees had the impression that under prior administrations, command staff could get involved in an Internal Affairs charge against the officer and affect the outcome. Interviewees had the impression that such interference does not occur in the Department today; there no longer appear to be “untouchables” in the Department, and the Public Integrity Bureau appears to be truly separate from command.

C. Contact with the GTTF Officers Charged with Criminal Misconduct

The Commission attempted to contact all of the GTTF officers charged with criminal misconduct, in the hope of seeking their cooperation to help fully understand how and why the criminal misconduct occurred, and how best to detect and prevent such misbehavior in the future. However, only one of the officers provided meaningful cooperation and useful information.

Detectives Marcus Taylor and Daniel Hersl declined to speak with the Commission's counsel, but in letters to the Commission stressed that they were innocent and wrongfully convicted. However, both Taylor and Hersl were convicted by a federal jury, and their convictions were affirmed on November 5, 2019 by the United States Court of Appeals for the Fourth Circuit.

In letters to the Commission dated October 2, 2019, November 8, 2019, and November 15, 2019, Taylor claimed that there is evidence on his personal phone that would prove his innocence. Taylor also claimed that federal prosecutors failed to provide exculpatory evidence and discovery including statements by GTTF officers Ward and Hendrix, who pleaded guilty and testified against him at trial. However, the Commission is not in a position to evaluate Taylor's claims, which are contradicted by the record in his criminal trial. Any evidence of his innocence should have been presented in his criminal proceedings, or pursued in post-conviction proceedings.

Daniel Hersl sent approximately 24 letters to the Commission over a period of many months. The Commission's counsel also met with Mr. Hersl's family members on two occasions. Like Taylor, Hersl claimed he was innocent, despite the proof at his criminal trial and the affirmance of his conviction on appeal. During his criminal trial Hersl elected not to testify, and his attorney in argument appeared to concede that Hersl took money from criminal defendants, but claimed that Hersl was "overcharged" and that the prosecution should have been a state rather than a federal one. In contrast, in his letters to the Commission, Hersl denied taking any money. He claimed that the GTTF officers who testified against him committed perjury, and that the jury should not have believed a victim (Jimmie Griffin), who Hersl contends was a drug dealer and lied at his trial. Hersl in his letters repeatedly compared himself to Frank Serpico, the NYPD officer who revealed misconduct in his department. However, unlike Frank Serpico, prior to his indictment Daniel Hersl did not raise concerns about the GTTF officers he now claims he thought were dirty and corrupt to Internal Affairs, command staff, or federal law enforcement. He contends he did tell Sgt. Thomas Allers about his concerns, yet Sgt. Allers was one of the GTTF co-defendants who pleaded guilty, acknowledged his role in the criminal conspiracy, and vouched for Hersl during an early intervention investigation. As with Marcus Taylor, it is not the Commission's role to revisit the criminal trial of Hersl to evaluate whether it was fair or unfair, particularly since the convictions have been affirmed on appeal with a finding by the U.S. Court of Appeals for the Fourth Circuit that there was sufficient evidence to support the jury's verdict.

The Commission sought the cooperation of Wayne Jenkins as well. By letter dated October 20, 2019, Jenkins provided his thoughts to the Commission on how best to restore trust between law enforcement and the community. Jenkins also at one point had an agent representing him in anticipation of a film production. The agent indicated that Jenkins would be willing to cooperate, if the Commission supported a reduction in Jenkins's criminal sentence. Counsel to the

Commission offered to meet with Jenkins at his place of incarceration, but noted that the Commission had no power or authority to obtain a reduction in Jenkins’s sentence in return for his cooperation. Ultimately, no meeting was arranged and the Commission received no cooperation from Jenkins other than his letter. Although he pleaded guilty, Jenkins now apparently contends that federal prosecutors “badgered” him into entering a guilty plea and pressured the GTTF defendants and witnesses to secure convictions, according to a letter he sent to the Baltimore Sun in January 2020. The Baltimore Sun reported that in contrast to his guilty plea and apology at sentencing, Jenkins is now contending that he “never planted drugs, firearms or stole money.” The Sun article notes that in the letter, Jenkins “appears to admit to a long-running scheme to sell drugs he had taken off the street.”³⁸¹

Ultimately, only one of the GTTF criminal defendants elected to cooperate with the Commission and provide a detailed, confidential interview. This officer’s identity cannot be revealed at this time, because of the ongoing federal criminal investigation and pending prosecutions against other GTTF defendants that have not yet gone to trial. In an interview with the Commission, this officer candidly admitted engaging in criminal misconduct on multiple occasions, in concert with other GTTF criminal defendants. He also acknowledged observing other GTTF defendants engage in criminal misconduct. This officer described his misconduct in detail, and appropriately expressed regret and remorse for his actions.

D. Review of Internal Affairs Files and Personnel Files

The Commission reviewed Internal Affairs files and personnel files related to the eight members of the GTTF—Jenkins, Hersl, Hendrix, Gondo, Rayam, Taylor, Ward, and Allers—who were indicted by the U.S. Attorney’s Office and ultimately convicted. The BPD produced these files in response to the Commission’s subpoena and subject to the protections afforded to “personnel records” under Maryland’s Public Information Act.³⁸² Though the Commission believes the public would benefit from learning the detailed disciplinary and employment histories of the convicted officers, the MPIA restricts what information the Commission can disclose. The Commission has recommended that the General Assembly amend the MPIA to make records of police disciplinary matters more readily accessible to members of the public. In this report, the Commission will share the information that it is legally permitted to share, consistent with the current state of the law.

As of March 1, 2017, the date that the GTTF indictments were unsealed, the BPD had logged more than 100 Internal Affairs complaints naming one or more of the eight now-convicted members of the GTTF between the years of 1997 and 2016. In addition, those eight officers collectively were involved in more than 60 use of force incidents during the same time period.

The Internal Affairs complaints ranged in severity from administrative infractions, like failure to appear for court or a medical appointment and loss of departmental property, to serious

³⁸¹ Justin Fenton, *Convicted Baltimore Gun Trace Task Force Ringleader Speaks Out, Denies Taking Money or Planting Evidence*, BALT. SUN (Jan.16, 2020), <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-gttf-wayne-jenkins-speaks-20200115-kfiw65pvzvsn5oa3mikdkuvshm-story.html>.

³⁸² See MD. CODE ANN., GEN. PROV. § 4-311 (2018). See also *Montgomery County v. Shropshire*, 420 Md. 362, 378, 381 (2011) (defining personnel records as those relating to “hiring, discipline, promotion, dismissal, or any other matter involving an employee’s status” and including police Internal Affairs records within the definition).

citizen complaints like excessive use of force, theft, false arrest, improper search, discourtesy, and harassment. The majority of the complaints—approximately 56%—include one of these more serious allegations of misconduct.³⁸³

Two of the eight convicted GTTF officers stand out for their Internal Affairs histories. When administrative infractions are excluded, four of the eight officers each had fewer than five Internal Affairs complaints in their record at the time they were indicted. Two had more than five but fewer than ten. Two had *twenty* or more.

By the time of the indictments, very few of these complaints had been sustained.³⁸⁴ About 43% were described in BPD's electronic Internal Affairs database, IAPro, as "administratively closed" or simply "closed." Another 37% were characterized "not sustained." In another 4%, the officer was "exonerated" or the complaint was determined to be "unfounded." In only a handful of cases was a citizen complaint sustained against one or more of the GTTF officers. Even in those few cases, the officer was not necessarily disciplined. One of the few sustained complaints was the subject of testimony by Jemell Rayam during the federal trial of Marcus Taylor and Daniel Hersl.³⁸⁵ Rayam was investigated by Internal Affairs following a 2009 complaint alleging that he and two other officers were involved in a traffic stop in which \$11,000 was stolen from the complainant. Although the allegations against Rayam were sustained, he was ultimately acquitted by a trial board and returned to duty.

The only citizen complaint that was sustained against Wayne Jenkins prior to his indictment also resulted in no discipline.³⁸⁶ The complaint arose from a car stop in February 2014, before Jenkins's assignment to the GTTF, when he was leading a different enforcement squad in BPD's Special Enforcement Section. Following a search, a detective under Jenkins's supervision submitted a statement of probable cause that Jenkins had recovered narcotics from the vehicle. The squad used the statement to obtain a warrant to search the driver's home. During a raid led by Sgt. Keith Gladstone, police reported finding drugs throughout the residence.

³⁸³ Due to inconsistencies in the way in which complaints were characterized in BPD's electronic Internal Affairs database, the Commission cannot provide the exact number of complaints in each category.

³⁸⁴ When the GTTF indictments were made public in March 2017, Internal Affairs was in the process of investigating multiple complaints against members of the GTTF, filed in 2016, which alleged misconduct, discourtesy, racial bias, improper search and seizure, and theft. Following the indictments, all of the pending complaints were sustained.

³⁸⁵ This information is publicly available. The Baltimore Sun has also reported on this matter. See Justin Fenton, *Before Promotion to Gun Trace Task Force, Baltimore Detective was Ensnared in \$11,000 Theft Case*, BALT. SUN (Dec. 16, 2017), <https://www.baltimoresun.com/news/crime/bs-md-ci-rayam-prior-robbery-20171212-story.html>.

³⁸⁶ This information is publicly available. Ivan Bates testified before the Commission regarding this case. Al Jazeera and The Baltimore Sun also have reported on this matter. See *Baltimore's Corrupt Police Officers: The Faces Behind the Scandal*, AL JAZEERA, (Oct. 3, 2018), <https://www.aljazeera.com/features/2018/10/03/baltimores-corrupt-police-officers-the-faces-behind-the-scandal/>; Justin Fenton, *Ignoring Warning Signs of Misconduct, Baltimore Police Praised – and Promoted – Gun Trace Task Force Leader*, BALT. SUN (June 12, 2019), <https://news.baltimoresun.com/cops-and-robbers/part-one/>; Justin Fenton, *Prosecutor Who Raised Early Questions About Gun Trace Task Force Officer Speaks Out*, BALT. SUN (Dec. 8, 2017), <https://news.baltimoresun.com/cops-and-robbers/part-one/https://www.baltimoresun.com/news/crime/bs-md-civiews-jenkins-webb-20171208-story.html>.

The State's Attorney's Office received CCTV footage of the stop that contradicted the statement of probable cause. Jenkins can be seen climbing into and searching the vehicle, but he is not observed holding drugs or signaling that he found anything. The lead prosecutor on the case dismissed it and filed a complaint with Internal Affairs.

Following an investigation, Jenkins was charged internally with misconduct, neglect of duty, and failure to supervise the detective in his charge. The Department's Charging Committee recommended that Jenkins be demoted, transferred, and lose 15 days of leave. None of that happened. Instead, Jenkins received only non-punitive written counseling. Rodney Hill, who was Chief of the Internal Affairs Division at the time, has since told the media that then-Deputy Commissioner Darryl De Sousa reduced the discipline and "worked a deal."³⁸⁷ De Sousa, through his attorney, told The Baltimore Sun in 2019 that he did not remember the case.

E. Interviews of Former Commissioners

The Commission solicited the perspectives of former commissioners of the Baltimore Police Department. Counsel to the Commission interviewed former Commissioners Frederick H. Bealefeld, III and Kevin Davis. Members of the Commission were also present for these interviews, which were conducted via videoconference. The Commission also heard sworn testimony in public hearings of former Commissioner Anthony Batts and former Deputy Commissioner Dean Palmere. Some of the former commanders had clearer recollections than others of the now-convicted members of the GTTF squad, but each of them categorically denied knowing that any of those officers was engaged in criminal misconduct.

1. Former Commissioner Frederick H. Bealefeld, III

Mr. Bealefeld served in the Baltimore Police Department from 1981-2012, the last five years of which were as Baltimore's Police Commissioner. He spent most of his years in the BPD working in drug enforcement at every level, including serving on federal drug enforcement task forces. The Gun Trace Task Force was conceived of and implemented during his tenure as Commissioner.

Since 2014, Bealefeld has been the Vice President and Chief of Global Security at Under Armour. In that role, he oversees security and safety issues for Under Armour staff and has worked to promote a culture of high ethics and compliance within the company.

a. Creating a Culture of Compliance

When asked about how best to create a culture of compliance within the BPD, Bealefeld said that his private sector experience working for Under Armour has given him great insight. Bealefeld explained that every Under Armour employee is given two key responsibilities. First, every employee needs to "act safe." Second, every employee is charged with aggressively promoting safety within the workplace. Bealefeld has created programs to reward and incentivize

³⁸⁷ See Justin Fenton, *Ignoring Warning Signs of Misconduct, Baltimore Police Praised – and Promoted – Gun Trace Task Force Leader*, BALT. SUN (June 12, 2019), <https://news.baltimoresun.com/cops-and-robbers/part-one/>.

safety, developed systems to track early warning signs of safety violations, and created a robust training and job fitness program. Using these measures, Bealefeld has worked to ensure that everyone who works for Under Armour is an equal stakeholder in the culture of safety.

Bealefeld emphasized that to create a sustainable culture of compliance, all employees, regardless of title or job duties, must be engaged and must be given frequent reminders.

When asked about creating a culture of compliance within a police department specifically, Bealefeld said that many of the same strategies apply. He recommended creating incentives and rewards for officers who demonstrate commitment to the culture of compliance. He also suggested that BPD enhance their training and increase their capacity to track early warning signs. Bealefeld noted, however, that financial constraints have limited BPD's efforts to create a culture of compliance.

Bealefeld recalled that when he was Commissioner, he made sure that each platoon was trained together for 30 days, at a significant cost to the Department. On the very first day of training for each platoon, Bealefeld's practice was to stand in front of the group and tell them that BPD was trying to change the way that they were policing. He acknowledged to each platoon that 30 days of training was not going to be enough to change the officers' mindsets entirely, but it would introduce the officers to the notion of good and ethical policing, and it would ultimately be up to them to practice what they learned until it became habitual.

Bealefeld noted that changing culture does not happen in one day, but instead requires long dedication over many years of successive leadership. He observed that police commissioners often have a tenure of only a few years. Bealefeld said that when he was Commissioner, he told officers that they would be serving the Department for 20-30 years, long after he was retired, and that the BPD was their department, not his. He wanted to empower the rank-and-file officers to engage in quality law enforcement throughout their careers.

b. Rooting out Police Corruption

Former Commissioner Bealefeld noted that during his tenure, there was a major police corruption scandal involving Majestic Towing. Some 17 officers were prosecuted criminally, and another 13 suspended, in connection with illegal referrals of citizens to a particular car towing company, in return for kickbacks. When asked how the Majestic Towing scandal was uncovered, Bealefeld said that BPD received a complaint from a citizen questioning why a police officer had directed them to a certain towing company. That letter of complaint made the Department suspicious of the officer mentioned in the complaint, and the investigation that ensued uncovered misconduct by a large number of officers.

When asked about the impact this scandal had on the Department, Bealefeld said that he made a point to arrest the offending officers at the Police Academy. They brought in an FBI SWAT team to take down the officers, hoping that this would be a visual deterrent for other officers. Once the officers were escorted out, Bealefeld brought the Academy class into the room to talk about what had happened. Bealefeld remembered this as a great "teachable moment" for the officers, and thereafter he spoke regularly about the event and ethics when meeting with

officers. He believes that the Majestic Towing scandal demonstrates that the BPD is capable of successfully investigating and policing itself, but the media and the public came away with the opposite conclusion. Instead of crediting the BPD with holding their officers accountable and conducting a successful internal investigation that led to the removal of many corrupt officers, the media wrote stories that corruption was running rampant through the police department.

The Towing Scandal case was the work of an anti-corruption task force that was a collaboration between BPD and the FBI. As Bealefeld explained, during his tenure he was concerned that a number of officers in the BPD were operating under a cloud of suspicion, including in Internal Affairs, so he went to the head of the FBI's Baltimore field office and requested assistance in rooting out corruption in the BPD. With the FBI's help, Bealefeld created a task force to investigate, and Bealefeld recruited a former BPD officer to return to BPD as an undercover officer. The Towing Scandal case was the first case the task force made. They went on to make others, including a successful wiretap in the Northwest District against Officer Daniel Redd, who was making heroin deals in the parking lot of the district office.

With respect to the GTTF, Bealefeld viewed the BPD's heavy emphasis on gun seizures as encouraging some officers to create phantom pursuits or other situations where guns could be recovered by engaging in questionable tactics. He said that no one stepped up to say this was wrong and to stop these practices. He compared it to what he sees at Under Armour, with petty theft by young employees working cash registers, where theft of small amounts can become thousands of dollars over time if the practice is not stopped and the employee terminated.

c. Recommendations for Reform and Restoring Trust

When asked what could be done to restore the community's trust in the BPD, Commissioner Bealefeld said that the most important thing is "to get cops out of cars." He suggested that the BPD should have officers at community meetings, bake sales, and in church basements to foster personal relationships between officers and the community. He added that when "cops are out of cars," de-escalating situations in neighborhoods, they are focused on making neighborhoods more livable for people.

In response to questions about tactics to hold officers accountable, Bealefeld indicated that he supports random urine testing and polygraph testing, especially for officers who are serving in specialized units. He noted that an effective polygraph program would require one or more highly-trained, specialized examiners and the resources to support them. Bealefeld also supports the use of integrity stings to investigate and detect possible corruption. He said that during his career, he was asked on numerous occasions to serve an integrity warrant so that the Department could see what officers would do with the drugs or money that they found. He also recalled being the subject of integrity tests, explaining that occasionally a gun or drugs would be planted in his unmarked car to see how he would respond. Bealefeld is a strong proponent of these integrity stings and thinks they are enormously effective. In his view, there are 3 ways corruption within BPD could be detected: (1) an officer reports misconduct by another officer; (2) criminality is discovered by another law enforcement agency, as occurred with the GTTF; or (3) misconduct is discovered through a "radar system" of internal processes designed to ferret out wrongdoing.

When questioned about the now defunct Criminal Justice Coordinating Council, where stakeholders in the city, state, and federal criminal justice system would meet regularly, Bealefeld said he believes those meetings were “of monumental importance.” In Bealefeld’s view, those meetings, which were open to the media, helped to keep the public informed, and helped to ensure that all of the involved agencies were working together as colleagues for the betterment of all.

Bealefeld is a supporter of a strong Civilian Review Board, and in his view, it is beneficial to all parties to have citizens involved at all stages of the police disciplinary process, from reviewing officer misconduct to charging an officer, so long as the citizens are well versed in the law and police practices. Regarding the Civilian Review Board specifically, Bealefeld recommended that the Board could be given final authority to impose some smaller sanctions—like enhanced training—on charges that would not merit the more serious sanctions of termination or reduction in rank. He also suggested having an Administrative Law Judge trained in police tactics to oversee the adjudication of police discipline cases, with the Commissioner having final authority, for the benefit of both the public and the involved officers. Bealefeld supports public disclosure of police discipline records, stressing that officers need to understand they are public servants, that their activities are public, and that the community has a right to know of misconduct so that trust can be created through transparency.

Bealefeld is opposed to calls for “defunding” the police, and recommended that BPD increase the size of its force. He pointed out that annually BPD responds to over one million 911 calls, in addition to enforcing traffic laws, conducting training, visiting schools, and other tasks. Due to the immense volume of work, officers work too many overtime hours and are not able to police the City well. Bealefeld said this is a disservice to the City, and to the officers and their families. He noted that 85% of the annual police budget is devoted to salary and benefits, leaving the Commissioner with few discretionary resources to implement new training or programs.

Finally, Bealefeld described politics as a big issue for the Department that prevents effective change from happening. Bealefeld said that it is politically expedient for the Mayor to make four-year decisions on Police Commissioners, whereas department culture and policing strategy are decades in the making. In Bealefeld’s view, Mayors make decisions based on election cycles that have often hurt the Department.

2. Former Commissioner Anthony W. Batts

Mr. Batts came to the Baltimore Police Department in 2012. Batts started police work in college as a reserve officer, and he went from being a police cadet to becoming an officer in roughly 1982. Batts served with the Long Beach, California Police Department for a little over 27 years and for 7 of those years, he was Chief of Police. From Long Beach, Batts was recruited to serve as Police Commissioner in Oakland and served there for two years. Batts then worked at Harvard University in a research post for a short time prior to serving as Baltimore Police Commissioner from September 2012 until July 8, 2015. Batts currently provides consulting advice to municipalities, command officers, and chiefs of police. His consulting work revolves around President Obama’s Task Force on 21st Century Policing Plan and law enforcement leadership skills.

a. Views on the Culture of the Baltimore Police Department

Batts asserted that criminal misconduct has unfortunately been part of BPD's culture and history for decades. Batts referenced scandals from 2000 that included a 19-year veteran of the Police Department who admitted to robbing two city banks four times; Officer Daniel Redd, who was sentenced to 20 years in federal prison in 2012 for dealing drugs; and the Towing Scandal, involving more than 30 BPD officers who were either charged or suspended in 2011. When Batts arrived in Baltimore, he had concerns about the culture of the BPD, which he described as a culture of officers trying to be "badasses." He described this mentality as including being the toughest officer on the street that one could be, no cowering to anyone, and running into any circumstance head on.

Batts testified that accountability systems in Baltimore were "broken," with the focus on performance metrics as opposed to community policing. Use-of-force complaints, as well as the number of officer-involved shootings, were too high for an organization of BPD's size. There were a large number of equal opportunity and sexual harassment complaints. The majority of the Department's policies were outdated. Additionally, seven out of the nine sub-stations had significant security issues. Police vehicles were not secured, some of the departmental vehicles had dents, and the vehicles did not have computer systems installed in them. There were issues with the security of money and narcotics submitted to the Evidence Room. The officers' uniforms were not up to standard. Batts described a lack of self-pride within the organization, which was accepted as "that's just Baltimore," but which Batts felt was an acceptance of mediocrity. The BPD was the lowest paid police department in the State. Nevertheless, Batts noted that there were many good things done by previous Commissioners and that the BPD officers are some of the most courageous police officers Batts has witnessed in his career.

b. Recommendations for Reform and Restoring Trust

Former Commissioner Batts believes the City does not respect the position of the Police Commissioner, and that historically Commissioners have been rotated in and out with short tenures. As a result, police officers can wait the Commissioner out until the Commissioner is forced to leave the post. The officers do not have to follow the current Commissioner's vision or strategic plan because the Commissioner's employment with the City is assumed to be temporary. In Batts' view, lack of continuity of leadership results in Police Commissioners being powerless in accomplishing their vision, effectuating change, and governing the BPD.

Batts indicated that he was dissatisfied with BPD's Internal Affairs process when he became Commissioner; he believed reforms needed to be made to hold officers more accountable for their actions. Batts recruited Jerry Rodriguez for assistance in this endeavor. Rodriguez focused on improving the Department's professional standards and increasing officer accountability. Batts, however, did not institute an early warning system; he did not utilize polygraphs to vet officers in specialized units; he did not utilize COMPSTAT to track complaints; and he did not institute a process to perform integrity checks. The Commission finds it illogical that Batts claimed to have no knowledge of the GTTF scandal and subsequent fallout.

Batts expressed some concern with the use of hearing boards to adjudicate complaints against officers. Batts noted that in trial board hearings, the Commissioner does not have the discretion or authority to hold the officer accountable. The trial board members hear the testimony and evaluate the evidence of alleged misconduct of the officer and make a ruling whether or not the evidence presented violated BPD policy and what disciplinary action should be imposed. In previous police departments where Batts was employed as Commissioner, he would receive the information and make the determination or recommendation whether to hold the accused responsible and what type of discipline should be imposed. He believes giving this authority solely to the Commissioner would start to change the culture within the Department. Batts also stated that the Law Enforcement Officer's Bill of Rights (LEOBR) in Maryland is stronger than what he was accustomed to in California.

An additional reform that was suggested by Batts included providing supervisors such as sergeants, lieutenants, and majors with responsibilities for auditing the officers under their command. Batts recommended that processes surrounding work with money, evidence, narcotics, and sex workers should be audited on a regular basis. In Batts' view, supervisors are the first line of defense in preventing corruption.

Batts also agreed that accountability measures such as polygraphs, drug testing, and integrity stings should occur on a regular basis; he acknowledged a failure to implement these measures. He believes the community should be informed of these accountability measures as well to uphold the public's trust.

Batts questioned whether the minority community in Baltimore has ever had trust in the BPD. Batts believes that the community has to tell the BPD what they want from their police department and that the Commissioner and the Department should be accountable to the community in which they serve. The Department should be reporting to the community its achievements, as well as the problems that occur under BPD's watch. To improve trust with the community, Batts recommends an open relationship, where community members are invited into the police department district station houses and sub-stations, and included in selection boards when reviewing officers for promotion.

Batts recommended transparency and disclosure to the community to demonstrate that the Department is holding officers accountable when there is misconduct. The BPD has to remember that the Department works for the community. Every officer should embrace the philosophy of community policing and have training in community policing. Batts encouraged officers to get out of patrol vehicles and increase the use of foot patrol. In sum, Batts believes BPD should ask the community what kind of police officer the community wants, and from the community's response, build the Department accordingly.

3. Former Commissioner Kevin Davis

Mr. Davis began his law enforcement career in the Prince George's County Police Department and served there for more than 20 years before being appointed Chief of the Anne Arundel County Police. Davis joined the Baltimore Police Department in 2015 as Deputy Commissioner of Investigations under Commissioner Anthony Batts. He succeeded Batts

as Commissioner and served in that role for two years and seven months. Mr. Davis currently serves as Director of the Consulting Services Division of GardaWorld, an international security company.

a. Experience with Consent Decrees

During Davis's service in Prince George's County, the Prince George's County Police Department ("PGPD") was under the auspices of a federal consent decree. The PGPD entered into the consent decree as Davis was entering the command ranks of the Department. Davis recalled that he and many of his colleagues worried that the consent decree would make policing more difficult, but Davis said his experience was that the consent decree monitors professionalized the PGPD. Under the consent decree, the PGPD implemented new technology, reduced crime, particularly homicides, and improved the police department's relationship with the community.

In light of his experience with the consent decree in Prince George's County, Davis took a positive view of the BPD's entry into its own federal consent decree. Davis urged BPD officers not to be afraid of the Consent Decree, but rather to welcome it as an opportunity to bring resources to the Department.

b. Challenges as Commissioner

Davis recalled that as he was transitioning into the Commissioner role, he was very conscious of the fact that he was an outsider and did not come up through the BPD. Davis said he was reluctant to replace staff in the upper ranks of command because those officers were politically well-connected. Davis expressed the view that BPD Deputy Commissioners during his tenure were politically connected with members of the Baltimore City Council "the likes of which [Davis] had never seen."

Davis noted that during his very first month as Commissioner, a former Commissioner told him to "start developing his dismount strategy." Davis believes that Baltimore mayors and the Baltimore community lose faith in a Commissioner before he or she has a chance to make meaningful change. In Davis's view, people need to feel comfortable having the same person as Commissioner for a long period of time, because the person needs to be able to survive the daily ups and downs of the job in order to make a long-term positive impact. Davis believes that the revolving door of Commissioners has not been helpful in creating stability at BPD and a relationship of trust with the community.

In Davis's view, officers in the BPD are too siloed. Officers tend to come up through the silo of Operations, Community, or Patrol, with very little transfer among the silos. Davis contrasted this with the Prince George's County Police Department, where officers tended to move more often from one silo to another. Davis observed that officers who are siloed in a single division—for example, Operations—for their entire career tend to become territorial with their people and responsibilities, and they do not collaborate well.

When asked about Wayne Jenkins and whether he had ever heard him referred to as a “golden boy” or as someone who seized more drugs than other officers, Davis said that while that is possible, nothing sticks out in his memory. Davis said that he heard the same things about other officers in enforcement units. As he put it, “all enforcement units wear that cape on their back.” Davis pointed out that police officers, as a general matter, have a “Viking” mentality, but in his view, “that culture is on steroids in Baltimore.” Davis attributed that culture to the time of “zero tolerance” policing in Baltimore that pre-dates his tenure. Davis said that he never asked about the quantity of guns or drugs seized in COMSTAT meetings; he instead focused on the quality of arrests.

Davis indicated that during his tenure as Baltimore Police Chief, he fired 22 officers, including Fabien Laronde, who had racked up more than 100 Internal Affairs complaints during his time as a Baltimore police officer. Davis stressed that if he had even the slightest idea of the criminality taking place within the GTTF, he would have taken swift and decisive action to make sure that these officers were investigated and dealt with properly. Commissioner Davis did not implement integrity tests; he did not utilize polygraphs as a vetting tool for specialize units; he did track citizen complaints in COMPSTAT; and he failed to implement an Early Warning System.

Davis expressed frustration with the disparity between what the U.S. Attorney’s Office and the FBI’s Anti-Corruption Units know, and what information is relayed to local police departments, recognizing that the USAO and FBI do not want to compromise federal criminal investigations of local law enforcement. Davis explained that he was not informed of any details of the federal criminal investigation of the GTTF while it was ongoing. Commissioners Bealefeld and Batts indicated that they worked closely with federal agencies on issues of corruption.

Davis indicated that after the GTTF indictments, BPD made many policy and training changes, including increasing the annual officer training from 40 to 80 hours, mandating that new officers work a foot beat for their first 90 workdays so that they would be physically closer to the community, and starting a new use-of-force training system. Davis noted, however, that changing a policy does not necessarily mean that the BPD culture will follow along.

c. Recommendations for Reform and Restoring Trust

When asked about the relationship between the community and the BPD at the start of his tenure as Commissioner, Davis said that there were mixed feelings. In his experience, the community loves and needs the police, and during his time as Commissioner he never had any negative interactions with Baltimore residents. As Davis put it, “The community needs the cops, they just don’t want to be treated like crap.” While Davis believes that the GTTF’s actions severely damaged the community’s trust in the BPD as a whole, he feels that there are still many strong relationships between individual BPD officers and the neighborhoods in which they serve.

When asked what strategies the Department should employ to prevent the corruption that occurred in the Gun Trace Task Force from happening again, Davis offered several recommendations. Davis suggested that BPD change its promotion structure. He pointed out that BPD officers are promoted directly from police officer to sergeant, whereas in other departments an officer would first be promoted to the intermediate ranks of police officer first class or corporal

before achieving the rank of sergeant. Davis argued that requiring an officer to be promoted to those intermediate ranks introduces the officer to supervisory responsibilities more gradually and effectively, and gives the officer more years of experience on the job before stepping into a serious supervisory position.

Davis believes that polygraph testing of police officers, especially those in specialized units involving drugs and money, could be beneficial. Davis added that he prefers the behavioral management assessments conducted by federal law enforcement every five years because he thinks they are more effective at identifying bigger issues like narcissistic personality disorders. He suggested these behavioral assessments should be used in hiring in the BPD.

Davis also advocated for term limits for officers working in narcotics and specialized enforcement. He indicated that in the past he was adamantly opposed to term limits, but he has since changed his mind and believes there should be a limit on the number of years that an officer can do that work. Davis exempted homicide detectives from this recommendation.

Davis suggested that an effective early intervention system could be a valuable tool to identify officers who are having problems that may otherwise go unnoticed. He praised the work of Vernon Herron, currently BPD's Director of Officer Safety and Wellness, whom Davis hired to oversee and improve BPD's early intervention system.

When reflecting on the best practices for law enforcement units, Davis pointed out that one of the main problems is that officers are taught to think that they should be where the most crime is. Davis argued that officers should change their mindset to instead focusing on where the most victims of crime are. Also, he believes many officers think that they are an occupying force within a community. Davis said that such a mindset leads to a breakdown of mutual respect between the community and the officers. Davis advocated for better communication between BPD, community leaders, and Baltimore residents. He also proposed that officers be trained on the impact of their actions on the communities they police.

Former Commissioner Davis said that overtime expense and fraud is a recurring problem, but in his view, BPD has never taken the necessary steps to eliminate overtime and prevent fraud. Davis believes that BPD needs to be fully staffed, with roughly 1,500 more officers than BPD currently employs. He also recommended that BPD implement a fully electronic and tamper-proof overtime system. Davis warned that even with a tamper-proof system, without a significant influx of officers, BPD would still spend \$40 million on overtime annually because the Department is so understaffed. Davis added that BPD loses significant revenue every year for security associated with Ravens and Orioles games, and other large events such as the Baltimore Marathon and the 10-miler, all of which is paid for with overtime for which the City/BPD are not properly reimbursed by the sports franchises. He compared this with his experience in Prince George's County, where the Washington football franchise fully reimbursed the police department for all overtime in connection with security, traffic control, and other tasks.

Davis also suggested that BPD should be the best paid police force in the state because Baltimore is the most challenging place to police in Maryland. He lamented the fact that officers do not receive additional incentive pay for language skills or other skills, and there is no take-home car program for BPD officers who live in Baltimore.

Davis advocated for the dismantling of the trial board structure. In his view, police discipline should be removed from collective bargaining. An IA complaint should go from a completed investigation directly to the Commissioner's desk, giving the Commissioner greater accountability. The Department could insert an appeal mechanism into the process that would address any due process issues arising from a reduction in rank or termination, but in the meantime, the discipline imposed on the officer would stand. Even if this more significant reform were not enacted, Davis recommended that at the very least, the Commission could recommend that police chiefs be better educated about their options under LEOBR.

4. Former Deputy Commissioner Dean Palmere

Mr. Palmere served in the Baltimore Police Department from 1990 to 2018. He joined the Department as a cadet shortly after graduating from high school in June 1990. Palmere served in BPD continuously for 28 years, rising through the ranks and serving in a variety of positions. Palmere served as Deputy Commissioner for 5 years under Commissioners Davis and Batts.

a. Experience with GTTF Officers

Mr. Palmere testified that prior to the March 2017 indictments of the GTTF, he did not have any knowledge of criminal misconduct in connection with the GTTF members, nor did he have knowledge of the ongoing federal investigation regarding the corruption. At the time of the indictments, Palmere was the Deputy Commissioner of Operations, and the GTTF reported to him through a Lieutenant, an Acting Captain,³⁸⁸ and Chief Sean Miller in the Operational Investigations Division. Palmere became aware of the pending indictments only several days before the arrests, and without knowing the names of the officers involved. Following the indictment, Palmere did not have any communications with any of the GTTF members regarding the charges, nor has he spoken with any of them following their prosecution.

Palmere testified that he seldom had contact with Wayne Jenkins or the GTTF squad, although the Commission heard from others to the contrary. Palmere testified that he did not have a personal relationship with Jenkins, however he knew who he was since he worked within his chain of command. Palmere did not recall reviewing any Internal Affairs complaints, charges or allegations relating to Jenkins.

Palmere's perception of Jenkins prior to the GTTF scandal was that Jenkins was known as an officer who was a "go getter," and at the time it appeared that he was respected by his first-line supervisors. Palmere would often see emails about the GTTF and the numbers of guns seized by the unit through departmental email. However, Palmere acknowledged that with hindsight Jenkins's performance could have allowed him to disguise his criminal misconduct. Palmere did

³⁸⁸ The Captain position was vacant for at least six months prior to the March 1, 2017 arrest of the GTTF members. Officers with the rank of lieutenant rotated in and out of that role during that time.

not think that the numbers generated from the GTTF in connection with the seizures of guns, narcotics, and money were disproportionate compared to other task force groups within the Baltimore Police Department.

Following the indictments, Palmere was not involved in any root cause analysis of the GTTF scandal. Nor did Palmere participate or request an examination as to how so many officers could be involved in this type of criminal misconduct and how this criminal behavior could go undetected for so many years within the Baltimore Police Department. Mr. Palmere testified that he was personally shocked and appalled by the GTTF members' criminal conduct, since he comes from a family of law enforcement officers and believes no one should be victimized by someone who is supposed to be upholding the law and instilling trust in the community. Palmere acknowledged that this was the biggest scandal in the BPD's history that he witnessed in his career.

b. Actions Taken after the GTTF Indictments

After the members of the GTTF were indicted in March 2017, until his retirement in February of 2018, changes to the Department included the immediate disbandment of plainclothes units. Those officers were reassigned back into uniformed patrol. During Palmere's last year with the BPD, there were many policies and procedures that were reformed under the Consent Decree.

Palmere was aware that only Lt. Col. Sean Miller was demoted after the indictments. Palmere did not personally make any direct inquiries of Lt. Col. Miller or Lt. Marjorie German regarding their supervision of the GTTF, or if they had any knowledge of the GTTF corruption.

Palmere's views of how this corruption was able to unfold without detection over the course of several years includes the changing of administrations in such a short period of time. He believes the high turnover of Commissioners destabilized and confused the Department. With each administrative turnover, the vision and direction of the previous Commissioner was shifted, modified, and transformed. He noted that emphasis, implementation, and reforms with regard to Internal Affairs, Early Warning Systems, staffing and resources were delayed as a result of changes in leadership.

c. Recommendations for Reform and Restoring Trust

Palmere recommended that the GTTF criminal misconduct be a learning experience and incorporated in the Police Academy curriculum, as well as an emphasis on ethics training. Another means to reinforce the training is at the annual in-service training of police officers. The curriculum should be retooled to specifically identify potential corruption within the Department.

Mr. Palmere supported the implementation of random polygraphs, specifically within specialized units that work in task forces or deal with money and narcotics in larger quantities than the average patrol officer. He testified that under the administration of Former Commissioner Edward Norris, there was an Integrity Squad that would conduct integrity stings within the Department. However, with later administrations this no longer occurred.

Additionally, Mr. Palmere testified that there is a flaw in the communications between the Operations side and the Administrative (Internal Affairs) side of the police department. The structure of the Department should be revamped; in a sense officers are working in a “silo.” He believes that when there are general complaints and red-flags regarding an officer’s conduct, those concerns should be communicated to Operations.

Mr. Palmere also testified that some of the enforcement officers worked from Headquarters, but many other officers within specialized units worked at offsite locations. He believes this led to reduced supervision and lessened the authority of command.

F. Analysis of Consequences of the GTTF Corruption

1. Vacated Criminal Convictions

The GTTF officers who engaged in criminal misconduct were involved in a large number of criminal prosecutions in Baltimore City over a period of many years. Once the GTTF officers were prosecuted and found guilty of making false statements, planting evidence, and other crimes, it became obvious that these officers were not credible and that certain criminal convictions obtained over the years through these officers’ efforts and testimony would have to be reviewed and potentially set aside. As a result, one major consequence of the GTTF scandal is the large number of criminal convictions that had to be undone/set aside, due to the GTTF officers’ misconduct. Michael Schatzow, the Chief Deputy State’s Attorney for Baltimore City, has advised the Commission that over the past three years since the GTTF indictments, a team of 6 part-time law clerks, 4 Assistant State’s Attorneys, and 2 Supervisory Assistant State’s Attorneys at his Office have engaged in the enormous undertaking of reviewing approximately 2,752 criminal cases based upon the GTTF scandal.

As of October 28, 2020, the Office of the State’s Attorney has filed motions to undo/set aside criminal convictions in approximately 759 cases. As a result of motions being granted, and also including cases that were still open with trial dates pending, the State’s Attorney’s Office has entered nolle prosequi in approximately 802 cases. As of October 28, there are approximately 50 additional cases in which the State’s motions to undo convictions are still pending, and another 38 cases in which the State’s Attorney will soon be filing motions to vacate convictions. Also, the Office of the United States Attorney for the District of Maryland reviewed all federal criminal prosecutions in which the convicted GTTF officers played a material role. The USAO has advised the Commission that only in a handful of federal criminal cases was it necessary for the government to move to dismiss the cases or vacate the convictions, based upon the unreliability of the GTTF officers.

The dismissal of pending criminal charges or a criminal conviction against an individual is no trivial matter. Each criminal case involves a human being charged as a defendant, and the criminal process has significant impact on that defendant, his/her family, the defendant’s ability to work, the victims of the alleged crime, and the victim’s family. If the defendant in fact committed the crime charged, the defendant has gone free because of the wrongdoing of the GTTF officer(s), with the result that the justice system has failed the victim and the community at-large. If the defendant did not in fact commit the crime charged, the defendant suffered the pressure of improper

charges, any jail time served, the expense of a defense attorney unless the individual is indigent, possible loss of a job and inability to help feed their family, and a variety of other negative consequences associated with arrest, prosecution and incarceration based on charges that are dropped due to the misconduct of a BPD officer.

2. Civil Lawsuits

Since the announcement of the GTTF criminal cases, there have been a large number of civil lawsuits filed against the City, BPD and/or one or more of the individual officers, seeking damages based upon alleged police misconduct. As of October 2, 2020, 31 civil lawsuits and 56 additional civil claims have been presented or filed, with 21 of these settled. As of November 13, 2020, the City had approved a total of \$2.7 million in settlement payments, with additional settlements anticipated to bring the total to more than \$13 million.³⁸⁹ The ultimate cost to the City will include not just the payment of any settlements or judgments, but also the cost of defense as well as possible attorneys' fees awards to successful plaintiffs. The total collective exposure to the City from these cases will be extremely high. It is also possible that additional cases will be filed in the future, by litigants whose convictions are vacated or who learn that they were otherwise victimized by one or more of the guilty GTTF officers.

On April 24, 2020, Maryland's highest court issued a key decision involving two of the civil lawsuits alleging misconduct by GTTF officers. In BPD v. Potts, 468 Md. 265 (2020) the Court of Appeals rendered a unanimous decision finding that in those cases, GTTF officers acted within the scope of their employment, such that the City and BPD are responsible for compensating the plaintiffs and paying settlements that were reached in those two cases. The Potts decision will have a significant impact on the remaining GTTF civil cases.

In its opinion, the Court of Appeals recited the facts of the “shocking and unfortunate scandal” and the “wide-ranging, years-long racketeering conspiracy” involving the GTTF officers who had been convicted of federal criminal charges.³⁹⁰ The Court emphasized that the two civil cases involving Ivan Potts and William James were not among those cited in the federal criminal conspiracy charges. Instead, the case involved two instances of misconduct by some of the same GTTF officers, who illegally conducted stops without articulable suspicion and made illegal arrests without probable cause.

The issue before the Court of Appeals was whether the GTTF officers were acting “within the scope of employment” under the Local Government Tort Claims Act (“LGTC”), Md. Code Ann. Cts. & Jud. Proc. § 5-301, et seq., when they stopped and arrested Messrs. Potts and James. The citizens claimed the officers were acting within the scope of their employment as police officers, such that the City and BPD should pay damages. The City and BPD contended that because the officers were engaged in criminal misconduct, they were acting outside “the scope of

³⁸⁹ Justin Fenton, *Baltimore Expected to Pay \$8 Million to Settle Gun Trace Task Force Lawsuit, Eclipsing Amount in Freddie Gray Case*, BALT. SUN (Nov. 13, 2020), <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-gttf-settlements-burley-20201113-4adck7w7ljf2bh7njtph7tqnem-story.html>; Tim Prudente, *Baltimore to Settle a Dozen Gun Trace Task Force Lawsuits for Nearly \$2.5 Million*, BALT. SUN (Nov. 2, 2020), <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-gun-trace-task-force-settlements-20201102-wg4jj54uuzcw3pevdnop3qhxxu-story.html>.

³⁹⁰ Balt. Police Dep't v. Potts, 468 Md. 265, 271 (2020).

employment,” such that the officers alone (and not the City/BPD) should be financially responsible for damages.

The facts of both cases are outrageous and totally inconsistent with what one expects of police officers. The GTTF officers unlawfully stopped Ivan Potts, beat him, searched him, found no contraband, planted a handgun on him, arrested him, and falsely stated that he had possessed the handgun. The GTTF officers then falsely testified under oath at trial that they had recovered the handgun from Mr. Potts. Potts was convicted and sentenced to eight years in prison. He was incarcerated for 19 months before his conviction was vacated following disclosure of the GTTF scandal.

In the second case, officers stopped William James in his vehicle without cause and demanded that Mr. James provide the name of a person who possessed drugs or a gun. When Mr. James was unable to do so, the officers falsely alleged that a handgun, that they had planted, belonged to James. The officers illegally arrested him. Mr. James was in custody awaiting trial for more than seven months, and was then released following disclosure of the GTTF scandal. Mr. James died shortly after filing his civil lawsuit, and his estate proceeded with the case.

In each case, the plaintiffs and the City agreed to a modest settlement of \$32,000. The Court of Appeals determined that even though the officers’ conduct was criminal and outrageous, the City is nevertheless responsible for paying the settlements, because the officers were acting within the scope of employment, serving BPD as opposed to pursuing their own personal interests at the time of the wrongdoing.

The Court of Appeals characterized the conduct of the officers as “despicable,”³⁹¹ but concluded that unlike the facts in the GTTF criminal charges, the officers did not take any money or drugs or gain any personal benefit from their actions involving Messrs. Potts and James. The officers’ “misconduct was egregious, and no citizen should ever be subjected to such an abuse of power by law enforcement officers.”³⁹² However, the Court concluded that the City and BPD—as opposed to the individual officers—are responsible for payment of the settlements under the LGTCA, because unlike the many incidents involved in the federal criminal charges, “the officers received nothing of value from Potts or James.”³⁹³

The Court of Appeals noted that the GTTF officers may have arrested Potts and James “to create the façade of having engaged in the common police activity of making arrests,” so as to have “the effect of raising the officers’ stature within the Department or giving the appearance that the officers were more productive than they really were...”³⁹⁴

³⁹¹ *Id.* at 274.

³⁹² *Id.* at 305.

³⁹³ *Id.* at 313.

³⁹⁴ *Id.*

In important language that will impact the remaining civil lawsuits, the Court of Appeals stated:

Given the egregiousness of the [GTTF criminal] conspiracy, the length of time of the conspiracy, the number of former members of the Department's Gun Trace Task Force who participated in the conspiracy, and the Department's acknowledgement that examples of members of the Gun Trace Task Force planting evidence were plentiful, it is reasonable to conclude that the Department should have known of the misconduct by former members of the Gun Trace Task Force, whether the conduct involved the victims of the conspiracy or citizens such as Potts and James.³⁹⁵

This language from the Court of Appeals seems very close to a judicial finding of negligence by BPD — i.e., that BPD “should have known” of the GTTF conspiracy and should have taken action.

The Court of Appeals concluded that the officers would not be able to pay the settlements. “By holding that the officers acted within the scope of employment, we ensure not only that Potts and James's estate have a remedy, but also that the ultimate responsibility for the officers' misconduct rests with the government entities that employed and supervised them — namely, the City and the Department.”³⁹⁶

The Court of Appeals was careful to note that it was not holding that “all former members of the Department's Gun Trace Task Force acted within the scope of employment in all instances.”³⁹⁷ The Court expressly refused to issue a “blanket ruling” involving all the GTTF civil cases, but instead directed that each case must be considered on its own facts in determining if the officers acted within the “scope of employment.”³⁹⁸

3. Recruitment

According to a 2019 staffing plan, “[BPD] should hire nearly 300 more sworn officers and 100 civilians, reduce the workload for homicide investigators, more than double the number of internal affairs investigators and increase training.”³⁹⁹ The final version of that staffing plan, released in February 2020, made specific recommendations for BPD.

BPD, like many other law enforcement agencies, has struggled to recruit high quality individuals to serve as police officers. Moreover, the agency continues to experience the loss of

³⁹⁵ *Id.* at 316.

³⁹⁶ *Id.* at 319.

³⁹⁷ *Id.*

³⁹⁸ *Id.*

³⁹⁹ Jessica Anderson, *Baltimore Needs to Hire Nearly 300 More Officers, More Than 100 Civilians, According to New Staffing Plan*, BALT. SUN (Dec. 13, 2019), <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-ci-police-staffing-study-20191213-6tw6chideffixaz3mkzpwjlpn4-story.html>.

officers through retirement, and other forms of separation at a pace that exceeds its capacity to add new sworn personnel. The staffing plan recommends:

- Increasing the size of recruit classes. This would have to be examined relative to facility space and the ability to maintain instructional quality (e.g., by incorporating enough facilitators to assist instructors).
- Increasing the annual number of Academy classes. This would also have to be examined relative to facility and instructor availability. One option may be to look for opportunities to reduce the length of BPD training, as it currently is substantially longer than other training programs in the state, thereby making facilities and instructors more available.
- Reducing the current Academy attrition rate of 18%. An analysis of the difficulties recruits have during the academy and the reasons that they drop out or fail can help guide attrition reduction strategies.
- Reducing the overall attrition rate of the department.⁴⁰⁰

Despite the urgent need for additional staff, the BPD has not been insulated from the problems that law enforcement agencies have faced with recruiting new officers and combatting attrition.⁴⁰¹ It is not possible to state with precision how much of the BPD's difficulty in recruiting capable new officers can be directly attributed to the GTTF corruption. But it appears likely that at least some of the BPD's troubles with recruitment are a result of the GTTF scandal and the poor reputation of the BPD compared to nearby law enforcement agencies.

4. Officer Morale

The criminal convictions of the former members of the GTTF have negatively impacted morale at the BPD. One supervisor interviewed by counsel to the Commission expressed frustration that "all of the Department's hard work was undone by Jenkins and his crew." Another likened the effect of the convicted officers' criminal conduct to "someone disrespecting the family name." Another supervisor lamented the damage caused to the Department's reputation by the GTTF scandal. One officer used a sports analogy to make the same point: "When you do something bad, you're representing the name on your jersey, and we all get hit for it."

Many officers expressed anger, resentment, and disappointment at the former members of the GTTF and other officers who have been convicted on federal charges. Officers reported

⁴⁰⁰ ALEXANDER WEISS CONSULTING, LLC, BALTIMORE POLICE DEPARTMENT STAFFING PLAN 13 (2020), <https://www.powerdms.com/public/BALTIMOREMD/documents/652754>.

⁴⁰¹ Jessica Anderson, *Baltimore Police Hiring Woes Continue, Alarming Federal Judge Overseeing Mandated Reform Efforts*, BALT. SUN (Jan. 22, 2020), <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-ci-consent-decree-report-20200122-pt324df5vexxbrzyn7m6ebzwy-story.html> (reporting that BPD "launched a marketing campaign last summer that significantly increased applications but has not yet resulted in a large number of new hires."); Teri West, *Baltimore's Police Are Looking for New Ways to Attract Recruits*, CAPITAL NEWS SERV., <https://cnsmaryland.org/baltimore-recruit/> (last visited Nov. 15, 2020) (noting that "[a]ttracting people to apply in the first place is another challenge, especially as incidents of police brutality have made headlines in recent years.>").

resenting the convicted officers not only for making the Department look bad, but also for putting the BPD rank and file at risk. As one officer put it, young officers in the Department are angry because they feel like the GTTF scandal has made their jobs “100 times harder.”

Officers interviewed by the Commission commented that the GTTF scandal has negatively impacted the Department’s interactions with the community. One member of command staff described the indictments as a blow that the Department cannot seem to get past. Several officers reported that the GTTF scandal is often raised during their conversations with community members. One officer noted that even now, more than three years after the GTTF scandal broke, he encounters community members in the streets who say, “You guys [police] are robbing people.” Another officer said that when he interacts with members of the community, he is often told, “You’re probably dirty like them.” Another officer said simply, when referring to members of the community, “They hate our guts.”

Several officers indicated that the community’s mistrust of the Department, exacerbated by the GTTF scandal, makes it extremely difficult for the Department to close cases. The Baltimore Sun has reported that in 2019, the Department cleared just 32.1% of homicides, one of its lowest rates in the last three decades.⁴⁰² Officers interviewed by the Commission reported that no one in the community wants to give information to the police. One officer in the Homicide Unit said “no one wants to speak to us. No one wants to tell us anything.” The officer added that most of the cases that are successfully closed by the Department are closed on circumstantial or physical evidence, without any witnesses. One sergeant observed that because of the GTTF officers’ conduct, it is now very difficult for the Department to close cases and for the State’s Attorney’s Office to successfully obtain convictions. The officer said that although it is hard to quantify, the GTTF scandal has negatively affected public safety.

5. Personnel Changes and Investigation within the BPD Following the GTTF Scandal

After the seven GTTF officers were arrested and the indictments against them were made public on March 1, 2017, the BPD reacted by implementing a significant departmental reorganization. The Department disbanded the plainclothes units within the Operational Investigations Division (“OID”), the division under which the GTTF had been housed. Former Commissioner Kevin Davis characterized this as a decision to ban plainclothes street enforcement. Davis said the Department made it a new rule that if an officer would be interacting with citizens, he or she would need to be in uniform.

The Acting Captain of the Division at the time recalled that one morning, all of the detectives were instructed to clean out their offices that afternoon because they were being reassigned to the District Offices. The Acting Captain gathered the whole division and briefed them on the impending transfer. The officers assigned to task forces that had some federal or other agency component remained, but the officers working in street enforcement were all reassigned. Plainclothes detectives were stripped of their detective badges and given patrol badges. Officers

⁴⁰² Jessica Anderson, *Baltimore Ending the Year with 32% Homicide Clearance Rate, One of the Lowest in Three Decades*, BALT. SUN (Dec. 30, 2019), <https://www.baltimoresun.com/maryland/baltimore-city/bs-md-crime-policy-20191230-zk2v2auuhbgq3f7zsh3t7rt6cm-story.html>.

interviewed by Commission counsel reported that morale went down significantly among the officers. About 125 people in total were transferred, including sergeants and lieutenants.

One officer interviewed by the Commission commented that for a time, the officers who had been working in enforcement units became pariahs in the Department. Within a few months, however, the Department reorganized again, reforming plainclothes enforcement units as District Action Team (“DAT”) squads, and many of the officers who previously worked in OID were transferred to work in one of the newly minted DAT squads.

Only a small number of officers suffered more lasting effects from the GTTF scandal. Sean Miller was demoted by then-Commissioner Kevin Davis from the rank of Lt. Colonel and Chief of the Operational Intelligence Division to the rank of Lieutenant.⁴⁰³ Miller’s demotion came on the heels of the arrest of the GTTF officers. Though the demotion was not explicitly connected to the GTTF scandal, Lt. Miller reported that Commissioner Davis alluded to Miller’s supervision of enforcement units when delivering the news. According to Lt. Miller, Commissioner Davis said something like, “You have been in these units a long time, and you only see positive things out of your people.” Davis has since explained that even though Miller was a Lt. Colonel and separated by several ranks from the lieutenants who supervised Jenkins, because of a gap in rank structure, Miller served as the direct report for the lieutenants, which in Davis’s mind put Miller very close to the wrongdoings of the GTTF officers. Davis commented that he thinks that Miller should have been able to pick up on some of the red flags coming from the GTTF. The Commission has received no information to suggest that Lt. Miller had any knowledge of the criminal activity of the GTTF. The Commission is not aware of anyone other than Lt. Miller who was demoted as a consequence of the GTTF scandal.

One other officer received minor discipline as a result of the GTTF scandal. Immediately following the arrest of the GTTF officers, BPD’s Internal Affairs section began an investigation into the overtime fraud outlined in the GTTF indictments. The investigation established that the GTTF had submitted fraudulent overtime slips. Internal Affairs sustained allegations of Conduct Unbecoming a Police Officer/Employee and Neglect of Duty against the squad’s direct supervisor, and the supervisor was given a letter of reprimand. Two other officers who signed overtime slips received non-punitive counseling. The Internal Affairs investigation focused exclusively on time and attendance fraud, and it concluded in late 2017.

On October 23, 2019, the Department announced that it had retained Michael Bromwich, a former federal prosecutor, former Inspector General of the U.S. Department of Justice, and current senior counsel at the law firm Steptoe & Johnson, to lead an outside investigation into the GTTF scandal in an effort “to understand the circumstances that allowed the GTTF’s activities to take place and go on for so long.” The Department confirmed that Mr. Bromwich would have “full autonomy to conduct the review as he sees fit without interference from us.”⁴⁰⁴

⁴⁰³ Lieutenant is the highest merit rank an officer can attain. All ranks above lieutenant are political appointees that serve at the pleasure of the Commissioner.

⁴⁰⁴ Jessica Anderson, *Baltimore Police Announce Investigation Into the Gun Trace Task Force Scandal*, BALT. SUN (Oct. 23, 2019), <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-gttf-review-20191023-j3iv365huzhxxbktbpderjopja-story.html>.

The announcement followed an appearance by Commissioner Harrison before this Commission in September 2019, at which Commissioner Gary McLhinney pressed Commissioner Harrison on whether the Department would be conducting a formal investigation into how the GTTF criminal misconduct occurred and went unchecked.

U.S. District Judge James K. Bredar, who oversees the Consent Decree between the BPD and the Department of Justice, also had urged the BPD to undertake a comprehensive “autopsy” to evaluate the “systemic and structural issues that contributed to this scandal” to ensure that “nothing like the GTTF ever happens again.”⁴⁰⁵

As of the date of this report, the independent review conducted by Mr. Bromwich’s team is proceeding apace. The BPD has not set a deadline by which the investigation must be completed, but the Department and Mr. Bromwich have indicated that the investigative report will be made public.⁴⁰⁶

G. Survey of BPD Officer Views on Reporting Misconduct

In an effort to better understand the culture within the BPD around reporting officer misconduct, the Commission surveyed BPD officers for their views. Counsel to the Commission emailed an electronic, web-based survey to more than 2,800 active, sworn members of the Department on August 11, 2020. Officers were asked questions related to their experience of witnessing and reporting misconduct at BPD, as well as their experience of ethics and discipline at BPD more generally. During the 30 days that the survey was open, the Commission received 247 responses. The respondents’ tenure with the BPD ranged from 1 to 41 years. The survey was conducted anonymously, although officers were given the opportunity to provide narrative comments, and some chose to do so.

When asked if they had ever personally witnessed a member of the BPD stealing money, taking or selling illegal narcotics, committing overtime fraud, planting evidence, or otherwise engaging in criminal misconduct, 8.5% of respondents answered yes. The large majority of those officers—about 76%—said they had reported the misconduct. Most reported to Internal Affairs, while a few reported directly to their supervisor or to command staff. A few others reported to an outside law enforcement entity like the FBI.

When those who reported were asked if they felt the matter was handled properly, about 69% said no. Some respondents expressed frustration that “nothing happened” to the officer they reported. Others criticized the quality or efficiency of the investigation conducted by Internal Affairs.

The information obtained by the Commission indicates that fear of retaliation is a powerful disincentive for reporting misconduct in the BPD. More than half of the officers who did report misconduct (about 56%) felt that they suffered negative consequences as a result. The overwhelming majority of survey respondents said they would report corruption if they observed

⁴⁰⁵ *Id.*

⁴⁰⁶ Danielle E. Gaines, *Baltimore Announces Independent Review of Corrupt Unit*, M.D. MATTERS (Oct. 23, 2019), <https://www.marylandmatters.org/blog/baltimore-announces-independent-review-of-corrupt-unit/>.

in the future, but many added that they would feel uncomfortable doing so unless they could report anonymously, out of fear that they would otherwise be subjected to retaliation or labeled a “rat” or a “snitch.” As one respondent put it, the BPD instills fear that if you “snitch,” you could ruin your career; the reporting officer gets a reputation for being untrustworthy, while the offending officer goes unpunished.

Several respondents who reported misconduct in the past said they would not do so again based on the retaliation they had suffered. In just one example, an officer reported that after he filed a complaint against a member of his squad for overtime fraud, the offending officer filed a retaliatory complaint against him and other squad members in response. At the time of the survey, both complaints were still under investigation by Internal Affairs, and the officer who reported the overtime fraud had been removed from his squad pending resolution of the offending officer’s complaint. He said that if he had known that reporting the fraud would derail his own career, he never would have made the report.

Although about 90% of survey respondents believe that BPD officers would report on a fellow officer engaged in criminal misconduct or unethical behavior, about 35% of respondents nonetheless believe that it would be easy for a corrupt officer to go undetected by the BPD. This suggests a need for accountability tactics within the Department. It is not enough for the Department to rely on officers to observe and then report unethical or criminal behavior. There must be other tactics in place to detect and root out misconduct that would otherwise go unnoticed.

When asked if the BPD is doing a good job in emphasizing the importance of high standards of ethical behavior during recruitment, at the Academy, and beyond, about 2/3 of respondents said yes. However, when asked if BPD prioritizes high standards of ethical behavior when making decisions about promotions, about 2/3 of respondents said no. This suggests that officers believe that the Department is sending the right messages about ethics but is not placing enough of a priority on an officer’s ethics when it comes to promoting supervisors.

Survey respondents were also asked to provide additional thoughts or comments “about the GTTF scandal, how to detect and prevent police misconduct, and how best to restore the community’s trust in the BPD.” Over half of the respondents provided comments. Many officers remarked on the embarrassment and shame that the convicted GTTF officers brought to the Department. It is clear to the Commission that BPD officers are genuinely offended by the GTTF’s behavior and its effect on the community and the reputation of the Department. Further, the recommendations offered by the respondents indicate that officers recognize that the Department needs to adopt methods of accountability to detect and disincentivize misconduct within its ranks.

The results of the survey suggest that most officers want a culture of integrity and compliance in the BPD. They suggest that BPD officers want to work for an organization that has high ethics and credits officers for doing the right thing, while imposing discipline fairly and not exposing officers who report misconduct to reprisal.

BPD officers interviewed by counsel to the Commission also shared their views on reporting misconduct. Several interviewees said they believe that officers are more likely to report misconduct since the GTTF indictments. Some believe that the GTTF scandal scared people in

the Department into doing the right thing and reporting misconduct rather than turning a blind eye. These officers felt that in the past, a good officer may have tried to simply avoid an officer engaged in misconduct, whereas today that same officer would report the problem.

Other interviewees pointed to a departmental policy that subjects officers to discipline for failing to report misconduct. Policy 320, “Duty to Report Misconduct/ Whistleblower Protection,” was published by the Department in March 2018, and it provides that all members of the Department have an affirmative duty to report any member who is acting unethically or violating law or policy. Officers who fail to report are subject to corrective or disciplinary action. Supervisors are responsible for entering reports of misconduct into the IAPro or “Blue Team” database. The Commission learned that supervisors have been subjected to discipline for failure to enter a report into IAPro within 24 hours of receipt. Interviewees indicated that they have received clear messaging from the Department that officers who observe misconduct and fail to report it are “just as guilty.” At the time of this report, the Department is in the process of revising Policy 320 for review by the Consent Decree Monitoring Team.

There appeared to be confusion among those interviewed regarding whether reports could be made anonymously. Some said that the Department offers the option of anonymous reporting by allowing officers to call Internal Affairs and report misconduct without having their name associated with the complaint. Others said they were unaware of any method for anonymous reporting within the Department, and they would report to the FBI rather than Internal Affairs if they observed misconduct.

The officers interviewed by counsel to the Commission also worried about facing retaliation for reporting misconduct. As one long-serving officer put it, “Nobody knows how to get back better than a cop.” That officer observed that the practice of turning a blind eye to misconduct stems from a fear of retaliation. The officer insisted that the Department needs a mechanism to allow for the reporting of misconduct without repercussions.

The Department does have an active policy protecting whistleblowers from retaliation (Policy 1729), but it, too, is undergoing revision. The Consent Decree Monitoring Team’s Third-Year Monitoring Plan states that the Department’s “Anti-Retaliation Policy” will be revised, reviewed, and submitted to the Monitoring Team for final approval by the end of 2020.⁴⁰⁷

H. Assessment of BPD’s Own Efforts to Prevent Misconduct

The Commission also reviewed some of the recent reforms undertaken by BPD that promise to improve detection and deterrence of officer misconduct: (1) mandated use of body-worn cameras; (2) strengthening the Department’s Early Intervention System; (3) reorganization of Internal Affairs; and (4) implementation of an active bystander program, known as EPIC.

⁴⁰⁷ Third-Year Monitoring Plan at 32, *United States v. Balt. Police Dep’t*, No. JKB-17-0099 (D. Md. Aug. 8, 2020).

1. Roll-Out of Body-Worn Cameras

In 2015, the General Assembly enacted legislation authorizing law enforcement officers to intercept and record communications through the use of body-worn cameras. The BPD initiated its body-worn camera program in May 2016 and began equipping officers with body-worn cameras.⁴⁰⁸ Very quickly, the program became an effective tool for detecting misconduct. The Department has reported that in the first six months of the BWC program, 47 videos were forwarded to Internal Affairs for further review and investigation of possible officer misconduct.⁴⁰⁹

The Department also has disciplined officers for failing to activate their body-worn cameras. Notably, several of the now-convicted GTTF members were issued body-worn cameras in 2016 and were written up for failing to record or upload body-worn camera footage late that year. One officer interviewed by counsel to the Commission reported hearing Wayne Jenkins misrepresent the Department's body-worn camera policy around that time. According to the officer, when the GTTF squad was conducting a search of a residence, the officers turned off their BWCs, and Jenkins told them to turn them on "when I tell you." Jenkins did not have the discretion to tell his squad to deactivate their cameras during an encounter with a member of the public, and members of the squad were disciplined as a result.

Under the Department's current body-worn camera policy (Policy 824, dated June 23, 2020), officers assigned to units whose primary duties involve interactions with citizens or enforcement-related activities must wear a body-worn camera at all times while on duty.⁴¹⁰ All officers must activate their body-worn camera at the initiation of a call for service or other activity that is investigative or enforcement-related in nature. Once a BWC recording has been initiated, in most circumstances, the officer may not end the recording unless the encounter has concluded or the officer leaves the scene.⁴¹¹

The Department has created a BWC Unit within the Performance Standards Section, which conducts random and "for cause" reviews of officers' BWC footage.⁴¹² To ensure compliance with its BWC policy, the Department has trained officers in body-worn camera use and imposed mandatory discipline for those who commit policy violations. The Commission received information that any officer who deactivates or fails to activate their body-worn camera in violation of policy loses two days of vacation and receives a letter of reprimand, without exception.

Many of the BPD officers who were interviewed by counsel to the Commission or who responded to the Commission's survey praised the Department's adoption of body-worn cameras. They supported disciplining officers for violations of the body-worn camera policy and recommended that the policy be expanded to require more officers to wear BWCs. Even long-serving officers who were initially resistant to the BWC program have grown to recognize

⁴⁰⁸ BALT. POLICE DEP'T, *Body Worn Camera Basics*, <https://www.baltimorepolice.org/transparency/body-worn-cameras> (last visited Nov. 16, 2020).

⁴⁰⁹ *Id.*

⁴¹⁰ BALT. POLICE DEP'T, POLICY 824 BODY-WORN-CAMERA (June 23, 2020), <https://www.baltimorepolice.org/824-body-worn-camera>.

⁴¹¹ *Id.*

⁴¹² *Id.* at 13.

its value. Officers noted that by documenting interactions between police and citizens, BWCs protect officers from false complaints and also protect the public from officer misconduct. One supervisor observed that officers are less likely to use foul language or behave in a hyper-aggressive manner toward citizens, knowing that their actions will be captured by the body-worn camera.

Other officers commented that body-worn cameras discourage officers from planting evidence, committing theft, or engaging in other illegal behavior. One supervisor commented that the use of body-worn cameras may make randomized integrity tests unnecessary; he observed that an officer wearing a BWC would be unlikely to fail an integrity test, knowing that he would have to answer for any misconduct committed on camera or for turning his body-worn camera off in violation of policy. Another supervisor emphasized that the GTTF's misconduct occurred before the advent of body-worn cameras. Now, if an officer turns off their BWC at any point during the execution of a search warrant or a car stop, the Department could find out and investigate. In this supervisor's view, the BWC policy should "mostly address the risk" of theft by police officers. The Commission also learned that since the GTTF indictments, the Department has implemented a policy that requires that any money seized must be counted at the scene on body-worn camera, and a permanent rank supervisor must be present for the count.

While BWCs are not without their detractors, they have been observed to offer following benefits:

- Increase accountability concerning officers' behavior, if properly utilized.
- Build trust and transparency; improve community relations.
- Save money by reducing complaints and lawsuits.
- Potentially increase the number of guilty pleas, thus reducing the burden on the courts.
- Prevent abuse of power and deters officers from abusing their power.
 - Protect officers from false accusations.
 - Provide evidence to prove or disprove misconduct allegations.
 - Improve both citizen and officer conduct because both being recorded.
 - Allow authorized supervisors to monitor the work of their officers in real-time.

2. Improvements to the Early Intervention System

The use of an Early Intervention System or Early Warning System to detect and address problematic officer behavior has proceeded by fits and starts in the Baltimore Police Department. In 2002, The Baltimore Sun reported that the Department was developing an electronic database to monitor officer performance by tracking officers' arrests, car stops, accidents, missed courts dates, sick leave, and citizen complaints.⁴¹³ Though the term "early intervention system" was not used, the database was identical in concept. The Sun reported that the database would not be used to punish officers; it would simply alert commanders to patterns of questionable behavior and identify officers who are having problems before disciplinary action is necessary.⁴¹⁴ Nearly 20 years later, the Department has not yet achieved the goal of a system for monitoring officer performance that integrates all of the data contemplated in 2002.

In the intervening years, the Department has frequently flagged officers with high numbers of Internal Affairs complaints or use of force cases for intervention and training. These efforts have met with varying degrees of success. For example, the Commission learned during its investigation that Wayne Jenkins, Daniel Hersl, and Momodu Gondo were each the subject of an intervention from BPD's Early Intervention Unit several years before all three served together on the GTTF.

BPD's Early Intervention System ("EIS") has received renewed attention in recent years, and an upgrade of the EIS is required by the Consent Decree. As part of the Commission's investigation, counsel to the Commission interviewed Vernon Herron, who currently serves as the Director of BPD's Officer Safety and Wellness Section and oversees the Department's EIS. Earlier in his career, Mr. Herron spent 27 years with the Maryland State Police, served as Public Safety Director in Prince George's County, and consulted with the U.S. State Department and the Department of Homeland Security. In January 2016, he was hired by BPD Commissioner Kevin Davis to revamp BPD's Early Intervention System.

a. EIS Mission

The EIS is separate from BPD's disciplinary system. As described in BPD Policy 1707 "Early Intervention System," the EIS is structured to "monitor [officers] and quickly alert supervisors when at-risk or potentially problematic behavior patterns are identified."⁴¹⁵ Ideally, supervisors and members of the Department's Early Intervention Unit are able to act to address any behavior concerns before disciplinary action is necessary. If an officer commits a serious offense, the Public Integrity Bureau will conduct an investigation, and the officer will proceed through the disciplinary process. EIS focuses instead on preventing a future complaint.

Underscoring this separation of mission is the separation of the Early Intervention Unit and the Public Integrity Bureau within BPD's organizational structure. In previous administrations, the early intervention function reported up through the Office of Professional Responsibility,

⁴¹³ Del Quentin Wilber, *System to Track Police Conduct*, BALT. SUN, Sept. 25, 2002, at B1–B4.

⁴¹⁴ *Id.*

⁴¹⁵ BALT. POLICE DEP'T, POLICY 1707 EARLY INTERVENTION SYSTEM (May 30, 2018), <https://www.baltimorepolice.org/1707-early-intervention-system>.

which also oversaw Internal Affairs. In BPD's current organizational chart, the unit reports up through Human Resources to the Deputy Commissioner of Administration.

b. EIS Process

Though BPD's EIS has been significantly improved since Director Herron's arrival, it is still not a fully automated system. Problematic behaviors generate alerts in the EIS, and staff in the Early Intervention Unit monitor these alerts via the Department's electronic Internal Affairs database, IAPro. Upon receiving an alert, EIU reviews the narrative in the alert, and any other relevant documents to the incident or the member's past behavior, to determine whether a referral for intervention is appropriate.

When Mr. Herron joined the BPD, interventions were triggered only for officers who registered six alerts within a rolling 12-month period. Under the current EIS, the number of alerts required to trigger an intervention has been reduced to three. According to BPD policy, alerts may be generated for:

- Excessive force complaints;
- Misconduct allegations;
- Preventable departmental accidents;
 - Substance abuse;
 - Domestic-related incidents; and
 - Any violations of departmental policy.

If an officer accumulates three or more EIS alerts within a rolling 12-month period, he will be referred for a Phase I intervention. According to Director Herron, serious incidents, such as a domestic- or alcohol-related offense or an excessive use of force, trigger automatic intervention, regardless of the number of alerts the officer has registered in the last 12 months.

BPD policy outlines three phases of intervention. In Phase I, the Early Intervention Unit emails the officer's supervisor and commander, directing that they schedule an intervention meeting with the officer. The officer is put on a Performance Improvement Plan, and both the first-line supervisor and the commander monitor the officer for 30 days to ensure that the Performance Improvement Plan is followed. Mr. Herron noted that body-worn camera footage is extremely helpful in evaluating the behavior of an officer during this process. At the end of the 30-day period, the first-line supervisor reports to the Early Intervention Unit, evaluating the officer's conduct. Reports that are not detailed enough are returned to the supervisor to be rewritten.

If an officer who has already had a Phase I intervention receives another complaint or alert within twelve months, then he is automatically elevated to a Phase II intervention. At that stage,

the officer and his supervisor report to Director Herron's office, and another Performance Improvement Plan is imposed, followed by another 30 days during which the officer's behavior is monitored and reported to Director Herron's office.

If the officer violates policy again within twelve months, he is subject to a Phase III intervention. At this level, the officer must meet with his entire command, to include his Major, Captain, Lieutenant, and Sergeant, as well as Director Herron. Director Herron explained that at a Phase III meeting, the officer is shown a letter of resignation with his or her name on it and told that there is no "Phase IV." This serves as a warning to the offending officer that if he or she commits one more violation, they will be forced to resign. Herron reported that over the past few years, the Department has had "maybe four" Phase III interventions, and none of those officers have had a single complaint after that.

c. EIS Improvements

Mr. Herron shared that when he first arrived to the BPD, many supervisors were not supportive of the EIS process. When Herron's office sent EIS notices to first-line supervisors asking them to conduct an intervention with an officer, Herron observed that the supervisor would often side with the officer rather than examine the issues that triggered the notice. Herron noticed that supervisors were protective of their officers, particularly those who were productive in making large numbers of arrests.

Mr. Herron viewed the lack of initiative taken by supervisors as a reflection of the absence of formal supervisory training on the importance of detecting and correcting officer misconduct. Since Herron's arrival, sergeants are trained in conducting interventions with their officers, and Herron believes that there is now buy-in for early intervention at all levels of the Department, and sergeants have become "advocates and ambassadors" for the program.

The early intervention process is confidential. Although the Early Intervention Unit uses information from the IAPro database as the basis for intervention, it does not share its activities with Internal Affairs. Mr. Herron explained that confidentiality is consistent with the unit's objective of helping the officer and the Department to avoid risk. Mr. Herron noted that many officers who violate policy have underlying alcohol problems or domestic problems. The Early Intervention Unit has confidentially referred officers to treatment for alcohol abuse. Mr. Herron indicated that when those officers receive treatment or other interventions before returning to work, the number of complaints against them plummets.

d. EIS and GTTF

When asked if any of the GTTF officers were on his radar prior to the indictments, Mr. Herron said that they were. Herron recalled that when he first arrived at BPD, Hersl and Jenkins were among a group of officers that were on the Department's radar for receiving a large number of complaints in the community. The Early Intervention Unit met with each of Hersl, Jenkins, and Rayam in 2016. Hersl was accompanied to his EIU meeting by his then supervisor, Sgt. Thomas Allers, one of the GTTF defendants, who pleaded guilty and is now serving a 15-year sentence in federal prison. Following these intervention meetings, the officers were to be

monitored by their supervisors. Apparently, they received nothing but positive feedback, including, in one case, being praised as a ‘model detective.’

Mr. Herron revealed that during his first year in the BPD, before the GTTF indictments were unsealed, he had a strong suspicion that something was wrong with the GTTF, particularly because different arrestees from different parts of the City were complaining about the same conduct at the hands of the GTTF officers. Herron explained that because he was new to the Department at that time, he did not have the support within the Department to make change. He believes that is different today.

Mr. Herron believes that supervisors now realize that an effective early intervention process helps them do their jobs, and supervisors will effectively monitor their officers and try to correct bad behavior rather than vouch for them. Moreover, Herron reviews all of the monitoring reports submitted by supervisors, and if it appears that an officer’s issues have not been addressed in 30 days, or if the supervisor sends back a cursory report, Herron asks for the Performance Improvement Plan to be extended.

e. Future of EIS

Mr. Herron feels “very comfortable” with the EIS process currently in place in the Department. He believes that supervisors recognize that intervention for an officer who is flagged by the EIS is critical for the officer’s future. He added that the Department has support available for those officers in the form of counseling, policy training, and monitoring, and the Department will deploy that support until the officer’s issues can be resolved.

Importantly, Herron acknowledged that there are still improvements to be made to the EIS that are dependent on the Department’s improvements to its IT infrastructure. The First Comprehensive Re-Assessment issued by the Consent Decree Monitoring Team reported that as of September 30, 2020, BPD was “more than a year way from implementing a fully functional, modern EIS.”⁴¹⁶ Integration of the EIS with other departmental systems will allow the Early Intervention Unit to identify other indicators that could pose risk, such as an officer exhibiting concerning pattern of sick leave or having a death in the family or being named in a lawsuit. A better integrated EIS will provide opportunities for those officers to be targeted for intervention and counseling.

f. Commission Observations

Early Intervention Systems, as acknowledged by every police management official interviewed, is an essential element in identifying officers who are demonstrating a concerning pattern of conduct. The Department under Commissioner Harrison has implemented an EIS; this is a significant improvement over past administrations who failed to have one in place.

The current EIP has a monitoring component but does not appear to have educational, mental health evaluation or re-training elements. The Department may consider the following changes to bolster their efforts:

⁴¹⁶ BALT. CONSENT DECREE MONITORING TEAM, *supra* note 5 at 35.

- Identified officers should meet with Director Herron and their Major at the first step to emphasize the seriousness of the program.
- Indicated officers should be referred to the Academy for a minimum of 24 hours retraining and/or evaluation for counseling in matters of domestic violence, drug/alcohol related misconduct and excessive force allegations.
- Indicated officers PIP should be overseen at a level two ranks above the indicated officers to ensure command integrity.
- Legal affairs should be directed to provide monthly litigation summaries to EIP program which discloses existing cases, new cases and issues raised during discovery.
- Education and Training Division should work to develop courses to retrain indicated officers in areas of fourth amendment law, de-escalation tactics, self-defense, personal finance and police ethics.

3. **Reorganization of the BPD Public Integrity Unit Bureau**

Early in his tenure as Baltimore Police Chief, Commissioner Michael Harrison conducted a review of BPD's organizational structure.⁴¹⁷ Commissioner Harrison reorganized the Department into four Bureaus, each led by a Deputy Commissioner who reports directly to the Police Commissioner.⁴¹⁸ The Public Integrity Bureau ("PIB" or "the Bureau") is the Bureau responsible for conducting internal administrative investigations of BPD's sworn officers.⁴¹⁹ The newly-formed PIB replaces the former Internal Investigations Division ("IID") and Command Investigations Units ("CIDs").⁴²⁰ In this reorganization, Commissioner Harrison has moved the Internal Affairs function to report directly to the Commissioner, suggesting a closer link between Internal Affairs and the Commissioner's Office than has existed in recent years. Although, Internal Affairs reported directly to the Commissioner under Frederick Bealefeld's tenure, when subsequent Commissioners reorganized the BPD, they moved Internal Affairs at least one level lower in the organizational chart. Former Commissioners Anthony Batts, Kevin Davis,

⁴¹⁷ BALT. POLICE DEP'T, CRIME REDUCTION & DEPARTMENTAL TRANSFORMATION PLAN: 5-YEAR STRATEGIC VISION 5 (2019), https://www.baltimorepolice.org/sites/default/files/General%20Website%20PDFs/BPD_Crime_Reduction_and_Departmental_Transformation_Plan.pdf [hereinafter DEPARTMENTAL TRANSFORMATION PLAN].

⁴¹⁸ *Id.*

⁴¹⁹ In addition to the Public Integrity Bureau, there is an Operations Bureau, Compliance Bureau, and Administrative Bureau. *Id.*

⁴²⁰ DOJ REPORT, *supra* note 5 at 139. Under the previous structure, the Internal Investigations Division was responsible for investigating and resolving complaints of officer misconduct, including potential criminal activity, allegations implicating an officer's integrity or truthfulness, excessive force allegations, and other serious officer misconduct. The Command Investigations Units, which were units housed within each of the BPD's respective nine patrol districts and each specialized unit within BPD's Operations Bureau, were responsible for investigating minor violations of BPD policy. Each Command Investigations Unit operated independently of other Command Investigations Units and the Internal Investigations Division. In January 2016, the BPD centralized all of these functions in the Internal Investigations Division. *Id.*

and Darryl De Sousa each positioned Internal Affairs to report to a Deputy Commissioner rather than the Commissioner himself.

Brian Nadeau, then the assistant special agent in charge of the FBI's Baltimore Field Office, was named the Deputy Commissioner of the PIB on August 8, 2019.⁴²¹ Deputy Commissioner Nadeau appeared before the Commission on December 3, 2019 to discuss the Bureau's work thus far. During his presentation, Deputy Commissioner Nadeau reported on the challenges facing PIB. He noted that the Bureau was understaffed by 12 detectives. Deputy Commissioner Nadeau told the Commission that his team would be interviewing 11 potential hires in the coming weeks.

At a January 2020 hearing before U.S. District Judge James K. Bredar, the BPD presented data regarding PIB's staffing and caseload. At that time, PIB had 23 detectives assigned to investigate general complaints and four detectives assigned to investigate ethics complaints.⁴²² The Department received 1,719 complaints in 2019, and the average case load per detective was 44.⁴²³ In February 2020, the Department released its Staffing Plan, which noted that the caseload for general investigators in PIB ranged from 75-95 cases.⁴²⁴ Worse, the average lead time of the cases completed in 2019 was 308 days per failure-to-appear in court case, 319 days per general investigation, and 345 days per ethics case.⁴²⁵ This is consistent with information the Commission received from Michael Davey, counsel to the Baltimore police union, that about 75% of internal affairs cases are not closed until a week before the expiration of the one-year statute of limitations.

In September 2020, the Consent Decree Monitoring Team reported that staffing needs in PIB were still "acute and continue to require urgent action."⁴²⁶ The Monitoring Team observed that the Staffing Plan estimates a need for three dozen more investigators in PIB.⁴²⁷ At the October 29, 2020 quarterly Consent Decree hearing before Judge Bredar, the Monitoring Team reported some improvement, placing the PIB staffing shortage at "a little over 20."

The chronic understaffing of the Department's internal affairs component has contributed to significant delays in misconduct investigations. Many of the officers interviewed by the Commission expressed frustration with the length of internal affairs investigations. One officer was removed from his squad for nearly a year during the investigation of a bogus complaint that was filed against him in retaliation for reporting the overtime fraud of a fellow officer. Recently, the Maryland Court of Special Appeals affirmed the dismissal of administrative charges brought in eleven cases against fifteen BPD officers because the Department missed the statutory one-year

⁴²¹ Jessica Anderson, *Baltimore Police Name an Experienced FBI Supervisor to Head the Often Troubled Public Integrity Section*, BALT. SUN (Aug. 8, 2019), <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-public-integrity-bureau-deputy-commissioner-20190808-io3wc7nczddppjk7up42dhptdi-story.html>.

⁴²² Baltimore Police Department presentation to U.S. District Court in *United States v. Balt. Police Dep't*, No. JKB-17-0099 (D. Md. Jan. 22, 2020), at 19.

⁴²³ *Id.*

⁴²⁴ ALEXANDER WEISS CONSULTING, LLC, *supra* note 268, at 76, 80.

⁴²⁵ *Id.*

⁴²⁶ BALT. CONSENT DECREE MONITORING TEAM, *supra* note 5 at 3.

⁴²⁷ *Id.* at 35.

deadline for filing charges.⁴²⁸ Additional staffing in PIB is needed to eliminate the backlog of cases and ensure timely, thorough, and fair resolution of misconduct allegations.

To relieve some of the burden on PIB, the Department has developed a policy that permits District commanders, rather than PIB investigators, to handle complaints of minor misconduct, allowing officers to obtain prompt case closure at the District level by admitting responsibility in negotiated settlements.⁴²⁹ Policy violations eligible for this expedited resolution program include reporting late to roll call, failure to appear in court or for a medical appointment, and loss of BPD property other than a firearm; they do not include alleged misconduct in officer interactions with members of the public (e.g., excessive force, false arrests, harassment). The Monitoring Team has reported that PIB will continue to receive and classify these complaints at the front end of the process and obtain reports and retain records of negotiated resolutions at the back end in order to ensure consistency in the application of the policy.⁴³⁰ In January 2020, just three months after the expedited resolution policy took effect, the Department reported that complaints eligible for expedited resolution were completed in an average of 19.9 days.⁴³¹

The Monitoring Team recently cited the potential benefits of the expedited resolution policy (Policy 321):

First, it should reduce the number of minor misconduct cases assigned to PIB investigators, which in turn should free PIB investigators to focus on more serious complaints and enable all misconduct complaints, minor and serious alike, to be resolved more quickly. Officers who engage in misconduct should more promptly be held accountable, and community members with bona fide complaints should receive swifter justice. *Second*, by speeding up complaint resolution, officers who are the subject of complaints that can be promptly resolved as unfounded, unsustainable or sustained through negotiated resolution should not be left in limbo and kept ineligible for transfer or promotion for unreasonable periods of time, as has been the case in recent years due to PIB backlogs. Given that the duration of misconduct investigations has been a primary cause of officer dissatisfaction, Policy 321 could help boost officer morale. *Third*, by enabling District commanders to resolve policy violations appropriate for supervisory correction, Policy 321 should fortify BPD's command structure and supervisory performance in each district and unit.⁴³²

⁴²⁸ Balt. Police Dep't v. Brooks, 247 Md. App. 193 (2020).

⁴²⁹ BALT. CONSENT DECREE MONITORING TEAM, *supra* note 5 at 32.

⁴³⁰ *Id.*

⁴³¹ Baltimore Police Department PowerPoint presentation to U.S. District Court in *United States v. Balt. Police Dep't*, No. JKB-17-0099 (D. Md. Jan. 22, 2020), at 22.

⁴³² BALT. CONSENT DECREE MONITORING TEAM, *supra* note 5 at 32.

In addition to resolving cases more quickly, PIB has also embarked on a path to eliminate inconsistencies in its investigatory approach. Working with the Monitoring Team, PIB has overhauled its investigations manual. The revised manual provides a comprehensive guide to internal affairs investigations for PIB investigators, supervisors, and commanders. It requires all investigations to be completed within 90 days and any requests for extension to be approved in writing by the Deputy Commissioner of PIB.⁴³³ The Commission has learned that under current protocol, when a complaint is entered into IAPro, even if the complainant does not respond to the investigator, PIB is still required to do a full investigation of the complaint.⁴³⁴ The Monitoring Team has called the new manual “a milestone achievement,” and the Monitoring Team’s subject matter experts believe it is “among the most comprehensive and effective internal affairs investigations manuals in the country.”⁴³⁵

The PIB has also revised its procedures for the intake and classification of complaints and for sharing information with the Civilian Review Board. First and foremost, BPD has made it easier to file a complaint. Previously, citizens who wanted to file misconduct complaints against police officers had to make their complaints in person, sign them, and have them notarized. BPD has removed those impediments. BPD also now accepts complaints online and via email and has established a dedicated telephone line for individuals to call to make complaints.⁴³⁶ In August 2020, after collaboration with and approval from the Monitoring Team, PIB completed new protocols for the intake and classification of complaints against officers. The Department also developed protocols under which the Civilian Review Board must be furnished prompt, consistent, electronic access to PIB data through IAPro, BPD’s records system for misconduct investigations and discipline.⁴³⁷ To facilitate the relationship between PIB and the CRB, BPD also has assigned a CRB liaison.

It remains to be seen whether these new policies and the Department’s reorganization of its internal affairs function will accomplish the goals of a more efficient, fair, and transparent investigation and discipline process. There is reason for hope, but a concrete commitment to adequate staffing is critical to achieve reform. Understaffing Internal Affairs continues in 2020 and should become the top priority of the Department. Providing the human and investigatory resources to Internal Affairs is essential in its effort to reform the BPD; anything less sends the message to the agency and community that enforcement trumps integrity. This is the mistake of prior Commissioners and the BPD must learn from its past.

4. Implementation of EPIC Program

Ethical Policing is Courageous, known as “EPIC,” is a program that was first developed by the New Orleans Police Department and launched there in 2016. EPIC is founded on the principle of active bystandership, where bystanders who witness harmful behavior step forward

⁴³³ INVESTIGATIONS CHAPTER, PUBLIC INTEGRITY BUREAU INTERNAL OPERATIONS AND TRAINING MANUAL 11 (Nov. 15, 2019).

⁴³⁴ *See id.* at 2. (“All administrative investigations must be completed to conclusion...regardless of what happens to the complainant (e.g., whether complainant is participating or not, whether complainant is charged and goes to prison or not, whether the respondent resigns or retires, etc.).”).

⁴³⁵ BALT. CONSENT DECREE MONITORING TEAM, *supra* note 5 at 32.

⁴³⁶ *Id.* at 31.

⁴³⁷ *Id.* at 33.

and take action to stop it rather than wait for someone else to act. At its core, the program trains and empowers officers to recognize risk factors and intervene in the actions of a fellow officer, regardless of rank. The goal of the program is to encourage officers to speak up rather than stand by as silent witnesses to misconduct.

BPD has developed an 8-hour classroom training for EPIC that it expects to deliver to all officers, including command staff, starting in late 2020. As the draft training materials outline, all officers, even commanders, will be expected to accept a peer intervention from someone of any rank, and all sworn members will be expected to intervene if needed.⁴³⁸ BPD already advises its officers that they have a duty to report any violations of law or serious acts of misconduct that they observe.⁴³⁹ The Department is now adding a duty to intervene, to require officers to act to prevent or stop misconduct before it occurs. BPD's new Duty to Intervene Policy (Policy 319), which is scheduled for final review by the Monitoring Team by the end of 2020,⁴⁴⁰ sets forth an officer's affirmative duty to intervene to prevent not only illegal activity, but also activity that is unethical, unsafe, or that would discredit the BPD.⁴⁴¹ Training officers in how to uphold this duty is at the heart of the EPIC program. The Department has made clear that EPIC is not an Internal Affairs program or a discipline program or way to "rat" on one's colleagues. Instead, "EPIC is about protecting and serving our fellow officers and community from trouble by actively intervening to prevent problems before they happen."⁴⁴²

At quarterly Consent Decree hearings, the Department has often cited EPIC as a key piece of BPD's culture change, and its implementation has been much anticipated. The Department believes that EPIC will not only serve to improve officer safety and wellness and reduce incidents of misconduct, but will also improve BPD's relationship with the Baltimore community. The Monitoring Team has recently observed that EPIC is "inherently about changing culture and improving community trust."⁴⁴³ Indications suggest that it is proving successful in the New Orleans Police Department, which is also under a consent decree, and the Monitoring Team has stated that EPIC "holds the same promise" for BPD.⁴⁴⁴

As BPD's draft lesson plan for EPIC training, recently made available for public comment, puts it:

Think about it – if we help to prevent physical and/or emotional injury to members of the public, we show the community that we care, which goes a long way in building community trust. This trust is essential to becoming a more effective police department. As you've been hearing throughout our updated policies and

⁴³⁸ MARYLAND POLICE AND CORRECTIONAL TRAINING COMMISSION LESSON PLAN, COURSE TITLE: ETHICAL POLICING IS COURAGEOUS (EPIC) 8 (2020), <https://www.powerdms.com/public/BALTIMOREMD/documents/760169> [hereinafter BPD EPIC LESSON PLAN].

⁴³⁹ BALT. POLICE DEP'T, POLICY 1729, WHISTLEBLOWER PROTECTION (Aug. 26, 2017).

⁴⁴⁰ Third-Year Monitoring Plan at 32, United States v. Balt. Police Dep't, No. JKB-17-0099 (D. Md. Aug. 8, 2020).

⁴⁴¹ BALT. POLICE DEP'T, DRAFT POLICY 319, DUTY TO INTERVENE at 2 (Oct. 2, 2020).

⁴⁴² BPD EPIC LESSON PLAN at 9.

⁴⁴³ BALT. CONSENT DECREE MONITORING TEAM, *supra* note 5 at 19.

⁴⁴⁴ *Id.*

trainings in recent years – we have to break down the “Us vs. Them” mentality. We are Baltimore City Police Officers, which makes us an important part of the Baltimore City community. Thus, when we do something that hurts the community, it hurts all of us. When we do something that helps the community, though, it lets people know that they can trust us, and that we are a department working to do what’s right. This display of awareness, humanity and integrity can help to slowly chip away at the years of mistrust that some folks have been feeling against the Department. In sum, EPIC helps us help each other and become more effective in serving our community.⁴⁴⁵

I. Civilian Review of Police Discipline

In the course of its investigation, the Commission examined the role of civilians in law enforcement discipline, both in and beyond Baltimore. Representatives of Baltimore’s Civilian Review Board and New York’s Civilian Complaint Review Board spoke at Commission hearings, and the Commission reviewed the differences in the operations and authority of those two bodies. The Commission also considered other opportunities for civilians to participate in the police disciplinary process, including in charging decisions and the adjudication of charges.

The Commission has concluded that civilians should play a greater role in police discipline. Including civilians at multiple points in the discipline process will increase the transparency and the integrity of the process.

1. The Baltimore Civilian Review Board

In addition to the previously mentioned (and largely internal) mechanisms for disciplining BPD officers, the Civilian Review Board (“CRB”) is designed to serve as an additional layer of law enforcement accountability in Baltimore.⁴⁴⁶

The CRB is an agency, housed in Baltimore’s Office of Equity and Civil Rights, which can authorize an independent investigation into police complaints that are classified by BPD as (1) excessive force, (2) abusive language, (3) harassment, (4) false arrest, or (5) false imprisonment.⁴⁴⁷ It is worth noting, however, that in instances where the CRB has authority to conduct an independent investigation, it shares jurisdiction with the BPD. The CRB does not maintain exclusive jurisdiction over any category of complaint.

The voting CRB members are members of the public drawn from each of Baltimore City’s nine police districts.⁴⁴⁸ Voting CRB members are selected by the Mayor and subject to the advice and consent of the City Council.⁴⁴⁹ The nonvoting members of the CRB include one representative

⁴⁴⁵ BPD EPIC LESSON PLAN at 9.

⁴⁴⁶ *See generally* BALT., MD., CODE OF LOCAL LAWS OF BALT. CITY art.1, § 16-42 (2017).

⁴⁴⁷ *Id.*

⁴⁴⁸ *Id.* § 16-43.

⁴⁴⁹ *Id.*

of the Fraternal Order of Police, one representative of the Vanguard Justice Society, the Baltimore City Police Commissioner or the Commissioner's designee, one representative of the American Civil Liberties Union of Maryland (ACLU), and one representative of the Baltimore City Branch of the National Association for the Advancement of Colored People (NAACP).⁴⁵⁰

Additionally, the CRB's jurisdiction extends only to external complaints (i.e., complaints submitted by members of the public).⁴⁵¹ The CRB is authorized to subpoena witnesses and documents. But, because of Law Enforcement Officers' Bill of Rights (LEOBR) constraints, the CRB is expressly precluded from questioning or subpoenaing the law enforcement officer that is the subject of the investigation.⁴⁵²

After the CRB completes its independent investigation, the CRB votes on a finding and submits its recommendations to the Police Commissioner.⁴⁵³ The Commissioner is required to review the CRB's report prior to making a final decision, but the Commissioner is not bound by the CRB's recommendations.⁴⁵⁴

Although the CRB has certain investigatory powers — for example, the power to subpoena witnesses and documents — it lacks authority to question the officer who was the subject of the complaint and has no power to impose sanctions on the officer if it finds the complaint to be credible.⁴⁵⁵ Moreover, the CRB is precluded from even finding out what final disciplinary measures the BPD took against the law enforcement officer.⁴⁵⁶ The CRB also is constrained by limited resources and a number of statutory/structural barriers that prevent it from fully fulfilling its mission. For example, the CRB only employs two full-time investigators, does not participate in the complaint classification process, and the Board also tends to have vacancies.⁴⁵⁷ Also, “because the CRB is limited to investigating only certain types of complaints...classification of complaints into these categories can be made arbitrarily by the police rather than the CRB...”⁴⁵⁸

⁴⁵⁰ *Id.*

⁴⁵¹ *Id.* § 16-42(a)(1).

⁴⁵² *See id.* § 16-46(b)(1)(i); MD. CODE ANN., PUB. SAFETY § 3-104 (precluding a law enforcement officer under investigation from being interrogated by anyone other than “a sworn law enforcement officer” or, if requested by the Governor, “the Attorney General or Attorney General’s designee.”).

⁴⁵³ BALT., MD., CODE OF LOCAL LAWS OF BALT. CITY art.1, § 16-46(d) (2017).

⁴⁵⁴ *Id.* § 16-48(a).

⁴⁵⁵ COMMUNITY OVERSIGHT TASK FORCE, THE COMMUNITY OVERSIGHT TASK FORCE’S RECOMMENDATIONS FOR STRENGTHENING POLICE ACCOUNTABILITY AND POLICE-COMMUNITY RELATIONS IN BALTIMORE CITY 20, 22, 28 (2018), <https://consentdecree.baltimorecity.gov/sites/default/files/Final%20COTF%20Report.pdf> [hereinafter COTF REPORT].

⁴⁵⁶ *Id.* at 20. (“[N]either the CRB nor the public know the outcome of these complaints; this information is protected under the Maryland Public Information Act (MPIA) under the category of ‘personnel files.’”).

⁴⁵⁷ BALTIMORE CITY CIVILIAN REVIEW BOARD, 2018 ANNUAL REPORT 5-6 (2018), <https://civilrights.baltimorecity.gov/sites/default/files/CRB%20ANNUAL%20REPORT%20AUG%202018%20PUBLIC%20COPY.pdf>.

⁴⁵⁸ COTF REPORT at 19.

2. The New York Model

The New York City Police Department (“NYPD”) has an organizational structure and accountability controls that differ from those of the BPD. As an initial matter, the NYPD is led by a civilian administrator — the Police Commissioner — and its senior-most uniformed officer is the NYPD’s Chief of Department. The New York City analogue to Baltimore’s CRB is the New York City Civilian Complaint Review Board (“CCRB”).

Like the CRB, the CCRB is an independent agency tasked with conducting impartial investigations of law enforcement officers. However, the CCRB is responsible for “the administrative prosecution of all civilian complaints against NYPD uniformed officers...”⁴⁵⁹ Under the New York City Charter the CCRB has the following powers and duties:

1. The board shall have the power to receive, investigate, hear, make findings and recommend action upon complaints by members of the public against members of the police department that allege misconduct involving excessive use of force, abuse of authority, discourtesy, or use of offensive language, including, but not limited to, slurs relating to race, ethnicity, religion, gender, sexual orientation and disability. The board shall also have the power to investigate, hear, make findings and recommend action regarding the truthfulness of any material official statement made by a member of the police department who is the subject of a complaint received by the board, if such statement was made during the course of and in relation to the board's resolution of such complaint. The findings and recommendations of the board, and the basis therefor, shall be submitted to the police commissioner.
2. The board, by majority vote of its members, may compel the attendance of witnesses and require the production of such records and other materials as are necessary for the investigation of matters within its jurisdiction pursuant to this section. The board may request the corporation counsel to institute proceedings in a court of appropriate jurisdiction to enforce the subpoena power exercised pursuant to this section, and the board itself may institute such proceedings. The board may, subject to any conditions it deems appropriate, delegate to and revoke from its executive director such subpoena authority and authority to institute proceedings.⁴⁶⁰

Unlike in Baltimore, the NYPD Commissioner is required to report to the CCRB “on any action taken, including the level of discipline and any penalty imposed, in all cases in which the board submitted a finding or recommendation to the police commissioner.”⁴⁶¹

⁴⁵⁹ MEMORANDUM OF UNDERSTANDING BETWEEN THE CIVILIAN COMPLAINT REVIEW BOARD (CCRB) AND THE POLICE DEPARTMENT (NYPD) OF THE CITY OF NEW YORK CONCERNING THE PROCESSING OF SUBSTANTIATED COMPLAINTS (2012), https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/apu_mou.pdf.

⁴⁶⁰ N.Y.C. CHARTER ch. 18-A, § 440(b) (2020).

⁴⁶¹ *Id.* § 440(d)(3).

The CCRB is comprised of 15 members of the public. Five of the CCRB's members are drawn from each of the city's five boroughs and are appointed by the city council; one member is appointed by the city's public advocate; three members must have experience as law enforcement professionals and are designated by the police commissioner and appointed by the mayor; five members are appointed by the mayor; and the CCRB chair is jointly appointed by the mayor and speaker of the city council.⁴⁶²

3. Citizen Participation on Hearing Boards

Another opportunity for civilian involvement in addressing police misconduct is including civilians in the internal police disciplinary process. In Maryland, the Law Enforcement Officers' Bill of Rights outlines the processes and procedures for the operation and composition of hearing boards. Under current law, if an allegation of misconduct could result in demotion, dismissal, transfer, loss of pay, reassignment, or similar action that is considered punitive, an officer is entitled to a hearing board unless the officer is convicted of a felony. Hearing boards must consist of at least three voting members who are law enforcement officers; however, current law provides that law enforcement agencies may negotiate alternative hearing boards.

Recently, through negotiation with the Baltimore Fraternal Order of Police (FOP), the Baltimore Police Department changed the composition of its hearing boards to add two civilian voting members to the panel of three sworn officers.⁴⁶³ One hundred twelve (112) civilians applied for the role, and all but four completed the first-level screening. Before becoming eligible to serve, the civilian candidates must complete training approved by the Maryland Police Training and Standards Commission (MPCTC) and participate in at least five 4-hour ride-alongs with the Department. As of November 6, 2020, 38 candidates had completed training with the Department, and 25 had satisfied the ride-along requirement. However, BPD advised that MPCTC has not yet approved its training curriculum, and the Department is waiting for that approval before the civilian candidates can be selected to serve on hearing boards.⁴⁶⁴

J. Community Surveys on Policing in Baltimore City

The Commission also considered the findings of recent surveys of community members regarding their attitudes toward police and police reform.

In the fall of 2019, the Open Society Institute, the No Boundaries Coalition, and other community-based organizations conducted a survey of approximately 5,000 residents of Baltimore City, as part of the "Blueprint for Baltimore" initiative. By design, the OSI/No Boundaries Coalition survey sought to obtain responses from underrepresented populations in the City, including poorer neighborhoods and persons who do not vote.

⁴⁶² *Id.* § 440(b)(1).

⁴⁶³ MEMORANDUM OF UNDERSTANDING BETWEEN THE BALT. CITY POLICE DEP'T AND THE BALT. CITY LODGE NO. 3, FRATERNAL ORDER OF POLICE, INC. UNIT II FY2019-2021 (Dec. 17, 2018), Addendum O, [https://labor-commissioner.baltimorecity.gov/sites/default/files/labor_commissioner/attachments/FOP%20MOU%20Unit%20II%20\(FY%202019-2021\)%20notated%2012.19.18.pdf](https://labor-commissioner.baltimorecity.gov/sites/default/files/labor_commissioner/attachments/FOP%20MOU%20Unit%20II%20(FY%202019-2021)%20notated%2012.19.18.pdf).

⁴⁶⁴ *See* MD. CODE ANN. PUB. SAFETY § 3-107(c)(5)(i)(2).

The respondents identified “safer streets” as the change that they thought would make the greatest difference in their neighborhoods.⁴⁶⁵ When asked how money should be spent if more money were to be allocated to reducing violence, three times as many respondents chose increasing funds for the Safe Streets program (32%) as increasing the number of police officers (11%).⁴⁶⁶ Respondents also chose improving access to mental health and substance use services (28%) and improving witness and victim support services (16%) ahead of increasing the number of police officers (11%).⁴⁶⁷

When asked how the BPD could use its existing budget to better serve residents, survey respondents’ top three choices were to train officers to connect people to support services, improve police-community relations, and train officers to treat residents equally and without bias.⁴⁶⁸ Surprisingly, according to the survey, as of the fall of 2019, 52% of Black respondents and 69% of Latino respondents were unaware that the City, BPD, and DOJ were involved in a policing Consent Decree.⁴⁶⁹

In April 2020, Morgan State University’s Institute for Urban Research (“IUR”) presented findings of a survey titled “The Community’s Experiences and Perceptions of the Baltimore City Police Department Survey Report” (“IUR Report”). The survey is required by the Consent Decree, and the Monitoring Team engaged IUR to conduct it.⁴⁷⁰ IUR conducted 645 in-person interviews of community members during the period September 2018 to June 2019 concerning their views about BPD. The survey results were highly critical of the BPD:

1. **Public Safety and Crime:** The majority of participants disagreed or strongly disagreed that the BPD effectively reduces crime and keeps people safe.
2. **Satisfaction with and Trust in BPD:** Satisfaction with and trust in BPD are low. However, participants reported feeling conditionally comfortable communicating with the BPD “if and when they had to,” depending on factors such as who initiated the conversation.
3. **Police-Community Engagement:** Participants were more likely to report that the BPD does not have a good working relationship with the community. However, participants reported wanting to build or improve relationships between the BPD and their community.
4. **Respect:** The consistent finding throughout the interviews was that, in contrast to participants reporting that the BPD did not show respect toward civilians, participants reported that they themselves were more likely to treat the BPD with respect and less likely to treat the BPD with disrespect.

⁴⁶⁵ BLUEPRINT FOR BALTIMORE SURVEY REPORT 8, https://www.osibaltimore.org/wp-content/uploads/2020/01/Blueprint-for-Baltimore_Final-Report_20200124-OSIrev.pdf.

⁴⁶⁶ *Id.*

⁴⁶⁷ *Id.*

⁴⁶⁸ *Id.* at 38.

⁴⁶⁹ *Id.* at 47.

⁴⁷⁰ Consent Decree, *supra* note 131 at 9–10, ¶ 23.

5. **Fair and Equitable Policing:** A majority of participants reported that they personally observed the BPD engaging in racial profiling, engaging in excessive force, and using verbally abusive language toward civilians.
6. **Misconduct/Discipline:** A majority of participants disagreed or strongly disagreed that BPD officers are effectively held accountable for misconduct.
7. **Police Encounters:** A majority of participants rarely or never encounter BPD officers themselves. Of those who described encounters with police, very few narrated encounters with officers engaging in routine activity (on patrol). The large majority described law enforcement encounters (e.g., call for service, traffic, or street stop), which IUR categorized as routine, positive, negative or neutral.⁴⁷¹ In every police district, most such encounters were categorized by IUR as either negative or neutral.⁴⁷²

A majority of the persons interviewed lacked trust and confidence in the BPD, feeling that BPD does not have a good relationship with the community and does not serve the community.⁴⁷³ The survey found little variation in this view based on race, gender, age, income, homeless status, or education level of the person interviewed.⁴⁷⁴ Most of the persons interviewed were willing to call the BPD but only if someone actually used physical force against them. Most of the respondents were unwilling to contact BPD if they were lost, suffered a property break-in at home or work, suffered a juvenile crime, or had their car vandalized.⁴⁷⁵

A majority of the persons interviewed felt that BPD engages in racial profiling and does not treat all people equally.⁴⁷⁶ More than half claimed to have observed police officers using what they felt was excessive force.⁴⁷⁷ Approximately 70% felt that BPD officers are not held accountable for misconduct.⁴⁷⁸

The IUR Report found that the community's views are not dependent on actual, personal encounters with police officers, but instead are based on perceptions.⁴⁷⁹ Roughly 80% of the community members who were interviewed do not know any officers personally, and most had never observed BPD members taking time to meet members of the community.⁴⁸⁰

⁴⁷¹ MORGAN STATE UNIVERSITY'S INSTITUTE FOR URBAN RESEARCH 3-4 (2020), <https://static1.squarespace.com/static/59db8644e45a7c08738ca2f1/t/5e9b1dea56774a007cd1c6bc/1587224047167/Community+Survey+Report+April+2020.pdf> [hereinafter IUR REPORT].

⁴⁷² *Id.* at Apx. E.

⁴⁷³ IUR REPORT at 11.

⁴⁷⁴ *Id.* at 15.

⁴⁷⁵ *Id.* at 12.

⁴⁷⁶ *Id.* at 14.

⁴⁷⁷ *Id.* at 15–16.

⁴⁷⁸ *Id.* at 16.

⁴⁷⁹ *Id.* at 16–17.

⁴⁸⁰ *Id.* at 17.

In June 2020, the Johns Hopkins Center for Gun Policy and Research published its report on Reducing Violence and Building Trust: Data to Guide Enforcement of Gun Laws in Baltimore.⁴⁸¹ As part of its research, the Center conducted household surveys and focus group interviews with residents living in some of Baltimore's neighborhoods most impacted by gun violence. Several of the report's findings speak to the views of those citizens. The report found:

- For communities most vulnerable to gun violence, BPD's stop-and-search practices elicit fear and distrust and are inconducive to public safety. More than half of respondents believe BPD conducts too many stops and searches of both people (54.5%) and vehicles (49%). Nearly 2/3 of survey participants did not think that BPD stops individuals who are most responsible for crime in their neighborhoods.⁴⁸²
- 62% of respondents indicated that if they were on a jury and heard an officer's testimony about finding a gun on someone, they would be unlikely to believe the officer without video evidence.⁴⁸³
- There is widespread citizen support for improved internal monitoring of the outcomes from each officer's arrests for illegal gun possession. 90% of respondents expressed support for tracking each officer's gun related arrests later dismissed due to illegal searches or evidence planting, and 92.5% expressed support for tracking those resulting in convictions or guilty pleas.⁴⁸⁴
- 70% of those surveyed believed that formal complaints submitted against BPD officers would not be fairly investigated. Focus group participants described having either personally experienced or observed police practices in their neighborhood such as harassment or evidence planting and perceived these practices as resulting from a corrupt system that ignored or even rewarded poor behavior by police.⁴⁸⁵
- 52% of survey respondents indicated BPD officers are disrespectful when interacting with people in their neighborhood, and 68% reported that BPD officers use force in unwarranted situations. Lack of police accountability was discussed at length by community focus groups. Participants stated that BPD culture prioritizes power and control over understanding and protecting the communities BPD serves.⁴⁸⁶
- Community members are eager to participate in police oversight efforts, and many associate improved data transparency with increased trust. 64.5% of respondents said having community members participate in police oversight would increase trust in police.

⁴⁸¹ JOHNS HOPKINS CENTER FOR GUN POLICY AND RESEARCH PUBLISHED ITS REPORT ON REDUCING VIOLENCE AND BUILDING TRUST: DATA TO GUIDE ENFORCEMENT OF GUN LAWS IN BALTIMORE (2020), <https://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-gun-policy-and-research/docs/reducing-violence-and-building-trust-gun-center-report-june-4-2020.pdf>.

⁴⁸² *Id.* at 17.

⁴⁸³ *Id.*

⁴⁸⁴ *Id.* at 26.

⁴⁸⁵ *Id.* at 18, 26.

⁴⁸⁶ *Id.* at 26, 28.

Just over half indicated that making accessible the number of arrests dismissed due to illegal searches and the number of citizen complaints against officers' resulting from stops-and-searches would enhance their trust in police.⁴⁸⁷

The report concluded that rather than push officers to increase the number of gun-related arrests, BPD should focus on (1) improving the quality of gun-related arrests (legal searches, meticulous evidence collection), (2) concentrating on violent individuals, (3) developing systems to identify and correct officers' practices that yield bad outcomes from proactive gun law enforcement, (4) and enhancing transparency with respect to key metrics to promote public accountability.⁴⁸⁸

Finally, in October 2020, Goucher College published the results of a survey of 1,002 Maryland residents, which asked respondents their views on various statewide issues, including whether they support or oppose several police reforms proposed in Maryland and around the country.⁴⁸⁹

- 87% supported creating a record of police misconduct cases that would be available to the public and other law enforcement agencies;
- 85% supported requiring that criminal misconduct charges against police officers be investigated by an independent state prosecutor rather than by a police internal affairs division;
- 82% supported requiring officers to undergo racial bias training;
- 79% supported creating statewide de-escalation and use of force policies for all Maryland police departments;
- 79% supported increasing funding for police departments to hire more or better trained officers;
- 60% supported banning police from using chokeholds or strangleholds when making an arrest;
- 54% supported reducing the budget for the police department in their community and shifting the funds to social programs related to mental health, housing, and education; and
- Only 28% supported the movement to “defund the police.”⁴⁹⁰

⁴⁸⁷ *Id.* at 27.

⁴⁸⁸ *Id.* at 35.

⁴⁸⁹ GOUCHER COLLEGE POLL RESULTS: MANY POLICE REFORMS POPULAR AMONG MARYLANDERS; RESIDENTS HOLD POSITIVE VIEW OF GOV. HOGAN, THE DEMOCRATIC PARTY AND THE DIRECTION OF THE STATE (Oct.12, 2020), <https://www.goucher.edu/hughes-center/goucher-college-poll/>.

⁴⁹⁰ *Id.* at 1.

Based on the results of the survey, Goucher concluded that Maryland residents are largely supportive of key police reforms that are currently being discussed by state lawmakers. Some of these proposals, like creating statewide use-of-force policies and requiring police officers to undergo racial bias training, earned support from majorities of Democrats and Republicans. Goucher noted that the survey presented a “mixed message” on police budgets. Goucher concluded that Maryland residents support both increasing funding to hire more or better trained police officers and reducing police budgets to allocate more money to social programs.⁴⁹¹

VIII. ACKNOWLEDGEMENTS

The Commission gratefully acknowledges the cooperation of all who testified during Commission hearings, appeared before the Commission or its counsel for interviews, or who provided information to assist the Commission in analyzing the GTTF scandal and preparing recommendations to detect and prevent misconduct in the future and restore the community’s trust in policing.

⁴⁹¹ *Id.* at 2.

Appendix 1 Recommendation Implementation Schedule

Recommendation Schedule: Quarter 1		
Item #	Description	Page # Referenced
1(A)(xi)	Increased Accountability Measure: Legal Affairs should publish to the mayor and the public quarterly reports that identify the gender and race of charged officers, punishments offered, offers accepted, and results of trial boards. (Implement by Quarter 1 of 2021)	11
1(B)(v)	Ethics Measure: The Baltimore Police Department (BPD) should report to the mayor and post on its website a monthly update of the number of officers assigned to and completing ethics training to include the percentage of the agency having completed training. (Implement by Quarter 1 of 2021)	12
1(C)(i)	Creating a Culture of Compliance within BPD: Internal Affairs should be fully staffed by March 2021. Staffing should be put in place to eliminate the backlog of cases, helping meet Deputy Commissioner Nadeau's goal of timely investigations. The emphasis on enforcement over integrity enabled the Gun Trace Task Force (GTTF) to exist within the Baltimore Police Department. Internal Affairs must be fully staffed and equipped to provide timely and thorough investigations. Internal Affairs backlogs are demoralizing to the agency and the public. The department should report monthly to the mayor and on its public website staffing levels for Internal Affairs. (Complete by Quarter 1 of 2021)	12
1(C)(vi)	Creating a Culture of Compliance within BPD: The agency should place retaliation against officers who report misbehavior in the F category (dismissal) of the discipline matrix. (Implement by Quarter 1 of 2021)	13
1(C)(vii)	Creating a Culture of Compliance within BPD: The agency should encourage equitable treatment of officers in discipline and promotion. (Report on Status Quarterly)	13
1(C)(ix)	Creating a Culture of Compliance within BPD: There should be continuous messaging by command staff and supervisors of the importance of ethical behavior by everyone within BPD, including at roll calls and meetings, to include practical scenarios and explanations of expected conduct. (Implement by Quarter 1 of 2021)	13
1(C)(x)	Creating a Culture of Compliance within BPD: The agency should map citizen complaints against officers as well as officer-involved shootings and use of force for weekly review at COMPSTAT and by the mayor. (Implement by Quarter 1 of 2021).	13

Recommendation Schedule: Quarter 2		
Item #	Description	Page # Referenced
1(A)(i)	Increased Accountability Measures: BPD should conduct regular and random integrity tests. Tests will be designed by Internal Affairs and implemented in all enforcement units and at every command rank; they should be random as well as targeted, based upon information of misconduct. The results of tests will be reported monthly to the Mayor's Office and posted on the BPD website, assigning a number to any officer tested. Information will include the number of officers tested, officers who passed, officers who failed, and the action of the agency to address failed tests, without identifying officers by name. (Implement by Quarter 2 of 2021)	9
1(A)(ii)	Increased Accountability Measures: Drug testing and polygraphs of officers involved in narcotics enforcement and gun task forces who regularly encounter drugs and money should be required upon application to a unit and as a condition of remaining in the unit. The number of tests performed should be reported quarterly to the mayor and published on the BPD's website. (Implement by Quarter 2 of 2021)	9
1(A)(iii)	Increased Accountability Measures: Oversight and periodic audits of searches and seizures should be implemented to ensure compliance with legal requirements. Identified deficiencies by officers should result in training. (Implement by Quarter 2 of 2021)	10
1(A)(iv)	Increased Accountability Measures: BPD may also wish to consider periodic rotation of officers in and out of drug enforcement units, gun enforcement units, and any related units. (Report on Status by Quarter 2 of 2021)	10
1(A)(viii)	Increased Accountability Measures: Each Internal Affairs case should be reviewed by the Internal Affairs Division commander and the Charging Committee to identify Command Failures, <i>i.e.</i> , officers reporting outside their chain of command, inappropriate issuance of orders, tactical commands, failure to supervise, training deficiencies, <i>etc.</i> (Implement by Quarter 2 of 2021)	10

Recommendation Schedule: Quarter 2		
Item #	Description	Page # Referenced
1(A)(ix)	Increased Accountability Measures: Legal Affairs should continue to be assigned by and report to the city solicitor and should be bifurcated into two sections. One section should handle agency training, specialized unit and command advice and civil defense of the agency; another section, headed by an experienced prosecutor and staffed by attorneys with prosecutorial experience, should handle the prosecution of internal trial boards, advice to Internal Affairs, and act as a liaison to the State's Attorney's Office for police misconduct matters. (Implement by Quarter 2 of 2021)	10
1(B)(iii)	Ethics Training: All ethics training should focus on educating officers to exercise their discretion in a manner driven by principles of integrity, fairness, and decency. (Report on Status by Quarter 2 of 2021)	11
1(C)(iii)	Creating a Culture of Compliance within BPD: BPD should retain a compliance consultant who is familiar with techniques used in the private sector to reform the culture in large organizations that have run afoul of the law. The consultant can help develop initiatives based on the GTTF scandal and offer advice on reforming BPD's internal culture. (Implement by Quarter 2 of 2021)	13
1(C)(v)	Creating a Culture of Compliance within BPD: Methods for anonymous reporting of officer misconduct should be developed. (Implement by Quarter 2 of 2021)	13
1(C)(vii)	Creating a Culture of Compliance within BPD: The agency should encourage equitable treatment of officers in discipline and promotion. (Report on Status Quarterly)	13
1(C)(viii)	Creating a Culture of Compliance within BPD: Integrity and ethics training and testing should be considered an essential criteria for promotion. (Implement by Quarter 2 of 2021)	13

Recommendation Schedule: Quarter 3		
Item #	Description	Page # Referenced
1(B)(i)	Ethics Training: Ethics training for new recruits at the academy, for field training officers, for supervisors, and for the workforce generally should be designed to demonstrate to all BPD officers that BPD is focused on detecting and punishing police misconduct. Supervisors, in particular, should receive training in how to detect and address misconduct by officers under their command. Training modules could include scenarios involving theft of drugs and money, planting of evidence, unconstitutional searches and seizures, overtime fraud, and misuse of body-worn cameras, based upon the criminal misconduct of the GTTF officers. (Implement by Quarter 3 of 2021)	11
1(B)(ii)	Ethics Training: Supervisors and officers working in specialized units or prior to being assigned to such units should be required to take an intensive fourth amendment course and pass an examination to demonstrate a working understanding of the principles of constitutional policing. (Implement by Quarter 3 of 2021)	11
1(B)(iv)	Ethics Training: Ethics and Ethical Policing is Courageous training should be open to viewing by the Community Relations Council, the Civilian Review Board, and other community groups with opportunity for the community to provide feedback. (Report on Status by Quarter 3 of 2021)	12
1(C)(iv)	Creating a Culture of Compliance within BPD: The agency should develop incentives for officers who demonstrate ethics and report misconduct. (Report on Status by Quarter 3 of 2021)	13
1(C)(vii)	Creating a Culture of Compliance within BPD: The agency should encourage equitable treatment of officers in discipline and promotion. (Report on Status Quarterly)	13
1(C)(xi)	Creating a Culture of Compliance within BPD: Continued reform within the Internal Affairs Division should occur to ensure that all complaints are handled swiftly and fairly. BPD should create and implement a public complaint database by June 2021 that will enable citizens to track their complaints through the disciplinary process. (Implement by Quarter 3 of 2021)	13

Recommendation Schedule: Quarter 3

Item #	Description	Page # Referenced
1(C)(xii)	Creating a Culture of Compliance within BPD: BPD should analyze the span of supervisor control, particularly at the lieutenant level, to ensure that the sergeants and squads under their command are closely supervised and are behaving ethically and lawfully. BPD should institute a command discipline matrix to address failure to supervise, inappropriate commands, and other supervisory lapses. (Implement by Quarter 3 of 2021)	13
1(C)(xv)	Creating a Culture of Compliance with BPD: BPD should strengthen the Inspections and Audit Unit to ensure that crime reports are audited for accuracy and integrity and matched with calls for services; body camera footage should be audited for general order compliance. The Inspections Unit should monitor and audit the disciplinary system to ensure backlogs are reduced, monitor officer court appearances, check citizen courtesy, audit confidential informant files and property room process, monitor education and training attendance, and conduct inspections for general order and protocol compliance. The number of inspections and type should be reported publicly. (Implement by Quarter 3 of 2021)	14

Recommendation Schedule: Quarter 4		
Item #	Description	Page # Referenced
1(A)(v)	Increased Accountability Measures: Within a period of not to exceed one year, Internal Affairs should be fully staffed, assigning and utilizing experienced detectives to reduce the Internal Affairs backlog and caseloads of current staff. BPD shall ensure there is sufficient funding and resources to fully staff Internal Affairs. (Complete by Quarter 4 of 2021)	10
1(A)(vi)	Increased Accountability Measures: BPD should implement its Early Intervention System to identify and retrain officers who garner the highest levels of public complaints over a 24-month period. A quarterly retraining curriculum should be developed and implemented. The department should provide a monthly report to the mayor and post the report on its website, stating the number of officers removed from the street for retraining each month and the number of officers completing training. The department should track complaints for those officers who undergo retraining for 24 months after completion of retraining. Officer names should not be included in public reporting. (Implement by Quarter 4 of 2021)	10
1(A)(vii)	Increased Accountability Measures: Require 6 months Internal Affairs experience for those obtaining promotion to lieutenant or above as a condition of promotion. Members who earn a promotion without Internal Affairs experience will be assigned to Internal Affairs within 18 months of promotion. (Implement by Quarter 4 of 2021)	10
1(A)(x)	Increased Accountability Measures: Legal Affairs should reduce its trial board backlog to ensure each case is resolved or tried within 90 days of charging. Legal affairs should report its active case load to the mayor on a monthly basis and publish its trial board docket with case numbers on its public website to ensure the expedient resolution of administrative trial boards. (Complete by Quarter 4 of 2021)	10
1(C)(ii)	Creating a Culture of Compliance within BPD: Deputy Commissioner Dean Palmere testified that he never met with Internal Affairs during his tenure and, in essence, police misconduct was a matter for Internal Affairs to handle. The silo that separates integrity from enforcement is systemic and problematic in BPD. As a condition of promotion, or upon promotion, supervisors should be required to serve in Internal Affairs in accordance with Commission Recommendation 1(A)(vii). Internal Affairs must become a valued and integral part of the agency, not a pariah. (Implement by Quarter 4 of 2021)	12
1(C)(vii)	Creating a Culture of Compliance within BPD: The agency should encourage equitable treatment of officers in discipline and promotion. (Report on Status Quarterly)	13

Recommendation Schedule: Quarter 4		
Item #	Description	Page # Referenced
1(C)(xiii)	Creating a Culture of Compliance within BPD: BPD should strengthen and reinvigorate an Inspections Unit to ensure compliance with agency protocol and general orders. (Implement by Quarter 4 of 2021)	13
1(C)(xiv)	Creating a Culture of Compliance within BPD: BPD should establish an integrity control officer at the rank of lieutenant in each command to maintain the integrity of citizen complaints and oversee, monitor, and assist officer interaction with the public. (Implement by Quarter 4 of 2021)	14

Appendix 2

2018 – 2020 Commission Meeting Summaries

October 16, 2018 Meeting

At the commission's first meeting on October 16, 2018, members and staff were introduced and scheduling and housekeeping matters were discussed.

In addition, invited speaker Senator William C. "Bill" Ferguson presented background information about events leading to the formation of the commission and discussed the charge of the commission.

Specifically, Senator Ferguson expressed extreme concern about the damage done to Baltimore City by GTTF and emphasized the importance of the work of the commission in restoring Baltimore citizens' faith and trust in government.

Senator Ferguson explained that Senate Bill 1099 of 2018 started as a requirement that the Department of Legislative Services audit BPD, because there had been long-standing, significant questions about financial and performance reviews. As information came to light during session, the bill evolved into a measure to examine the GTTF. Many believed that what was happening with the GTTF was symptomatic of a much broader crisis involving lack of citizen trust in law enforcement, widespread fearfulness, low police morale, poor police recruitment and retention, and police management turnover.

Senator Ferguson reviewed facts relating to the GTTF and raised questions including who knew about what was going on and when, who else was involved, why weren't systems in place to detect and stop the misfeasance, and how can a similar situation be prevented?

Senator Ferguson reviewed events that have occurred in Baltimore since the passage of SB 1099 and discussed the requirements of SB 1099. Senator Ferguson articulated that the most important question to be answered by the commission is whether a reorganization of BPD is necessary. Additional questions to be answered include what are the best practices for a task force as well a police department overall in an environment like Baltimore, what should the ongoing State and city oversight of BPD be, and whether there are any inherent problems that prevent BPD from managing and disciplining its sworn officers.

November 13, 2018 Meeting

At the commission's second meeting on November 13, 2018, invited officials representing the City of Baltimore testified.

Andre M. Davis, City Solicitor for Baltimore and former United States Circuit Judge of the United States Court of Appeals for the Fourth Circuit, discussed the events leading to the formation

of the commission. Solicitor Davis expressed willingness to cooperate with the commission. He stated that the city will willingly provide some documents but will need to receive subpoenas for others.

Solicitor Davis strongly denounced the former GTTF officers and explained that the Baltimore City Law Department has filed a lawsuit against them seeking a declaratory judgment that the city has no obligation to pay any judgments on their behalf.

Historical Development and Organization of the BPD

James Gillis, Chief of Staff for BPD, presented information about the historical development and organization of BPD.

According to Mr. Gillis, in the 1600s, the need for a police force arose. At that time it was a volunteer organization. In the 1790s, BPD took on an organized structure. Members became paid, a commissioner position was created, and a paramilitary structure developed. The paramilitary structure is a pyramidal, top down management scheme that continues to exist today. In the 1860s, BPD grew to approximately 350 officers. It was a time of great rift in the country due to the Civil War. The leaders in the city government were viewed as being sympathetic to the south, and the Governor and members of the General Assembly were regarded as unionists. This led to legislation setting up BPD as an agency of the State, which has liability implications that exist to this day. However, the Commissioner serves at the pleasure of the Mayor.

Today, BPD has approximately 3,000 personnel, approximately 2,500 of which are sworn officers. It is the eighth largest police department in the country. It has a budget of \$510 million, mainly funded by the city's general fund. There have been 41 police commissioners. In Civil War times there were five patrol districts; there are now nine districts.

Since GTTF was established, the size of the agency has constricted somewhat. There are not as many task forces and special units. There have been some technological advances in the last few years, including body worn camera technology and GPS devices in police cars. The use of these advances will bring about transparency.

In response to a question, Solicitor Davis indicated that he does not know exactly what the consequences of transferring control of BPD to the city are, because the issue is so complex.

Establishment and History of GTTF

Daniel Beck, Chief of the Legal Affairs Division of Baltimore City Law Department, presented information about the establishment and history of GTTF.

According to Mr. Beck, GTTF was created in 2007 under Commissioner Bealefeld. It originally consisted of detectives from BPD, the Maryland State Police (MSP), and the federal Bureau of Alcohol, Tobacco, and Firearms. In 2008, Baltimore County Police Department joined, and in 2009, the Anne Arundel County Police Department joined. A memorandum of understanding reached by the agencies governed the task force. The focus of the task force was to

trace recovered guns back to the original purchaser to stop the flow of guns into the city. The task force worked in conjunction with the Gun Offender Registry that was created in 2008. The task force targeted straw purchasers and illegal gun dealers, with a goal of trying to take down illegal businesses that supplied guns to violent criminals.

GTTF was originally housed within the Violent Crime Impact Section of BPD. Supervision operated under a lieutenant from BPD. Each of the participating agencies agreed to assign specified personnel to the task force. Each of the members were responsible for adhering to the rules and policies of their own agencies. BPD and Maryland State Police (MSP) provided office space and equipment. Prosecution could be handled at either the State or federal level, depending on the circumstances. The agreement specified other duties, roles, and responsibilities of the various participants. Statistics were required to be kept and the results of investigations were required to be reported.

This partnership continued until approximately 2011. At that time, Baltimore County, Anne Arundel County, and MSP dropped out. Between 2011 and 2016, GTTF was notified of and became involved in all investigations relating to guns recovered in Baltimore City. As each new commissioner took over, GTTF was modified and reorganized. By 2016, the unit became more of an operational unit doing proactive enforcement and responding to violent crime at the street level.

In response to a question, Mr. Beck stated that he thinks that the reason the three agencies dropped out in 2011 was resource related, but he does not know the details.

In response to a question, Mr. Beck stated that he did not know how the members of GTTF were selected.

Mr. Beck stated that he would provide the commission with further responsive information relating to GTTF.

In response to a question, Solicitor Davis stated that there were many complaints about GTTF. It was a systemic problem caused by starvation of resources to BPD.

Crime and Police Statistics

Drew Vetter, Director of the Mayor's Office of Criminal Justice, discussed statistics related to BPD personnel and violent crime trends.

As of November 13, 2018, there were approximately 247 vacant police officer positions. From 2011 through 2016, annual attrition (average 230 officers) significantly outpaced hiring. However, since the introduction of an online application system in June 2018, there has been a surge in the number of officer applicants.

From 2014 to 2015, there was a significant jump in homicides and shootings. Violent crime has remained at high levels since that time. In 2017, the city surpassed a total of 1,000 homicides

and shootings. However, for 2018, most categories of violent crime are trending below 2017 levels.¹

Internal Affairs Process

Mr. Beck described the internal affairs process. The process begins with the initiation of a complaint. A complaint can be filed in many ways. It is entered into special software and is received by internal affairs. BPD is developing a uniform complaint form that will be widely available, including online. Internal affairs investigates all complaints received, including anonymous complaints. Complaints are based on many types of alleged misconduct, from very minor to very serious.

Once a complaint is received, internal affairs communicates with the complainant throughout the process to keep the complainant updated. After a complaint is received, the case is classified by type of misconduct and assigned to a detective. There is a one year period to investigate and initiate charges. Under the consent decree, the goal is to investigate charges within a 90 day window.

Investigations and hearings are conducted pursuant to the Law Enforcement Officers' Bill of Rights (LEOBR). Certain negotiated collective bargaining provisions also apply. If the complaint is determined to be sustained at the conclusion of the investigation, the complaint is sent to a disciplinary review committee. If the review panel agrees with the sustained finding, charges are filed. Discipline is recommended pursuant to a matrix.

The case is then referred to the administrative hearing office. The police officer who is the subject of the complaint can accept the discipline or request a hearing. If a hearing is requested, the officer and the officer's representative is given a full copy of the file. The members of the hearing board are chosen pursuant to the applicable selection criteria.

The hearing is scheduled approximately 45 days after the complaint is filed. The hearing is open and held at City Hall. BPD has the burden of proof by the preponderance of the evidence. The hearing board makes determinations of fact and law. An officer who has been charged may instead opt for an administrative law judge, but must then give up the officer's preemptory strikes. The board makes a determination of guilty or not guilty. If the officer is found guilty, the hearing proceeds to a recommendation of discipline phase. An officer has a right of allocution. The board deliberates on the recommendation of discipline. The board must make written findings of fact and recommendations. The Police Commissioner reviews the decision and may accept or change the determination. Once the Police Commissioner signs off, the discipline is administered. The officer has the right of appeal up to the Court of Appeals.

All members of internal affairs are currently polygraphed.

¹ The crime statistics cited by Mr. Vetter are contained in Appendix 4.

Civilian Review Board

Solicitor Davis discussed the Civilian Review Board (CRB). The governing statute for CRB was enacted in 1999. According to Solicitor Davis, CRB is a “toothless tiger” and desperately needs to be revised. There are nine voting members, one from each police district, appointed by the Mayor and confirmed by the City Council. Members serve three year terms with the possibility of a second term. Three members rotate off each year. There are five other nonvoting members, including representatives of the American Civil Liberties Union, the Fraternal Order of Police, Legal Aid Bureau, and the Vanguard Justice Society.

The jurisdiction of CRB consists of five specific types of misconduct: harassment, abusive language, false arrest, false imprisonment, and excessive force. Members of the public may file complaints about these types of misconduct for CRB to investigate. In November, there were approximately 2,000 complaints outstanding.

Solicitor Davis stated that there is a great need for revision and more transparency to the trial board process. Among other things, the statutory confidentiality requirements do not allow for public transparency. The findings tend to be unanimous, and are usually simply recitations of the evidence as opposed to true findings of fact. The outcome is not public information. A member of the public cannot find out the officer’s name or the charges against the officer. Findings of fact are not released to the public. The Maryland Public Information Act and personnel provisions view trial board proceedings as personnel matters and therefore impose heavy protections.

Solicitor Davis stated that the Community Oversight Task Force was created by the Consent Decree. It submitted a final report on April 30, 2018. There were nine members. Its task was to conduct a study of nationwide best practices for civilian oversight of police departments. The members traveled to other cities and brought in subject matter expertise. In Solicitor Davis’s opinion, they did a fantastic job and issued an excellent report with recommendations that are worthy of serious consideration. Some members of CRB have strong objections because the report recommends major changes to CRB. The City Law Department is working to smooth out these differences.

Solicitor Davis explained that there is a dispute because CRB has requested personnel records and BPD will not release them until the members of CRB sign a confidentiality agreement. CRB has now threatened to sue the city, which Solicitor Davis states is improper because CRB is a part of Baltimore City and cannot sue in its own name. CRB is consequently giving up its ability to review cases as time goes by due to the one year statutory time limit on the filing of charges.²

In response to a question, Solicitor Davis stated that whether BPD should publish the names of officers who have been charged and/or are the subject of complaints is a policy decision to be made by the Mayor and Police Commissioner. Additionally, trial boards should have independent counsel who help the board draft findings of fact.

² Shortly after the meeting, news broke that the personnel records of BPD officers will be released to members of CRB without the necessity of a confidentiality agreement.

December 18, 2018 Meeting

At the commission's third meeting on December 18, 2018, several invited speakers delivered remarks relating to law enforcement personnel protections, best policing practices, and defending against and preventing police misconduct.

Law Enforcement Officers' Bill of Rights

Michael Davey of the Law Offices of Schlachman, Belsky, & Weiner spoke on the topic of LEOBR.

Mr. Davey summarized his professional background. He was a law enforcement officer with the Maryland State Police for 20 years, retiring at the rank of captain in 1999. He subsequently went to work as an attorney and has provided legal representation to law enforcement officers statewide for approximately 20 years.

Mr. Davey stated that LEOBR was created in 1974 to ensure that officers have minimal due process protections in connection with disciplinary matters. In response to questions, Mr. Davey explained that protections of LEOBR begin when a law enforcement officer receives notice that the officer is the subject of an internal affairs investigation for alleged misconduct on the job. (The Baltimore Police Department and other large police departments each have an internal affairs unit, while in smaller police departments the internal investigation function is performed by individual sergeants or other officers.) After receiving notice of a complaint, an officer can seek representation. The officer has five business days to respond to the complaint and an appointment is scheduled with internal affairs. This is the last step in the internal affairs investigation. Generally, an officer is required to answer all questions posed by internal affairs during this meeting. Failure to answer is considered insubordination, which is grounds for major disciplinary sanctions, up to termination of employment. If an officer does not want to answer a question during the meeting, the officer will be asked to leave the room while counsel negotiates with internal affairs to try to get the question either modified or withdrawn. Internal affairs may refuse to do so in which case the officer is ordered to answer.

After the conclusion of the investigation, internal affairs issues a report which will indicate whether the complaint is unfounded, not sustained, or sustained. Not sustained means that there is insufficient evidence of a violation and sustained means that there is sufficient evidence of a violation. In the case of a sustained finding, administrative charges are drafted and the officer is offered some form of discipline, which may range from a letter of reprimand for the least serious degree of violation to termination of employment for the most serious degree of violation. Discipline is imposed pursuant to a disciplinary matrix that groups specific offenses into categories ranging from A to F, with A being the least serious to F being the most serious.

If charges are filed, the matter proceeds to a trial board. After the conclusion of the trial, if the officer is found guilty of a policy violation, the trial board makes a recommendation of discipline to the chief of the law enforcement agency. The trial board's recommendation is not binding; the chief may increase the severity of the discipline if the reasons for doing so are stated on the record.

Mr. Davey stated that most of his cases involve discourtesy or unprofessionalism issues such as failure to take a report, failure to activate a body camera, rudeness, and foul language. Cases can also involve more serious misconduct such as theft, extortion, and robbery.

CRB does not play much of a role in the discipline process. CRB does its own investigation and does not have the right to interview officers. An officer can choose whether or not to cooperate with CRB.

An internal affairs investigation can be prompted by either a citizen complaint, a supervisor complaint, or a complaint from the State's Attorney's office. The body worn camera review team may also generate an investigation. By far the largest number of cases stem from citizen complaints, followed by supervisor complaints.

When the State's Attorney's office is pursuing criminal charges against an officer, the administrative part of the case is put on hold. Under the *Garrity v. New Jersey*, 385 U.S. 493 (1967) case, nothing that an officer says in an administrative case can be used against the officer in a criminal case. The standard of proof in an administrative case is preponderance of the evidence, which means that it is more likely than not that the officer violated policy. In a criminal case, the standard is beyond a reasonable doubt. Mr. Davey stated that LEOBR did not come into play in the GTTF situation, because it was a criminal investigation. If something doesn't rise to the level of a criminal violation, it should be investigated under the LEOBR. An officer who is convicted of a felony can be summarily discharged.

Internal affairs does not investigate all complaints received. Some complaints can be resolved by supervisors; for example, when a person was charged with speeding but contends that they were not, in fact, speeding. According to Mr. Davey, however, with today's focus on transparency, complaints are not resolved at the supervisor level as often.

Mr. Davey explained that LEOBR allows certain modifications of its provisions by labor agreements. For example, under LEOBR the law enforcement officer must be provided with the file 10 days before trial, while a labor agreement prescribes a longer time period. Another example involves the number of peremptory strikes against a hearing board member that are allowed.

Traditionally, a trial board consisted of three members, one of whom was of equal rank to the officer on trial. LEOBR was changed in 2016 to allow, if authorized by the local jurisdiction, an additional one or two civilian members who have received certain law enforcement training to sit on a trial board. Baltimore has authorized an additional two members, so that each trial board in Baltimore has five members. A civilian member must complete an application process and meet certain requirements including being at least 21 years of age and a Baltimore resident. A simple majority vote is necessary for a guilty verdict. No other jurisdiction in the State has authorized citizen members. The members of a trial board are selected by the chief.

Mr. Davey indicated that he does not have any recommendations for improvement for the commission. He feels that if LEOBR is used as it is supposed to be used, no changes need to be made. The chief reviews the record of the trial board and has the absolute right to impose whatever discipline the chief thinks is appropriate. An officer who is aggrieved by the disciplinary process

may file a petition for review with the circuit court. The circuit court reviews the record of the trial board under a standard of whether there is some basis for the result. There are no problems with this process. Mr. Davey is not aware of any proposed bills relating to LEOBR.

One criticism Mr. Davey does have is that the disciplinary process often takes too long. In Baltimore, it usually takes close to the one year time limit to bring charges. For a simple discourtesy case, nine to ten months is entirely too long. There have been some improvements in this regard recently, though. If there is an open internal affairs case, the officer is in limbo and cannot receive a promotion or transfer and may not leave the agency in good standing. If the allegations are serious, the officer's police powers may be suspended. Mr. Davey does not have any particular recommendations for speeding up the process and stated that it would be too difficult to impose a specific rule. He just thinks that internal affairs units should make a concerted effort to go as quickly as possible.

In response to a question, Mr. Davey stated that he does not agree with a proposal that the Baltimore Police Commissioner be able to review a trial board record and reverse a guilty or not guilty finding. Mr. Davey believes this would take away due process.

Mr. Davey pointed out that a very small percentage of investigations actually result in administrative charges. The vast majority are resolved before the trial board stage. A lot of charges are unsustained due to lack of evidence. Body worn cameras have made a huge difference, and help officers more than hurt them. Even if a charge is sustained, the officer can accept the recommended discipline.

Mr. Davey stated that the officers in BPD's internal affairs unit are handling two to three times as many cases as is recommended. The consent decree required internal affairs officers to take polygraph examinations. An individual who fails or refuses to take a polygraph must leave the unit.

At times, 70 to 75 officers in BPD have suspended police powers. Recently it is down to 50 to 55. The chief can suspend an officer's police powers if it is in the best interest of the department. This is not probable cause based and an officer is entitled to a suspension review hearing.

Trial board hearings are open to the public. However, few members of the public show up. Mr. Davey stated that personnel records are a gray area. During the mitigation hearing, which occurs after an officer is found guilty, personnel records may be discussed. It is up to the chairman of the trial board to decide whether the mitigation hearing should be open to the public. BPD's website lists the date, time, and location of trial board hearings, but not officers' names.

Baltimore Police Department Operations and Best Policing Practices

Anthony Barksdale, Retired Deputy Commissioner of Operations for BPD, discussed the operations of BPD and best policing practices.

Mr. Barksdale oversaw BPD operations from 2007 through 2012. The only areas he was not involved in were internal affairs and public relations. During that time, there was historic progress in violence reduction and a significant drop in arrests.

Mr. Barksdale stated that an important issue that the commission should look at is the Compstat process. This is a management model pioneered in New York. The four tenets of Compstat are: (1) accurate, timely intelligence; (2) rapid deployment; (3) effective tactics; and (4) relentless follow up and assessments. Under this model, accountability is critical. Questions to be answered include: Did you get the right person? Are you focused? Are you just racking up overtime? According to Mr. Barksdale, this is broken in Baltimore.

During Mr. Barksdale's tenure with BPD, Citistat, which follows the Compstat model, was adopted. There was a lot of resistance within the department but he embraced it. He believes it was very successful. Under Citistat, a supervisor should investigate red flags like excessive use of overtime. Overtime for overtime's sake is a management issue. For example, Mr. Barksdale instituted a policy that no search warrants may be served at the end of a shift. That just generates hours of overtime.

Mr. Barksdale stated that he is not aware of any other major urban police department that does not use Compstat and is successful. But, it has to be used correctly. The murder rate is the ultimate way to judge whether a police department is successful.

Mr. Barksdale said that he does not blame the lower level officers involved in the Freddie Gray incident. They went into the neighborhood without a focus. Command staff needed to provide a focus to go after higher level criminals.

With regard to "zero tolerance" policies, that Mr. Barksdale described as just running around locking people up. "There is no focus. We know now that it doesn't work. It is not true that the more arrests, the better. Focused enforcement works. Commanders must be held accountable." Mr. Barksdale does not see this happening.

Mr. Barksdale believes that when you catch a dirty cop, you have to get rid of him. He asked the FBI to proactively go after dirty cops.

Aside from excessive overtime, Mr. Barksdale believes that complaints against an officer should also be looked into for modifications. If there are repeated complaints against an officer of a suspicious nature, it should be investigated by someone who understands policing. Another red flag is an excessive number of gun seizures. This practice would have gotten Mr. Barksdale's attention with regard to GTTF. From his experience, he knows that you just do not get such a high number of guns through legitimate methods.

According to Mr. Barksdale, command staff should use integrity stings. If there are questions about an officer, set up a situation to allow an officer to do something dishonest such as planting drugs or pocketing money from a crime scene. Integrity stings should be started early and done throughout an officer's career, especially in narcotics work. Mr. Barksdale believes that this practice would prevent another GTTF situation. Writing skills are key to good police work, and

“if an officer knows how to write and knows how to play the game, it is hard to catch this person committing corrupt acts.” Integrity stings should be both random and targeted and be done intelligently.

Mr. Barksdale stated that there were two different versions of GTTF. Initially, Commissioner Bealefeld created GTTF to track the source of guns found in Maryland. The unit looked for commonalities and sought straw purchasers. It was a multi-jurisdictional effort. Mr. Barksdale felt that it was successful. It revealed the flow of guns into the city. Later, GTTF became a group of “jump out guys.” It went from an investigative resource to street enforcement. Mr. Barksdale is not sure what caused the change in the character of the unit, but it happened when the administration of the department changed. Mr. Barksdale believes that it was thought that making a lot of gun arrests would cause a reduction in violence.

In choosing officers to make up a specialized unit, Mr. Barksdale would look at experience, search warrants executed, conviction rates, and internal affairs files for integrity issues. For internal affairs, Mr. Barksdale believes that the right people who put the community first and really want to go after bad cops is needed. Mr. Barksdale wondered how the officers were recruited for GTTF. “Were there any similarities? Were the corruption problems preexisting or did they start after the officers were on the force?”

During Mr. Barksdale’s tenure with BPD, while Citistat was in use, the State’s Attorney’s office was heavily involved. BPD worked hand in hand with the State’s Attorney’s office on cases and the practice was very effective. Mr. Barksdale believes that the State’s Attorney’s office must understand and be involved in the Compstat process to get the best results.

Mr. Barksdale stated that training is crucial. The training academy needs to be properly staffed and have adequate resources. Training also needs to be enhanced for supervisors and command staff. More training is needed on corruption – how to discover a dirty cop, documentation, and integrity stings. Roll calls at the beginning of each shift are also very important. That is how supervisors get to know the officers.

According to Mr. Barksdale, to begin restoring the trust of the community in law enforcement, it is going to take some time. GTTF did so much damage. The key is transparency and honesty. Mr. Barksdale states, “We need to institute integrity stings and report to the public, and get back to a focused approach on who is getting arrested.”

Prevention of Police Misconduct Through Internal Affairs Litigation

Deborah Katz Levi, Director of Special Litigation, Baltimore City Felony Trial Division of the Office of the Public Defender (OPD), and Kirsten Gettys Downs, District Public Defender for Baltimore City, presented information on prevention of police misconduct through internal affairs litigation.

Ms. Levi indicated that corruption under cover is a bad thing. “When evidence of patterns of misconduct are concealed, the bad actors are empowered.” OPD had heard many stories about police corruption from clients for a long period of time. So many Baltimore citizens had been

experiencing police misconduct for so long that the Freddie Gray episode was a boiling over point. Although the indictment of GTTF officers was a positive development, Ms. Levi stated that it is dangerous to think that this is the end of corruption in BPD.

Ms. Levi went on to explain the difficulty in obtaining and inspecting Baltimore City police officer internal affairs records and the lack of transparency that results. In order to show the need to inspect a record, it must be established that there is a reasonable possibility that review of the records would result in discovery of usable evidence. In evaluating a need to inspect, the court must consider four factors: (1) the nature of the charges; (2) the issues before the court; (3) the relationship between the charges and the information sought; and (4) the likelihood that relevant information will be obtained as a result of reviewing the records.

Police officer internal affairs records are important because it helps to identify a pattern of untruthfulness and bias in an officer's conduct. If criminal defendants were able to regularly review internal affairs records, problem officers might be identified sooner. Ms. Levi described a number of situations in which OPD, sometimes through arduous litigation, obtained the internal affairs files for the arresting officers in cases against her clients. In one instance, an officer's internal affairs record, which she had been told did not contain any relevant information, contained "so many files about so much misconduct you couldn't even believe it."

In addition, officers should not be able to get facts sustained matters expunged. The City Law Department has allowed this repeatedly in the past.

Ms. Levi stated that, when looking at internal affairs records, it is disturbing to see how many complainants never followed through with their complaints. She noted, however, that the consent decree has remedied that to an extent. Under the consent decree, a complaint may not be closed summarily due to the lack of complainant follow-up, and internal affairs must find some other way to address and investigate such matters.

Ms. Levi commended the Baltimore City State's Attorney's Office and BPD for implementing a policy that eases the restrictions on defense counsel obtaining internal affairs records; however, she notes that, while this a step in the right direction, there are still battles every day to determine what her office can and cannot view. OPD should be able to automatically get the records instead of having to painstakingly litigate it on a piecemeal basis. Additionally, such policies should not change from State's Attorney to State's Attorney.

Ms. Levi discussed a number of Supreme Court and Maryland cases and Maryland Rules that support disclosure of internal affairs records. She cited LEOBR and the Maryland Public Information Act as being used to prevent disclosure of those records, noting that there is case law that distinguishes access to such records during litigation versus a member of the general public seeking records. According to Ms. Levi, LEOBR is not good law anymore. "It was crafted in the 1970s before we knew what we now know about police misconduct. Although the LEOBR may not specifically prohibit disclosure of internal affairs files, reading it in conjunction with the Maryland Public Information Act has routinely led courts to interpret that such files may not be disclosed." She then recommended the following legislative and policy changes in order to increase transparency and accountability in policing: (1) roll back the protections of LEOBR;

(2) develop a system of regular disclosure; (3) maintain access to records; and (4) authorize access to courts to undo tainted convictions. Further, she cited the City of Chicago and the State of California as excellent examples of jurisdictions that have eased restrictions on access to law enforcement internal investigation records.

Upon the conclusion of Ms. Levi's presentation, Ms. Gettys Downs spoke to the commission regarding why the implementation of these recommendations is important. The actions of corrupt law enforcement officers affect families and whole communities – not just the aggrieved individuals. “In fact, a whole city has been disenfranchised as a result of such actions.” She further stated that public defenders are accountability warriors and implored the commission to add an aspect of accountability and quality control to its final recommendations in 2019.

January 28, 2019 Meeting

On January 28, 2019, the Community Oversight Task Force (task force) briefed the commission on the Task Force's August 2018 report entitled *Strengthening Police Accountability and Police-Community Relations in Baltimore* (report). Dr. Danielle Kushner, who served as the primary writer of the report and the task force's Community Engagement Subcommittee chair, presented on behalf of the task force.

The task force was established pursuant to a Consent Decree mandate. The purpose of the task force, which was made up of nine members appointed by then Mayor Catherine Pugh, was to recommend reforms to the current system of civilian oversight. The task force worked from June 2017 through August 2018, learning Baltimore City's current system for police oversight, traveling to other jurisdictions with different models of police oversight, and interviewing and engaging local communities to assess views of policing and reform. The task force ultimately recommended the following reforms:

- Establish a Police Accountability Commission (PAC) appointed by the mayor and city council to govern and regulate the Independent police accountability agency.
- Institute an independent Civilian Office of Police Accountability (COPA) with professional staff to investigate complaints of police misconduct; audit the police's training, policies, and procedures; and conduct community outreach on policing issues.
- Return full control of the Baltimore Police Department (BPD) back to the city.
- Strengthen police-community relations by engaging in rigorous community outreach and community policing, bias-free policing and diversity, equity, and inclusion initiatives.
- Grant COPA full investigatory and subpoena powers to enable effective civilian oversight. When the police commissioner does not follow COPA's recommendations for discipline, the commissioner's reasoning for diverging from the COPA's recommendations must be made public.

- Create the foundation for community trust in the police by implementing improved policing policies that ensure fair and impartial policing and transformative justice and reconciliation measures.

Six principles guided the recommendations: independence; comprehensiveness; racial equity; accountability; transparency; and transformative justice. In examining and explaining the recommendations, Dr. Kushner elaborated on how the recommendations incorporated the six principles.

Independence

Dr. Kushner noted that Baltimore City’s current Civilian Review Board (CRB) is not administratively, fiscally, or functionally independent from Baltimore City. All nine members of CRB are appointed by the Mayor. CRB is housed within a city agency with minimal funding and staff. In addition, BPD controls access to the police misconduct files that CRB is tasked with reviewing.

Dr. Kushner explained that the task force wants to ensure independence through a 25-member PAC appointed by the mayor, city council, and interested nongovernmental parties. COPA, an independent professional staff, would serve PAC. PAC and COPA would be funded in an amount equal to 3% of the budget of BPD. COPA would be responsible for investigating and auditing BPD – looking into complaint data and BPD policies and procedures to ensure racially equitable outcomes. Additionally, COPA would engage and inform Baltimore City residents on how to make, track, and understand complaints.

To effectuate its independence, COPA would “have original jurisdiction over any and all types of police misconduct involving citizens” including “full subpoena and investigatory powers.” This process would fully replace BPD’s internal affairs unit. Once an investigation is finalized, a recommendation regarding punishment would be forwarded to the BPD Commissioner.

Comprehensiveness

Currently, complaints against BPD officers made to CRB may only be filed for five types of misconduct allegations: excessive force; false arrest; abusive language; harassment; and false imprisonment. The police commissioner’s reasoning for a decision regarding punishment is final and not public. CRB may only make recommendations to the commissioner regarding punishment, and the commissioner is not obliged to follow the recommendations.

The task force envisions a complaint process that does not limit complaints by type and authorizes individuals and COPA to initiate complaints. Dr. Kushner explained that the task force believes that certain complaints can be disregarded simply because a complaint does not squarely fit into one of the five types of authorized misconduct allegations.

As stated above, at the conclusion of a COPA investigation, the recommendation of COPA would be forwarded to the BPD Commissioner. The task force envisions a process where, if the

BPD Commissioner disagrees with the recommendation, then the commissioner must provide the reasons in a public, written statement. If the commissioner's decision on punishment differs from COPA's recommendation, then COPA or the officer who is the subject of the misconduct matter would have the right to appeal to a three-judge panel.

Racial Equity

COPA would need to address years of abuse of power, brutality, and unconstitutional policing. In doing so, COPA needs to review and audit police training, procedures, policies, and budget allocations in order to ensure racial equity.

Accountability

CRB does not have subpoena power. Additionally, BPD is a State Agency and not a Baltimore City agency. Without subpoena power, CRB cannot access the documents that it needs to address police misconduct. Because many changes to BPD must go through the General Assembly, Baltimore City does not have all of the tools that are necessary to effectively change BPD.

As stated above, the task force envisions that COPA is given full subpoena power, which would ensure that police corruption and misconduct are investigated and punished accordingly. In addition, the task force envisions the State formally transferring the power to legislate the activities of BPD back to the mayor and city council so that Baltimore City would not have to go through the General Assembly for certain changes.

Transparency

Currently, the Maryland Public Information Act (MPIA) classifies police misconduct files as personnel files that may be withheld as confidential. The task force recommended amendments to the MPIA to exempt certain police personnel files from being classified as confidential. Specifically, the MPIA should be amended to make public police personnel files where allegations of misconduct against an officer were sustained. Dr. Kushner explained that this will allow COPA to ensure that proper policies and procedures are followed by taking a random sampling of police personnel files to study. Additionally, Dr. Kushner stated that, in sampling the files, COPA employees may be able to identify trends involving other issues, such as an issue with the mental health of an officer.

Transformative Justice

The task force further recommended that COPA provide support for victims and perpetrators of police misconduct. Dr. Kushner stated that Baltimore City needs to undergo a process where whole communities are repaired including police officers who are part of those communities. COPA would provide mentorship opportunities to build relationships and restore trust, as approximately 85% of BPD officers live outside of Baltimore City.

In response to a question, Dr. Kushner stated that Denver is the closest analogue and that the task force visited Denver to study the city's system.

In response to a number of questions regarding COPA's proposed original jurisdiction, Dr. Kushner clarified that all criminal allegations would be referred to the State's Attorney's Office (SAO).

Dr. Kushner stated that the task force views its report as a conversation starter and looks forward to a continued dialogue.

Commission staff went over organizational matters, and the meeting was closed under General Provisions Art. § 3-305(b) to discuss personnel and investigative matters.

February 11, 2019 Meeting³

The Baltimore City State's Attorney's Office (BCSAO) testified about actions taken in response to the acts of the Gun Trace Task Force (GTTF). Chief Deputy State's Attorney Michael Shatzow, Chief Counsel to the State's Attorney Antonio Gioia, and Deputy State's Attorney for Criminal Intelligence Janice Bledsoe appeared on behalf of BCSAO.

Mr. Shatzow briefly described the efforts of BCSAO to attempt to provide justice to the victims of GTTF police officer misconduct. BCSAO has taken steps in response to GTTF matters and in support of greater justice through transparency by (1) requiring the completion of Giglio forms – otherwise known as integrity checklists – and providing access to Internal Affairs Division (IAD) files; (2) undoing tainted convictions; and (3) lobbying for a new vacatur statute to ease the process of undoing unjust convictions.

Ms. Bledsoe discussed a number of disturbing incidents involving GTTF misconduct. In one situation, Detective Rayam, after executing a search-and-seizure warrant in his official capacity and observing a large amount of cash, sent his friends to steal the cash. In another situation, Sergeant Jenkins was obtaining drugs and selling them through another acquaintance. In addition, GTTF corruption included falsifying warrants through the use of personal tracking devices and other means.

Ms. Bledsoe advised that when BCSAO became aware of the actions of GTTF officers, the office withdrew all active cases that involved GTTF. BCSAO uses an electronic case management system that allows the office to flag officer names and notify all staff of a potential issue involving misconduct. Beginning April 2018, all assistant State's attorneys (ASA) were required to use

³ *The vacatur legislation discussed during this meeting was introduced in the 2019 General Assembly session as Senate Bill 676 and House Bill 874. The commission unanimously supported the portions of the legislation that authorized motions to vacate based on newly discovered evidence that, among other things, calls into question the integrity of a probation before judgment or conviction and, in the interest of justice and fairness, justifies the vacatur of the probation before judgment or conviction. The chair of the commission provided written and verbal testimony at each of the bill's hearings. The House version of the bill passed, was signed into law by the Governor, and is codified as Chapter 702 of 2019.

Mr. Giglio forms to identify impeachable material. Ms. Bledsoe described the form as a questionnaire that

was based on a best practices review and modeled on the local United States Attorney's Office Giglio checklist. If an officer refuses to answer the questions or answers a question that related to his integrity, BCSAO requests the officer's IAD file in order to determine if there is impeachable material in the file. An ASA in the Public Trust and Police Integrity Unit reviews the file and takes appropriate action.

As a result of the checklist, Ms. Bledsoe said that her office reviewed between 500 and 700 case books involving GTTF officers.⁴

Ms. Bledsoe then described the process for her office to obtain an officer's IAD file. In March 2018, BCSAO and BPD reached an agreement that authorized BCSAO to obtain an IAD file from BPD upon request. Mr. Shatzow interjected that this agreement was beneficial to BCSAO because his office was constantly litigating with defense counsel about viewing an officer's IAD file. The March 2018 agreement essentially allowed BCSAO to allow defense counsel to view IAD files. According to Mr. Shatzow, the use of these files involves a balance of the privacy interest of the officer regarding the officer's personnel file and his office's constitutional obligation to make certain disclosures in a criminal case.

Mr. Gioia described BCSAO's process for reviewing *active* cases:

- First, BCSAO obtains a copy of the Statement of Probable Cause (SOPC).
- Second, based on the SOPC, BCSAO determines the role of the tainted officers.
- Third, BCSAO considers what evidence the officer was involved in collecting, procuring, recovering and/or submitting.
 - Was the officer an affiant on a search and seizure warrant?
 - Was the officer the recovering officer on a controlled dangerous substance (CDS)?
 - Was the officer a submitting officer on CDS?
 - Did the officer record the interview of a defendant or witness?
 - Did the officer recover a firearm?
 - Did the officer observe a defendant throw contraband?

⁴ A case book is a record of an incident. An incident may involve many officers and centers around that incident.

- Fourth, BCSAO reviews the evidence that the tainted officer was associated with and determines if the case can go forward without the officer's testimony.

If the case cannot go forward without the officer's testimony, then BCSAO dismisses the case via a *nolle prosequi*.

Mr. Gioia further described BCSAO's process for reviewing *closed* cases, which is what led his office to propose a vacatur statute. Closed cases were reviewed in a similar manner to that of active cases; however, BCSAO must seek to vacate a judgment because the matter is closed. At first, BCSAO attempted jointly with OPD to file a motion to vacate judgment using an interest of justice standard. Unfortunately, those filings were not always successful, so his office started filing two motions – one to extend the time to file a motion to withdraw a guilty plea and one to withdraw the guilty plea.

In response to a number of questions, Mr. Gioia and Mr. Shatzow explained that courts have never provided a written opinion as to why joint motions seeking to remedy tainted convictions are denied; however, they believe that the courts feel as if “we do not have the authority once a sentence is imposed to go back ourselves and to seek vacatur of a conviction based on egregious police misconduct.” Additionally, they were unaware of any appellate decisions rendered on the matter.

Mr. Bledsoe discussed statistics related to cases currently subject to review. BCSAO has identified 2,171 cases for review with 425 completed. Of note, joint motions to remedy tainted convictions have been denied in 28 cases.

Mr. Shatzow concluded the meeting by describing the efforts of BCSAO and stating that the “criminal justice system in Baltimore will not be trusted by the community unless it is perceived as fair and just” and that “perception will only come from unceasing, transparent efforts from all those involved.”

In response to a question, Mr. Shatzow stated that BCSAO does not currently maintain a “do not call list” for officers.

A commissioner asked if BCSAO has an ASA embedded within IAD for case review. Mr. Shatzow answered that what the commissioner was describing is the federal model and agrees that such a model would improve the process for everyone. Of note, the Department of Public Safety and Correctional Services (DPSCS), which runs the Baltimore Central Booking and Intake Center, funds multiple ASAs within BCSAO who are assigned to help DPSCS with corruption issues.

In response to a question, Mr. Shatzow, Mr. Gioia, and Ms. Bledsoe stated that they do not believe that anyone knew of the shocking actions of the GTTF.

June 11, 2019 Meeting

Attorney Ivan Bates testified about his personal experiences with members of GTTF, especially Sergeant Wayne Jenkins. Mr. Bates served as a prosecutor in BCSAO for six years, and since leaving BCSAO, he has worked as a criminal defense attorney for 17 years.

Mr. Bates testified that he witnessed for the first time in 2003 a police officer, Keith Gladstone, lie on the witness stand. Subsequently, numerous clients told Mr. Bates of corrupt acts that they had experienced or witnessed by police officers, including lying, stealing drugs and money, assault, planting evidence, conducting illegal searches, falsifying body camera recordings, and breaking and entering into people's houses. Mr. Bates advised that, over time, he has witnessed the system consistently reward officers for bad behavior and refuse to hold corrupt officers accountable.

Some officers, including Sergeant Jenkins and Mr. Daniel Hersl, were the subject of numerous citizen complaints. Mr. Bates advised that there were little or no repercussions against these officers as a result of the complaints. He further advised that IAD of BPD is weak. Mr. Bates indicated that he has IAD files evidencing improper behavior by police officers who remained in good standing or were even promoted after IAD knew about the misfeasance.

Mr. Bates discussed in detail a number of cases involving plainclothes officers who engaged in corrupt behavior. In 2010, a *modus operandi* emerged among corrupt officers. The officers would make an illegal vehicle stop, obtain an address from the person's driver's license, and search the person's house without a warrant to plant evidence – either guns or drugs – in the house and/or vehicle, and steal money from the person. In a case that Mr. Bates was involved in, he informed SAO that this type of scenario had occurred, and SAO dismissed the case against his client. In addition, Mr. Bates' client told the media about it, and the court made a finding that the officers lied in court about what had happened. However, there were no repercussions against the officers, and the pattern continued. Mr. Bates advised that officers in various plainclothes units ran amuck and set their own rules.

Former officer Jenkins became a police officer in 2005. Despite numerous red flags, he was promoted to sergeant and made head of a plainclothes unit in 2012. Over the next few years, SAO was informed about improper acts by Mr. Jenkins and his subordinates. In approximately 2014, after an investigation, SAO stopped using Mr. Jenkins and others as witnesses.

In 2015, Mr. Jenkins took over GTTF and brought other officers into the group, including Mr. Evodio Hendrix, Mr. Maurice Ward, and Mr. Marcus Taylor, who along with Mr. Jenkins and existing GTTF members Mr. Hersl, Mr. Momodu Gondo, and Mr. Jemell Rayam, became the "Dream Team." Due to turnover among assistant State's attorneys, SAO started calling Mr. Jenkins as a witness again. Concerned, Mr. Bates sought to take as many cases as possible in which Mr. Jenkins was a witness. In total, Mr. Bates handled 32 with Mr. Jenkins as a witness.

In 2015, there were 342 arrests by Mr. Jenkins and GTTF. Most of the arrests were for gun crimes. Of these arrests, 117 resulted in a guilty verdict, a 34% conviction rate. In 47 cases an entry of *nolle prosequi* was entered, 10 cases resulted in a not guilty verdict, and 18 cases were

placed on the stet docket. It seems odd that so many gun cases were being *nolle prossed*. According to Bates, the low rate of conviction sends a message to criminals that the “system is a joke” and that no one is going to be held accountable.

In 2016, Mr. Jenkins and GTTF made 200 arrests, a significant decrease from 2015. The conviction rate dropped to 25% with 66.5% of the cases dismissed. According to Mr. Bates, three factors accounted for the decrease in cases: (1) Mr. Jenkins went on paternity leave in October 2016; (2) On October 5, 2016, members of GTTF began to believe that they were under a Federal Bureau of Investigation (FBI) investigation; and (3) the “Harding effect,” so called for a client of Mr. Bates’s named Harding in which officers stop a person, take their money and/or drugs, and make no arrests. Body camera footage proved that this happened in Mr. Harding’s case, and Officer Rayam later testified in federal court that he gave the drugs that he took from Mr. Harding to a Philadelphia police officer who sold the drugs on the street.

Mr. Bates made a number of direct efforts starting in 2014 to address police corruption within the Baltimore criminal justice system. For example, Mr. Bates told an assistant State’s attorney that his client, who had been charged with drug possession, was willing to cooperate to testify about corrupt behavior of the officers involved in his case. However, the State’s Attorney declined the offer. In 2016, Mr. Bates and 21 other defense attorneys sent a letter requesting the court to compel SAO to release IAD files of another corrupt plain clothes police officer Fabien Laronde. They also sent a letter directly to SAO requesting the release of the files. They never received a response. Mr. Bates advised that he even directly confronted Mr. Jenkins after court one day about his corrupt behavior, but Mr. Jenkins merely denied the accusations. Mr. Bates also spoke with higher ups in BPD about Mr. Jenkins to no avail.

In another case involving one of Mr. Bates’ clients, GTTF targeted Mr. Albert Brown because he was an anti-violence worker for Safe Streets Baltimore. Mr. Brown was stopped for an alleged seatbelt violation. There was no body camera footage of the arrest, and the detectives later removed security camera footage from the nearby gas station. The detectives planted drugs and a gun in Mr. Brown’s vehicle. While Mr. Brown sat handcuffed in the police vehicle, the officer’s searched his house without a warrant. The detectives did not recover anything from the house, which was located across the street from the Western District police station. Mr. Bates’ testified that the assistant State’s attorney assigned to the case was so inexperienced that he did not understand that going into the defendant’s house without a warrant was a big problem for the case because it was damaging to the officers’ credibility.

Mr. Bates suggested that the commission subpoena IAD records that he has from him, because he is not permitted to voluntarily provide them under the confidentiality agreement that he was required to sign. Mr. Bates also suggested that the commission contact former Assistant State’s Attorney Molly Webb who, according to Mr. Bates, was aware of the problematic behavior of Mr. Jenkins and others and sought to do the right things to address it.

Bates's made the following recommendations to the commission:

- Modify the process for allowing access by defendants to IAD documents.

Under the current policy, defense counsel is entitled to any *information* in the files as opposed to any *documents* in the files. Therefore, defense counsel has to go to SAO to review the IAD file and take notes. A copy of the actual file is not provided, and defense counsel are not permitted to make copies. If SAO refuses to provide the IAD file, then defense counsel must petition the court to get copies of the individual officer's investigative file. This must be done for every officer in each case. The process is time consuming, duplicative, and inefficient. Furthermore, defense counsel must sign a nondisclosure agreement affirming that the information will not be shared.

Mr. Bates's recommendation is that this policy should be changed so that the State is required to proactively provide all exculpatory documentation to defense counsel that reflects negatively on an officer's veracity or shows prior bad acts. The burden should be on the State. SAO should be required to do mandatory training on this issue. The State should provide copies of an officer's investigative file 30 days from arrest. Information in an IAD file should be permitted to be used in all cases involving that officer. An online portal should be established with all officer IAD files that defense counsel can access.

- Publish comprehensive data.

BPD should maintain and publish all data involving an officer's arrests, charges, search warrants applied for and obtained, and instances which the exigent circumstances exception is used to meet the requirement for applying for a search warrant. Circuit courts should implement a tracking system for all criminal cases and the manner of disposition for the cases similar to the District Court. The circuit court should provide additional information including an individual's charges, what charges were indicted, guilty pleas, dismissed and not guilty counts, trial outcomes, and suppression hearing outcomes.

- Reestablish the Criminal Justice Coordinating Council.

The Criminal Justice Coordinating Council should be reestablished to include all criminal justice partners working cooperatively. Staff should be provided including an attorney, a data analyst, and a paralegal to analyze all crime statistics, and it should publish an annual report.

- Improve the search warrant process.

A system of checks and balances in the application process for search warrants should be implemented. Similar to the federal system, an application for a search warrant should be reviewed and approved by SAO before being submitted to a judge. All incidents where officers enter a residence without making an arrest and without a search warrant should be tracked.

- Other
 - SAO should improve training for all prosecutors, including training in identifying police misconduct and exculpatory disclosures.
 - All officers and supervisors who were in any way involved with members of GTTF should be thoroughly investigated.
 - The death of Mr. Walter Price, which occurred about a year after Mr. Price had a suspicious encounter with GTTF, should be investigated.
 - A compensation fund for victims of GTTF should be established.
 - Cameras should be allowed in the courtroom to promote transparency and accountability in the criminal justice system.

Mr. Bates concluded that corruption in the Baltimore criminal justice system is widespread and out of control and needs to be fixed. Mr. Bates believes the actions of GTTF and other corrupt officers have contributed greatly to the murder rate and violence rate in Baltimore City. Most officers and prosecutors do good work and want to do the right thing, but Mr. Bates believes that the system needs leadership and guidance and that the commission should provide that.

September 17, 2019 Meeting

Baltimore Police Commissioner, Michael S. Harrison, addressed the commission regarding the five-year Transformation Plan for BPD. Commissioner Harrison began by introducing BPD's newly appointed Deputy Commissioner of the Public Integrity Bureau (formerly known as Internal Affairs), Brian Nadeau. Mr. Nadeau discussed his background as a police officer for the first 10 years of his career, and then as an FBI agent beginning in 1997. Mr. Nadeau stated that his goal is to restore public integrity in the department.

Commissioner Harrison walked the commission through the Baltimore Police Crime Plan, which begins with a letter from him to the people of Baltimore declaring his commitment to have a fair and impartial police department. Commissioner Harrison explained that the plan centers around seven core focus areas – crime reduction, capacity, community, connectivity, compliance, culture, and communication. Communication is the linchpin that touches everything that the department does.

Commissioner Harrison stated that the first thing the department must do is fix its structure. BPD conducted an evaluation and found that a number of functions in the department are duplicative. Often, the duplicative functions did not coordinate with each other. There were people in the department with the wrong span of control; that is, they had too many or too few subordinates. Some people did not have the right skill sets to do the job to which they had risen. The department restructured to make sure everyone has the proper span of control. There is a single chain of command under each of the four deputy commissioners who in turn report to the

commissioner. They also created some new specialist positions such as chief financial officer, chief information officer, and academic director to bring the department in line with national best practices.

Commissioner Harrison explained that comprehensive violence reduction has many aspects and is based on national best practices. It involves recruitment and retention of more officers, technology enhancements, community engagement and support for BPD, smart deployment strategies, and compliance with the consent decree. The department analyzed five years of crime data in three categories – murders, armed robberies, and nonfatal shootings – to determine how many of these crimes had occurred and where they had occurred. They found that 5% of Baltimore City's geography was accounting for 33% of the crime in those categories. As a consequence, the department created microzones to reveal where officers should be and what tasks they should perform instead of evenly distributing officers throughout the city. The officers will spend short doses of time responding to crime periodically throughout the day while spending the remainder of their time engaging with the community. The department also looked at what days of the week and what times of day over a six-month period crime was committed to allow them to more intelligently deploy resources instead of guessing as they have done in the past. The goal of this program is that officers spend 60% of their day occupied by citizens' calls for assistance and 40% of their time on community engagement activities that foster and build trust.

The department has also put detectives, who had been centralized over the past few years, back into districts where they are working side by side with patrol officers and citizens who live in those districts. This enables the department to gain knowledge of who the bad actors are in the community.

Another part of the plan is civilianizing and professionalizing the department. A number of officers had been performing support roles such as secretarial, mechanical, mailroom, and information technology (IT), which is not an effective and efficient use of personnel. The department has begun the process of moving these officers into law enforcement functions and hiring civilians to fulfill the support roles.

Commissioner Harrison explained that the department wants to make its program robust by hiring certified crime analysts, who will tie people such as gang members together to help solve crimes. According to Commissioner Harrison, one crime analyst is worth three or four detectives in this function because a crime analyst can obtain affiliation information using computers instead of traditional policing methods.

Another element of the plan is to redesign Comstat. This is an accountability tool that looks at crime and crime deployment. It tells how well the commanders manage and lead their portion of the organization.

The department also plans to strengthen relationships with its partners – federal, State, and local – so that everyone can work as one team. The National Public Safety Partnership is a federal program to help local jurisdictions get better at information sharing and the use of resources and to learn best practices. This year, BPD was allowed to enter the program for the first time, and they are looking forward to what they will learn.

BPD will also build trust and a better relationship with SAO so that cases are as strong as possible. Weekly case reviews are held for serious cases. In addition, the department has hired an analyst to track cases and identify what happens in each case. Commissioner Harrison wants to make sure that the police department does not make mistakes that can jeopardize cases.

The Focused Deterrence Crime Fighting Model is a program that has been in existence, but the department is strengthening it. This program looks at data to determine the smallest subset of individuals that is committing the most violent crime. They bring these people in and offer them help and a pathway away from crime but let them know that they will be stopped with the full force of federal, State, and local law enforcement resources if they continue to commit crime.

The comprehensive multi-disciplinary violence reduction strategy involves connecting individuals to effective programs to prevent and respond to violence. All aspects of government should focus and coordinate their efforts in a comprehensive manner to address the five phases of crime fighting – prevention, intervention, enforcement, rehabilitation, and reentry. There are many factors that are not police-related that cause people to commit shootings that must be dealt with, such as poverty, lack of education, lack of employment, housing problems, mental health issues, and addiction. We cannot just put the burden on enforcement, it is necessary to have all sectors of the system working together to actually reduce violence.

The Baltimore City Consent Decree contains 18 requirements that must be accomplished. This is year 2 for the consent decree process, and the process is going very well. Year 1 was about policies. Year 2 is about policies and training. BPD is in the process of training the entire department in the use of force. Soon there will be training on stops, searches, and arrests.

Another aspect of the plan, burden reductions, involves moving the burden of manual work to electronic. BPD needs a new electronic system so that the department can get away from an outmoded paper system. In addition, BPD is in the process of converting the department's payroll system. In the future, the new system will provide capability for electronic police reporting, interviewing, warrant applications, auditing, citations, and ticketing. There is a detailed technology development plan.

Micro-community policing plans is another aspect of the five-year plan. This involves teaching citizens how to create community policing initiatives and plans that are unique to that district.

Deescalation and constitutional policing are also important parts of the plan. The goal is to make minimal use of force.

The plan also calls for a renewed focus on recruitment and retention. The goal is to have 50 people in each recruitment class. BPD has implemented RecruitSTAT to assist with recruiting. Despite the widespread perception that people are leaving the department, attrition has been steady for about 10 years. There is a cadet program to recruit teenagers to ultimately become police officers. Through the program, the cadets receive help to succeed in school, to stay out of trouble, and to meet other qualifications for the job.

Improving physical facilities is another part of the plan. A major improvement is that the police academy, which has been in somewhat of a state of disrepair, is being moved to a new location at the University of Baltimore.

The plan also includes expanding and improving officer safety and wellness programs.

Finally, Commissioner Harrison stated that he believes that leadership development is the key to long-term success. To this end, the department is adopting the Ethical Policing is Courageous (EPIC) program which was pioneered in New Orleans. This is a peer intervention system through which officers display loyalty on the front end by stepping in to prevent colleagues from committing bad acts before they happen.

October 17, 2019 Meeting

At the commission's October 17, 2019 meeting, the commission heard testimony from representatives of the Baltimore City CRB.

Presentation by the Baltimore City Civilian Review Board

Former CRB Chairman Bridal Pearson and current CRB Chairman George Bunton spoke on behalf of CRB.

Background Information about CRB

Mr. Pearson began his presentation to the commission by providing background information about CRB. Mr. Pearson noted that there are 14 members on the board: 9 of whom are voting members, each linked to a police district in Baltimore. The remaining members are subject matter experts who provide their expertise on an advisory basis.

CRB is authorized to investigate five categories of cases: abusive language; excessive force; false arrest; false imprisonment; and harassment. Mr. Pearson noted that CRB hopes to get these categories expanded. CRB is tasked with making policy recommendations to the department, but that function has not developed much.

Mr. Pearson stated that the current mission of CRB is to investigate police misconduct in Baltimore City. He explained that if an individual in the community believes they have experienced misconduct, that individual may file a misconduct complaint with either BPD or CRB. CRB then determines whether to wait for the IAD investigation or to initiate its own investigation. Once CRB receives a completed case, the board makes a decision as to whether the preponderance of the evidence suggests that the accused officer engaged in misconduct. If appropriate, CRB will make a nonbinding disciplinary recommendation to the police commissioner.

Mr. Bunton noted that CRB handles an average of 200 to 250 cases per year and that BPD's IAD can handle approximately 1,500 cases per year. With respect to investigations conducted by BPD and CRB, Mr. Bunton noted that in parallel investigations, the facts are generally the same,

but what differs is how BPD and CRB view those facts. Currently, all of CRB's investigators are former law enforcement investigators.

In response to a question, Mr. Bunton reported that CRB recently started maintaining a database on police misconduct.

Current Difficulties, Problems, and Possible Solutions

Mr. Pearson explained that CRB views one of its main problems as its lack of independence from the City Law Department. Mr. Pearson also noted that CRB has had difficulty obtaining records from Baltimore City and is unable to compel records to be turned over to it. Mr. Pearson reported that CRB was recently moved from under the City Solicitor's Office to under the mayor's office but indicated that this is not the independence that the members of the board had hoped for.

On the subject of other difficulties faced by CRB, Mr. Pearson indicated that the Law Enforcement Officers' Bill of Rights (LEOBR) presents difficulties for the board in reviewing, investigating, or subpoenaing police officers.

Mr. Pearson further indicated that the board has inadequate investigatory resources. Mr. Pearson explained that at one time, CRB was working with only 1.5 investigators. On the subject of funding, Mr. Bunton noted that he believed the consent decree recommended a \$15 million budget for an independent civilian board in the city. Mr. Bunton explained that New York was able to fund its civilian review board for approximately \$14 million each year. He reasoned that with Baltimore's size, Baltimore City should be able to adequately fund a civilian review board for significantly less.

Mr. Pearson indicated that he believed that civilian oversight should be statutorily woven into the formal disciplinary process at the investigatory and trial board stages.

Mr. Pearson noted that the civilian oversight board in New York receives a portion of the police department budget each year, and further opined to the commission: "[m]oney speaks to intentions, and if you're serious about really having true oversight then you need to put your money where your mouth is... you can't say you want these things and then not fund them."

Mr. Pearson observed that because of the history of misconduct by BPD officers and a sense of constant surveillance in their communities, the people of Baltimore City felt that the police were much like an occupying force in a war. Mr. Pearson noted that many in Baltimore were under constant stress and even relive the traumas they have experienced – almost vicariously – when misconduct comes to light in other parts of the country. Mr. Pearson indicated that people needed to see police officers in contexts other than those contexts in which officers were arresting civilians or "throwing someone to the ground." Mr. Pearson explained that police officers needed to be community partners and be present in, and feel connected to, Baltimore communities.

Mr. Pearson also observed that policies allowing for BPD to settle lawsuits with nondisclosure agreements were inconsistent with accountability and transparency.

Mr. Bunton indicated that in the last two years, he had seen more opposition from BPD regarding the existence of CRB than he had seen cooperation with the board.

Mr. Bunton also pointed out that there had been challenges in getting timely information from BPD, noting that BPD was statutorily required to provide CRB with misconduct investigatory materials within 90 days of a complaint. Mr. Bunton noted that BPD had often exceeded the 90-day deadline.

Mr. Bunton pointed out that police misconduct and disciplinary proceedings involved both instances of misconduct against civilians or involving civilian interaction but also involved violations of policy (e.g., an officer being out of uniform), noting that IAD was responsible for investigations of both categories of misconduct. Mr. Bunton suggested having a civilian review board or another independent body act as the active investigative authority in misconduct involving police-civilian interactions. He noted that disciplinary actions should be transparent and should be handled by an independent entity.

Mr. Bunton stressed that the current culture of policing is the problem. Mr. Bunton emphasized that Baltimore City needs trauma-informed care mixed in with its policing. He explained that many negative interactions have occurred when police arrive in situations where their presence is actually inappropriate and that officers are completely untrained to deal with these situations. He went on to note that these situations often involve people who are in crisis and in need of mental-health services. Mr. Bunton likened the presence of police in these instances to adding fuel to incendiary situations. Mr. Bunton expressed a desire to see the police budget be used to provide nonlaw enforcement responses to noncriminal situations.

Gun Trace Task Force

On the subject of GTTF, Mr. Pearson recommended looking to the structures and processes that allowed for GTTF to last for as long as it did. He noted that other individuals in BPD had to have known that something was wrong with GTTF officers. Mr. Pearson noted:

A lot of the people who looked the other way are still in the department. They don't just disappear after the people are arrested. The people who are arrested are arrested. There are other people who knew what was happening, and so I think that those people need to be sought out and released. Because every new person that comes into the police department is going to be, in some way, indoctrinated into that system.

Mr. Bunton noted that members of the community had been complaining about GTTF members for years. He said simply, "this was no secret in the community at all." He went on to note that while it was known what GTTF did, the scope and other parallel behaviors existing within BPD remained unknown, observing that such behaviors would only be revealed when another scandal came to light.

November 19, 2019 Meeting

At the commission's meeting on November 19, 2019, members from the New York City Civilian Complaint Review Board (CCRB) testified regarding their organization and its work with the New York City Police Department. CCRB staff included Ms. Yojaira Alvarez, Director of Outreach & Intergovernmental Affairs; Ms. Harya Tarekegn, Senior Counsel on Policy & Advocacy; and Ms. Jacqueline Levy, Director of Intake.

CCRB History and Structure

CCRB staff began with an overview of the board's background. CCRB is the largest such board and oversees the largest police force in the country, charged with investigating, mediating, and prosecuting allegations of police misconduct. The board has been independent since 1993, with 13 members (5 are approved by the mayor, 5 by the city council, and 3 by the city's police commissioner). Additionally, New York City police officers are required by law to provide official statements to CCRB. Details were provided about CCRB's memorandum of understanding with New York City; its organizational structure, which includes 90 investigators in 15 investigative squads; a training department; and a mediation team. CCRB also has a full IT department and legal staff.

Ms. Alvarez provided information about the organization's process and jurisdiction, which includes direct investigations of activity ranging from use of force, abuse of authority, and officer discourtesy and use of offensive language. She also noted that residents can file complaints at CCRB offices, local precincts, by mail, and by calling 311. The structure of complaint cases begins with intake and moves through a recommendation phase as investigators (who have subpoena power) present findings to a three-member CCRB panel. If the panel substantiates police misconduct allegations and recommends charges, the case is forwarded to the Administrative Prosecution Unit. Of the cases CCRB reviewed, about 22% of cases in 2018 had charges recommended.

Case Process and Outcomes

Four case dispositions are possible with the complaint either substantiated, unsubstantiated, unfounded, or with the police officer exonerated. Discipline recommendations consist of instructions, formalized training, discipline from their commander, or charges; cases are tried at police department headquarters at 1 Police Plaza in New York City.

Mediation, which occurs in about 10% of CCRB cases, is another option for complaint cases that gives complainants the ability to meet the police officer involved and discuss the incident. CCRB staff also conducts data analysis to determine trends regarding police behavior. There were other items noted regarding case trials, recommendations, and outcomes including the following.

- At cases where charges are brought, the trial takes place at police headquarters headed by a trial commissioner who are all attorneys on the police department payroll.

- During the process, the trial commissioner writes their case recommendation and sends it to the police commissioner for review who can then accept or reject. Differing decisions are recorded in CCRB's report. In addition, the Commission to Combat Police Corruption oversees the discipline process regarding internal affairs corruption investigations.
- Police officers are required to respond to CCRB for questioning and receive several days' notice, while body camera footage turnaround time is 20 days.

CCRB Transparency and Outreach

Ms. Tarekegn provided additional information about CCRB complaint statistics and data initiatives. The board issues 12 reports per year and has transparency initiatives that include complaint data, patterns, demographic data, and best practices, which are published online. Quarterly Administrative Prosecution Unit case reports are also published and deal with the most serious complaints of officer misconduct. Ms. Tarekegn noted that while officer misconduct with residents is their focus, they also interface with other agencies and stakeholders that deal with police corruption similar to that which was found in Baltimore's GTTF.

Ms. Alvarez continued with information about CCRB outreach and partners including after school and youth-oriented programs; educational, religious, and community institutions; and legal groups including various bar associations and public defender organizations. Ms. Alvarez indicated that recent changes in the CCRB charter have helped increase the agency's size, budget, and efficiency. Additionally, charter changes require that the police commissioner provide a written explanation to the board if they intend to depart from the CCRB recommendation in any given case.

Additional CCRB Information: Budget, History, and Staff

In response to a question, Ms. Alvarez stated that the CCRB budget is \$16 million, or about 0.27% of the New York City Police Department budget. In terms of the Maryland LEOBR, CCRB staff stated that officers have due process as well as rights to mediation, with both officers and civilians allowed to bring union or any other legal representatives.

In response to a question about agency history, CCRB staff noted that the riots of Thompson Square Park in 1993 resulted in national public discourse on police misconduct that led to the full independence of CCRB. In terms of case processing time, staff noted that there is a statute of limitations of 18 months with small investigations taking 3 months and standard investigation taking 6 months. CCRB staff discussed the fact that body-worn camera evidence has resulted in some investigative delays because CCRB does not have direct access to camera footage.

Additionally, the police department's internal affairs has concurrent jurisdiction over complaint cases with use of force reports starting at either organization and then shared. It was noted that the police union spend significant funds to keep civilian board members from having a vote on complaint decisions.

In response to questions about CCRB employees, staff indicated that all of its investigators have varied backgrounds with many having degrees or experience in criminal justice. CCRB investigators attend a six-week program as well as a police department training academy. Both organizations also participate in a shared working group to refine and develop consistent and proper training.

Information on Police Practices and Future Recommendations

Regarding stop and frisk, police are required to request consent, leave a card in case of complaints, and explain their actions to the person who has been stopped. While a federal monitor is in New York City investigating stop and frisk procedures, CCRB received 862 stop and frisk complaints in 2018. In these cases, command discipline can range from a reduction in officer vacation days to allowing complaints to remain on an officer's record. (Although some of these complaints, at the least restrictive sanction level, can be removed from an officer's record after three years.)

CCRB noted that they report comprehensive stop and frisk information in their annual report. Regarding current police practices and future recommendations, CCRB staff indicated that there are several areas where additional transparency would help them close complaint cases in the following areas:

- full civilian review board access of police body camera footage, which would close significantly more cases;
- receiving explanations for deviation in discipline among police officers;
- an opening of police disciplinary records, which according to New York law are private; and
- additional funding for civilian investigators.

In terms of developing the relationship between CCRB and police, Ms. Tarekegn stated that they invite local commanding officers to be present at community concern meetings with a goal to ensure that police are in the community to render aid and enforce the law but not reiterate that the police are not above the law. Ms. Tarekegn mentioned that, due to the lack of transparency with police disciplinary records, it is difficult to show the public the total numbers of officers with misconduct issues. Regarding transparency in police misconduct cases, CCRB collects data on civil actions including judgments, lawsuits, and money awarded.

In response to a question, CCRB staff stated that police departments in Chicago, Denver, and Washington, D.C. were all solid examples of reform. Examples given included Washington, D.C. review agencies' access to body camera footage; Chicago's police oversight agency, COPA; and Denver, in terms of its civilian collaboration with the city police department. A last recommendation noted that Maryland could benefit from a relationship with the National Association for Civilian Oversight of Law Enforcement.

December 3, 2019 Meeting

At the commission's meeting December 3, 2019, several invited officials testified regarding police issues in Baltimore and offered information regarding GTTF. Mr. Michael R. Bromwich, Senior Counsel at Steptoe & Johnson, was a former federal prosecutor and former U.S. Justice Department inspector general. In October 2019, he was hired by BPD to head an internal investigation of GTTF.

Mr. Bromwich began with general remarks about his background investigating law enforcement agencies, including his work as an independent monitor of police forces in, Chicago, Houston, and Washington D.C. He also noted that his investigation of BPD and GTTF was an item that was strongly recommended by Judge Bedar who is overseeing the Baltimore City consent decree with the Justice Department and that his investigation was completely independent, with no set time limits or budget constraints.

GTTF Investigation: Scope and Activities

Mr. Bromwich continued to inform the commission of the scope of the investigation (likely going back as far as 2000) and what he is looking for. He noted that while his focus would be on GTTF, there were other instances of misconduct within the department that established a pattern of behavior and that he would be looking to explore multiple key items beyond the Justice Department's consent decree with Baltimore including the following:

- full interviews with previous commissioners;
- the creation of GTTF and its original mandate;
- the original officers in GTTF, their hiring, supervision, training, and oversight; and
- a full history of GTTF activity including specific personnel and use of force records.

Mr. Bromwich also spoke of finding any and all staff within BPD who knew or should have known about illegal activity within GTTF.

In response to a question, Mr. Bromwich indicated that he was considering posting interim updates regarding BPD recommendations to keep the public aware and that he would bring any urgent issues to the forefront immediately to both BPD, the Baltimore City solicitor, and other key stakeholders. He noted that his team would look at other issues within BPD, including other specialized BPD units and various structural issues, and that it would take more than one year to deliver a full report, which should be made fully public. Additional issues discussed included BPD leadership, a culture of obeying the law, and accountability.

In terms of subpoena powers, Mr. Bromwich stated that he did not have them but was ready to partner with the commission, the Baltimore Inspector General, or any other party that could accomplish this. He also did not yet have information on GTTF officers' backgrounds.

Other Police Departments, Transparency, and Tools

In response to a question about other police department success stories, Mr. Bromwich mentioned Pittsburgh in the 1990s and its early warning system regarding officer behavior and Los Angeles, where a consent decree and reform were successful in 2000. It was noted that early warning systems are difficult to implement. The need for IAD and structural capability to identify officers before serious incidents is key. Additionally, Mr. Bromwich spoke of the challenge of ensuring that IADs and officers are not stigmatized within police departments.

Regarding information sharing, Mr. Bromwich met with SOA to understand the background behind GTTF-related incidents as well as complaints about officers within various Baltimore communities. He also mentioned the importance of establishing a link to the community in all cases and mentioned the importance of community services to improve relations with the police, which were particularly successful in Los Angeles. Mr. Bromwich had not yet considered the creation of a public website to publish information about his investigation, had not yet made a decision about assessing civilian review boards, and stated that there is no current evidence that BPD or any other agency has conducted any GTTF investigation to date.

In terms of relevant tools, Mr. Bromwich indicated that various police department success stories have involved the utilization of the CompStat system that originated in New York City. Toward the end of the segment, he indicated that interfacing with the community to obtain more recommendations, particularly about community groups that his team could work with going forward.

State's Attorney's Office

The Honorable Marilyn Mosby, State's Attorney for Baltimore City, testified regarding the history of GTTF and introduced herself and her department's work in terms of police corruption in BPD. In terms of statistics, Ms. Mosby mentioned that her office had 41 officers charged with a 63% conviction rate. They also expanded criteria for IAD disclosures, had unrestricted access to IAD files, and provided a list of officers with allegations and sustained findings and reviewed over 2,800 cases. This activity resulted in the vacating of hundreds of convictions related to GTTF and creating an exclusion list of officers who should not testify in cases.

Vacating GTTF-related Cases

For a GTTF materiality assessment, her office added new staff to review those 2,800 related cases that date back to 2008. If a GTTF officer was material to a particular case, they had to look at cases again. Because of a new agreement with Baltimore City, Ms. Mosby's office used the open internal affairs records and has the latitude to have defense counsel review these documents at SAO. Since 2018, nearly 5,000 cases have been reviewed with nearly 200 defense attorneys using the documents that could conceivably provide impeachable evidence of certain police officers. Overall, SAO has identified over 300 officers with integrity issues, mainly regarding allegations of theft, planting evidence, corruption, or fraud.

In approximately 20% of the disputed GTTF cases, judges denied Ms. Mosby's office joint motions to dismiss cases. As a result, new legislation was passed that allowed SAO to vacate; 200 motions have already been filed with most granted, with an additional 800 cases that they would like to vacate (Chapter 702 of 2019).

Other State's Attorney's Office Activities and BPD Issues

Ms. Mosby noted that her office was willing to assist BPD with their body camera division; however, all training has to go through the consent decree process. She indicated that the instability in BPD leadership has led to a delay in this assistance.

In response to a question, Ms. Mosby indicated that her office did not want to move prematurely in excluding any officers from testimony but that the BPD has a specific record of patterns and practices that have been problematic. At the time, there were no items on her office's legislative agenda regarding police corruption.

Ms. Mosby and her staff mentioned her office's activities in terms of training. The attorneys start in the evidence unit to understand body cameras and the interplay with policy integrity, to see search and seizure practices, standards regarding probable cause, and training to spot inconsistencies in police behavior in a case. They require these assistant state's attorneys to work within this system and identify if any case probable cause statement is consistent with what is on the incident body camera footage. They then follow-up with IAD of BPD if there are any discrepancies.

Ms. Mosby mentioned that there has been a culture shift, from her office's attorneys going for convictions to now pursuing justice, which has resulted in pushback from police organizations. In response to a question about the Criminal Justice Coordinating Council, which was designed to share information between Baltimore City and State law enforcement stakeholders, Ms. Mosby noted that the organization was now defunct. Despite this, her office continues to meet with partners on a regular basis and has biweekly calls between law enforcement and her office.

Police Body-worn Camera Issues

Regarding body cameras, Ms. Mosby noted that there were a variety of issues including police conducting reenactments with the cameras, using other officers' body cameras, and a failure to turn body-worn cameras on or failing to report officer misconduct. In terms of misconduct allegations against officers from other officers, Ms. Mosby noted that those cases rarely resulted in investigations or charges against other officers and that some officers with false statement or probable cause issues are still working for BPD.

Baltimore City Police Department Public Integrity Bureau

Mr. Nadeau, a former FBI chief of public corruption, testified regarding his new position as deputy commissioner in charge of the Public Integrity Bureau which oversees BPD officer misconduct. Mr. Nadeau opened with a discussion of how his office is beginning to add staff and

addressed over 1,500 cases, and the fact that are working with Mr. Bromwich and his independent staff. He testified regarding changes and priorities in several key areas for his office:

- **(LEOBR:** LEOBR allows 1 year to complete investigations; he wants to move quicker – 90 days when possible.
- **Preliminary Discipline:** In these cases, detectives will review cases, body cameras, and other case items to uncover potential police violations. An expedited resolution process would allow an officer can agree to punishment for minor offenses (such as stolen property).
- **Staffing Study:** A study is being conducted; attorneys will be embedded in Mr. Nadeau's office.
- There is a backlog of 93 police misconduct internal cases to be adjudicated with 20 of those cases scheduled for a hearing.

In addition, the Public Integrity Bureau was working on changing their disciplinary process to be more streamlined but fair as well as a change in training. Mr. Nadeau noted that BPD needed more consistent standards in line with the U.S. Department of Justice (DOJ) and needed to reduce the number of minor violations (including roll call violations) to focus on the more important violations. He also indicated EPIC training would be forthcoming and would motivate officers to police one another and allow graduates to wear a pin that shows that they are open to other officers' critiques on their behavior.

Police Training and Early Warning System

In response to a question, Mr. Nadeau stated that all of the new policies and training areas have been effective, but the volume of complaints means that they need a faster process for investigations as well as a review of officers at intake to look for patterns of offenses in the training or individuals. Regarding the BPD consent decree with DOJ, Mr. Nadeau stated that the entire process will take time as they wait for final recommendations. He mentioned that they are doing additional activities such as send letters to complainants, update the public regarding their complaints, and using cadets (under age 20) to greet complainants.

Mr. Nadeau stated that while officer integrity tests have not started yet, his office is starting an early warning/intervention system around officer behavior until they are able to update the process to an online data system, with vendors presenting this month. The system will also look for officer overtime issues, scheduling, and behavior patterns. Mr. Nadeau noted that there were 300 officers with integrity issues on a list from SAO and that his office was trying to work through and investigate the items on the list. In response to a question, he also stated that there are no officers who made false statements still employed by BPD, and officers with particular complaints will go through mandatory retraining. In terms of integrity reporting, officers can send anonymous messages to his office or complete a walk-in report.

Officer Integrity List

Regarding the State's Attorney's list identifying over 300 officers as having integrity issues, Mr. Nadeau stated that while BPD was concerned about 22 of them testifying, nothing would prohibit the rest of the officers from testifying or doing their jobs properly. In addition, he noted that the relationship between SAO and BPD needs to be open and transparent.

Additional Activities

Mr. Nadeau stated there were no specific department wide policies or legislation that his office was pursuing to address police behavior. BPD Director of Government Affairs Michelle Wirzberger added detail regarding BPD's efforts to revitalize processes including a new written curriculum, scenario-based/use of force training, community relations, and the new police training academy at the University of Baltimore. Ms. Wirzberger described how new use of force policies had just been introduced, along with searches and arrest training. It was noted that requiring officers to serve a rotation within IAD is under discussion and that a legislative agenda was being worked on that would address some of the training issues. Mr. Nadeau confirmed that his office would provide the commission with information regarding legislation, data on "whistleblowers," or officers who are reporting on other officers.

Public Testimony

During the public testimony segment, Mr. David Rocah, a senior staff attorney from the American Civil Liberties Union (ACLU) of Maryland, testified regarding transparency in officer misconduct. Mr. Rocah noted that the MIPA states that police records are personnel records and therefore not open to public review. He stated that the majority of states (32) do not have this exclusion and that nothing major has changed in those states that would make this type of transparency a problem. ACLU is looking for these rules to change and to treat IAD records (and all public employees' records) as part of the investigatory record, subject to public review within discretion, and with the ability by BPD to redact information in cases of absolute need. In conclusion, Mr. Rocha stated that police departments are unique in their interaction with citizens in that physical contact and civil liberties conflicts are possible and therefore should be addressed.

There were two other testimonials from citizens who asked for increased funding for new police training regarding mental health issues and de-escalation.

January 27, 2020 Meeting

At the commission's January 27, 2020 meeting, speakers from BPD and the Commission on Accreditation for Law Enforcement Agencies testified before the Commission.

Presentation by the Baltimore Police Department

Ms. Michelle Wirzberger, the Department's Director of Government Affairs, and Mr. Paul Mincarelli, of the Department's Consent Decree Implementation Unit presented on behalf of the Department.

Mr. Mincarelli provided a review of BPD's current status in implementing the 2017 Federal Consent Decree between BPD and DOJ, and BPD's planned future implementation. Mr. Mincarelli explained that BPD was currently entering its third year of implementing the consent decree. He noted that early in the implementation process there was a great deal of "scaffolding" around BPD's reform process, primarily around policy development, policy revision, adopting the language of the consent decree and placing that language in the policy, mission, and values of BPD, and then translating this into training.

Policy Developments and Resources

The consent decree is divided into roughly two dozen areas of reform. One of the key areas in the first two years of implementation was reform to BPD's Public Integrity Bureau (PIB). Mr. Mincarelli reported that BPD had developed and adopted a member-involved sexual misconduct policy, a PIB investigations manual, a PIB complaint intake and classification manual, and a minor misconduct violation policy.

The sexual misconduct policy was released for public inspection comment and approved by the independent monitoring team in November 2019. Mr. Mincarelli reported that, at the time of the January 27, 2020 meeting, BPD had yet to train its PIB investigators on the policy but that the policy would become effective once training was completed.

The investigations manual standardized how complaints, from both within and outside of the department, are investigated. The investigations and intake classifications manuals represented a consolidation of policies that were not previously available in centralized resources.

Mr. Mincarelli advised the commission that BPD had also developed a policy providing for the resolution of minor misconduct violations. The policy was designed with the goal of meeting a consent decree requirement that minor misconduct violations be resolved within 90 days. Mr. Mincarelli advised that prior to the adoption of this policy, a lack of standardization in resolving minor misconduct violations could result in these matters going unresolved for as long as a year.

Third-year Monitoring Plan and Priorities

Mr. Mincarelli reported to the commission that BPD's third-year monitoring plan was open for public comment. BPD expected that the monitoring plan would be finalized in February 2020, setting forth the roadmap for the third year of implementing the consent decree.

As part of the monitoring plan, BPD anticipated developing a PIB/CRB Investigation Cooperation Protocol providing for interaction between PIB and CRB. Following this PIB and CRB would be trained on the protocol in partnership with Roger Williams University.

Mr. Mincarelli advised that BPD planned to begin requiring the following training for all active duty officers in its third year of consent decree implementation:

- stops, searches, arrests, and fair and impartial policing (16 hours);
- mental health first aide and sexual assault response (16 hours);
- fair and impartial policing and use of force (16 hours);
- ethical policing (8 hours);
- crisis Intervention Team dispatcher training (8 hours); and
- crisis Intervention Team officer training (40 hours).

Mr. Mincarelli advised that BPD continues to send personnel to Los Angeles to learn best practices from the Los Angeles Police Department's (LAPD) training unit. BPD trainers have completed LAPD's Academy Instructor Certification Course and observed a Police Sciences Leadership class. BPD had recently hired qualified law instructors to facilitate training on stops, searches, and arrests.

Training Academy Relocation and Training Changes

Mr. Mincarelli reported on the recent relocation of the BPD training academy to the University of Baltimore. Mr. Mincarelli described the new facility as a "modern, adult learning centric building in which the future of Baltimore police officers can be shown the new vision of the department." He advised that the new recruit class began training on January 12, 2020, in the new facility but advised that a complete transition to the new facility would occur in stages because the facility was not yet fully complete.

Mr. Mincarelli informed the commission that changes have been made to how BPD officers are trained. Earlier training methods largely took place in a lecture style, PowerPoint driven format. In 2019, BPD changed its approach to training to what Mr. Mincarelli described as a collaborative format in which officers are given challenging concepts in which officers must use critical thinking to tie together the core principals of policing. Mr. Mincarelli advised that, in response, BPD had received overwhelming positive feedback from officers with indications that the training was unlike anything the officers had ever received through the department before.

Ms. Wirzberger observed the importance associated with BPD's construction of a new training academy. Ms. Wirzberger indicated that the old academy facilities were not adequate but noted that "the training academy is the window to the department. What it shows the new recruits

is how the department views training, how it views them, and it sends that same message to our officers who are going through in-service training.”

Mr. Mincarelli advised that all supervisors regardless of rank are now required to attend trainings. He explained that certain ranks were previously exempt from attending trainings but were now required to receive instruction in the same classrooms as other officers.

Mr. Mincarelli noted that all training materials are piloted to a Curriculum Review and Training Committee, which includes representatives from all council districts, BCSAO, the Office of the Public Defender, and community organizers. These individuals receive the same training provided to BPD officers and are given an opportunity to provide feedback.

Baltimore Police Department Staffing

Mr. Mincarelli acknowledged that the only way for BPD to achieve the requirements of the consent decree and necessary reforms is to have adequate staffing. In 2019, BPD conducted a staffing study and released a staffing report with recommendations. The report showed areas of the department that needed to be civilianized, where more officers were needed, and where officers could be transferred.

Ms. Wirzberger advised that, with respect to recruitment, BPD was targeting specific demographics for recruitment, including residents of Baltimore City, women, and persons of color. During the commission meeting, Ms. Wirzberger showed a series of new recruitment videos that BPD had developed.

In response to a question, Mr. Mincarelli noted that BPD was facing competition with other neighboring jurisdictions in hiring recruits. Mr. Mincarelli noted that BPD did offer potentially more opportunities with respect to available job roles at the department than neighboring jurisdictions could.

In response to a question regarding attrition from the department, Ms. Wirzberger advised that BPD’s human resources department was working to determine what factors motivated officers to separate from BPD. Ms. Wirzberger advised that working conditions and fair access to promotions were factors that had been identified as contributors to attrition. Ms. Wirzberger indicated that BPD was also working to secure funding to update its facilities, and that Commissioner Harrison was working to ensure that promotions occurred in a fair and equitable way.

Presentation by the Commission on Accreditation for Law Enforcement Agencies

Following the presentation from BPD, the commission received a presentation from Mr. W. Craig Hartley Jr., the executive director for the Commission on Accreditation for Law Enforcement Agencies (CALEA).

History and Background Information about CALEA

CALEA was created in 1979 as a credentialing authority by law enforcement associations including: the International Association of Chiefs of Polices; the National Organization of Black Law Enforcement Executives; the National Sheriffs' Association; and the Police Executive Research Forum. CALEA's purpose was to improve the delivery of public services through standards and accreditation programing.

Mr. Hartley noted that at the time of CALEA's creation, the United States was enduring a time in which many communities had lost trust in their police forces. CALEA's founding organizations sought to examine how police professionals could re-instill confidence in the communities they served. One of the recommended strategies was to institute an accreditation process that promoted standards that would restore community confidence. In the time that followed, CALEA began the independent development of standards and best practices in policing. CALEA awarded its first accreditation to a police department in 1984. Mr. Hartley noted that today CALEA provides accreditation to law enforcement agencies in the United States and multiple other countries.

As part of it's accreditation process, CALEA monitors the compliance of law enforcement agencies in executing its standards. Mr. Hartley explained that CALEA does not tell law enforcement agencies how to come into compliance with CALEA standards but does communicate what the standards are for compliance. This enables an agency to adopt policies that suit its individual needs.

CALEA is a 501(c)(3) nonprofit entity, governed by a 21-member board including law enforcement practitioners and subject matter experts. CALEA currently offers four accreditation programs: law enforcement accreditation; public safety communications accreditation; public safety training academy accreditation; and campus security accreditation.

Mr. Hartley advised that participation in CALEA accreditation is strictly voluntary. Approximately 6% of law enforcement agencies in the United States have received CALEA accreditation.

Mr. Hartley advised that CALEA thoroughly researches the standards it promulgates and tries to link these standards to evidence-based practices and relies on feedback from subject matter experts. CALEA's current work includes the development of standards for decertification of police officers, social media policies, and case analysis for improving future outcomes.

Accreditation

Accreditation through CALEA is a multi-phase process consisting of five phases to accreditation: enrollment; self-assessment; assessment; commission review and decision; and maintaining accreditation.

During the enrollment phase, CALEA provides orientation and information about the accreditation process to the agency seeking accreditation. Following the enrollment phase,

law enforcement agencies enter a self-assessment phase in which the organization assesses its adherence to standards promulgated by CALEA. Following the self-assessment phase, CALEA staff coordinate with the law enforcement agencies to perform their own assessment to ensure compliance and engage in public hearings and discussions with community members and criminal justice stakeholders to get a sense for how law enforcement agencies develop their services from a broader community justice services spectrum and whether policy changes have resulted in desired outcomes. Following the assessment phase, CALEA conducts a review of the assessment and determines whether to issue accreditation. CALEA accreditation is valid for a period of four years. Law enforcement agencies are subject to ongoing reviews to ensure continued compliance after receiving accreditation.

The accreditation process examines aspects of a law enforcement agency including organizational structure, human resource processes, equipment needs, training, employee resources, and overall health and safety of the work environment.

Mr. Hartley emphasized that participation in CALEA accreditation must be voluntary on the part of law enforcement agencies and that policy changes are entirely possible without going through an accreditation process. Mr. Hartley explained that CALEA's function is largely to help monitor and help law enforcement agencies follow through in what they have set out to do in improving policies and adopting best practices.

In response to a question, Mr. Hartley acknowledge that CALEA has experience working with law enforcement agencies under consent decrees to attain accreditation.

August 3, 2020 Meeting

On August 3, 2020, the commission met via Zoom and received testimony from representatives of BPD. One BPD representative, Eric Melancon, provided remarks to the commission and an overview of BPD's Crime Reduction & Departmental Transformation Plan. The plan provides a review of BPD's activities during the period from July 1, 2019, through June 30, 2020, relating to:

- citywide crime statistics;
- resource management;
- efforts to strengthen local, State, and federal partnerships;
- major police academy investments;
- professional development and training;
- major events managed by BPD;

- the utilization of data-driven tools and strategies in operations;
- officer safety and wellness;
- the reform of the Public Integrity Bureau; and
- ongoing reform through the consent decree.

Mr. Melancon advised that BPD has reduced overtime by 20% to 30% overall, and is looking forward to further reductions in the next fiscal year. In response to a question, Mr. Melancon noted that much of the overtime reduction came from redeployment of resources, elimination of ineffective initiatives, and setting district overtime budgets and overtime pre-approval requirements.

In addition, Mr. Melancon advised that BPD is in the process of moving into a new training facility at the University of Baltimore. He advised that the major investment in the police academy is crucial to ensure “world-class” quality training of BPD officers.

In response to a question about BPD’s goals with respect to training in light of the possible legislative and policy changes that lay ahead in response to the death of George Floyd, Mr. Melancon indicated that the use of force and search and seizure training had already undergone significant revision to reform these areas of police work. He added that BPD’s goal is to become a model for best practices in training.

Mr. Melancon further advised that in the last fiscal year, BPD provided across-the-board training to officers in updated use of force policies. He explained that the training emphasized core values, and specifically noted that the policies examine what is justifiable in a given situation, and also what is actually necessary.

In response to a question, Mr. Melancon noted that a culture of accountability is necessary to reduce the risk of future criminal enterprises within BPD. He stated that any future incident would need to be judged by BPD’s speed and efficacy in responding. The aspect of department training known as EPIC emphasizes proactive detection and prevention of misconduct and dishonesty by emphasizing a culture of transparency, accountability, officer assistance, and intervention. Mr. Melancon stated that BPD needs to have resources available to implement and develop training and practices that facilitate these culture changes.

In response to another question, Mr. Melancon noted that the department intends to grow its public integrity unit as it increases staffing, but must do so without negatively impacting the department’s staffing for law enforcement objectives.

Mr. Melancon noted that the COVID-19 pandemic has presented challenges to training and recruitment, but felt that BPD had successfully navigated these challenges. He added that BPD projects to have 9,000 applications for positions with the department, and is making efforts to recruit Baltimore City residents. He noted that the COVID-19 pandemic has not hindered or held the department back in meeting its objectives. In response to a question, Mr. Melancon noted an

emphasis to hire bilingual officers. He added that challenges to hiring bilingual officers includes competition with other departments in recruitment; however, the department is looking at pay incentives to attract bilingual officers. In response to another question, Mr. Melancon stated that BPD's staffing plan requires 2,785 sworn officers employed, while the department currently employs about 2,450 officers, including trainees. Mr. Melancon emphasized that BPD understands that staffing goals will not be met immediately, and consequently must focus on both attracting and retaining talented officers.

BPD Chief of Legal Affairs, Lisa Walden, also testified before the commission. Ms. Walden provided an overview of the current status of the consent decree. She stated that BPD was unable to hold a hearing in April because of COVID-19; however, a public hearing had been recently held. She noted that the meeting had been reframed in light of the issues brought to the forefront by the death of George Floyd. Ms. Walden further indicated that Judge Bredar made remarks at the public hearing and noted BPD's progress under the leadership of Police Commissioner Harrison. The meeting also addressed BPD's policies relating to the protection of First Amendment rights, use of force, ethics, the issuance of the first-ever BPD community policing plan, and efforts underway to improve response to behavioral health issues. Additional issues addressed at the hearing related to training, technology, integrity, and staffing.

BPD Director of Government Affairs, Michelle Wirzberger, also addressed the commission. Referencing the June 22, 2020 letter sent to the commission by Ms. Kristin Blumer, Chief Solicitor for the Baltimore City Department of Law, Ms. Wirzberger noted that the letter outlined specific recommendations for changes to the Law Enforcement Officer's Bill of Rights (LEOBR), that BPD feels will allow swift and fair discipline of officers.

In response to a question about LEOBR, Ms. Walden addressed certain instances in which BPD delayed completing disciplinary proceedings against officers under the LEOBR disciplinary process. Ms. Walden disputed that delays relating to officer discipline were solely a result of BPD's management, but acknowledged that there were many reasons why a case could be delayed. She argued that it would be acceptable to allow termination of an officer convicted of a misdemeanor without using the existing trial board process. Commissioner McLhinney noted that many departments currently pursue decertification of an officer convicted of a criminal offense through the Maryland Police Training and Standards Commission as a means of circumventing the trial board process. Mr. Melancon noted that altering LEOBR to enable termination without a trial board for officers convicted of misdemeanors would guard against inconsistent results where the officer is found criminally liable, but is nevertheless acquitted by a disciplinary trial board. In response to additional questions, Mr. Melancon acknowledged that some past disciplinary delays had been avoidable, such as delays associated with officers who had gone on leave due to stress and medical reasons. He indicated that the department continues to reevaluate these practices.

Following testimony of the BPD representatives, the commission was briefed by its legal counsel, Peter Keith and Meghan Casey, on the progress of the commission's investigation. Mr. Keith noted that his firm is in the process of reaching out to additional witnesses and producing an officer survey. In addition, Mr. Keith noted that criminal prosecutions of GTTF members and conspirators is still ongoing, and speculated that more indictments could be made before or after the commission finished its work. Mr. Keith observed that thus far, the commission's investigation

had not revealed that anyone above the rank of sergeant was aware of, participated in, or had been charged in relation to the crimes perpetrated by GTTF. Mr. Keith also noted that several civil suits against Baltimore City had been filed in relation to GTTF's misconduct, and that these suits have a potentially significant impact on the city's finances.

The commission then generally discussed potential recommendations for its final report.

August 24, 2020 Meeting

On August 24, 2020, the commission met to discuss possible statutory and policy changes to restore trust in policing. The commission discussed recommendations in more detail.

Mr. Michael Davey of the Law Offices of Schlachman, Belsky & Weiner testified before the commission. Mr. Davey wrote to the commission to raise issues with the recommendations for amendments to LEOBR suggested by Ms. Kristin Blumer, Chief Solicitor for the Baltimore City Department of Law.

In his testimony to the commission, Mr. Davey noted that LEOBR has statewide application, but stated that he believed Ms. Blumer's recommendations (referred to in his testimony as BPD Commissioner Michael Harrison's recommendations) unintentionally created an appearance of BPD speaking on policing issues for all law enforcement throughout the State, which it was not appropriately positioned to do given the large number and great variety in sizes and common experiences in policing and personnel issues of law enforcement agencies in the State.

Mr. Davey noted that certain groups had recently begun to incorrectly advocate that LEOBR was the source of policy issues relating to access to internal affairs records and qualified immunity. Mr. Davey explained that these groups seemed to use LEOBR as a "scapegoat" to push their own agendas. By way of example, Mr. Davey indicated that an employee of the Baltimore City Office of the Public Defender had asserted to the press that he or she was unable to obtain a police officer's internal affairs record because of LEOBR. Mr. Davey advised that the assertion was a complete misstatement of the law.

On the subject of Ms. Blumer's recommendations, Mr. Davey addressed each recommendation as noted below.

- Regarding BPD recommendation that § 3-107(a)(2) of the Public Safety Article be amended to authorize discipline, including termination, without a hearing for a law enforcement officer convicted of or who receives probation before judgment for a misdemeanor or felony. Mr. Davey asserted that adding misdemeanors to the statute would expose law enforcement officers to termination without a hearing for a significant range of offenses. He also noted that this recommendation did not specify whether it was intended to be applicable in the case of a misdemeanor committed by an officer while off duty. Mr. Davey also expressed his opposition to the recommended change authorizing discipline without a hearing for a law enforcement officer who accepts probation before

judgment given that State law generally does not treat a probation before judgement as a conviction.

- Regarding BPD recommendation to amend LEOBR to authorize the head of a law enforcement agency to terminate an officer who is charged with a felony or misdemeanor, or is highly likely to be so charged pending a review of the evidence, in the days immediately following a criminal incident, Mr. Davey noted that such a policy change would have a major impact on the due process rights of law enforcement officers. Mr. Davey explained that a law enforcement officer, as a public employee, has a due process right to his or her employment under the Fourteenth Amendment to the United States Constitution. Mr. Davey further explained that the Fourteenth Amendment's prohibition on depriving a person of life, liberty, or property without due process of law has been interpreted by the United States Supreme Court to apply in the context of public employment, with the Court holding that public employees hold a property right in their jobs. Mr. Davey asserted that such a policy would, in his view, clearly violate constitutional due process rights, and further noted that enabling the head of a law enforcement agency to terminate an officer if it was only *highly likely* that the officer would be charged with a misdemeanor or felony would create a highly subjective standard.
- Regarding BPD recommendation to expand the ability of a law enforcement agency to suspend officers without pay to include certain misdemeanors or other non-criminal violations that would lead to termination, Mr. Davey speculated that such a policy could be applied in a way in which a law enforcement agency might, by default, suspend without pay any officer accused of a potentially terminable offense regardless of the facts or severity of that conduct. Mr. Davey explained that certain disciplinary charges carry a wide range of possible consequences. As an example, Mr. Davey noted that in Baltimore City, the disciplinary matrix used by BPD includes seriousness categories or grades ranging from A to F, with A-type violations potentially resulting in the issuance of a counseling form to an officer and F-type violations potentially resulting in termination. Available discipline outcomes depend on the seriousness category, Mr. Davey observed that a large number of disciplinary charges include possible discipline in all of the categories depending on the underlying facts of a given situation. Mr. Davey went on to say that this type of policy is particularly unfair given that the officer may ultimately be exonerated.
- Regarding BPD recommendation that provisions of § 3-108 of the Public Safety Article be amended to give the chief of the law enforcement agency greater discretion in the management of his or her agency post-trial, and giving a law enforcement agency the ability to challenge the exoneration of an officer by a hearing board that did not follow the evidence, Mr. Davey noted that such a change would deprive an officer of due process. Mr. Davey explained that the law enforcement agency is responsible for selecting the members of the hearing boards that decide disciplinary cases, and suggested that it would not make sense to then allow the agency to overrule a board's finding simply because it found the outcome undesirable. In the case of BPD, Mr. Davey opined that he believed that the commissioner would be capable of picking members of trial boards who were properly trained, intelligent, and could make sound decisions.

- Regarding BPD recommendation to significantly reduce or eliminate procedural requirements or constraints under § 3-108(d) of the Public Safety Article, officers who face increased punishment imposed by the head of a law enforcement agency, Mr. Davey indicated that the current procedural requirements for increasing punishment are fairly simple and should be easily followed. Mr. Davey explained that under current law, after a hearing board finds an officer guilty and recommends discipline, then the head of a law enforcement agency has the authority to increase the severity of the discipline beyond what the board recommended. In order to increase the discipline imposed, the head of the law enforcement agency must (1) review the entire record of the proceedings of the hearing board; (2) meet with the law enforcement officer and allow the law enforcement officer to be heard on the record; (3) disclose and provide in writing to the law enforcement officer, at least 10 days before the meeting, any oral or written communication not included in the record of the hearing board on which the decision to consider increasing the penalty is wholly or partly based; and (4) state on the record the substantial evidence relied on to support the increase of the recommended penalty. A failure to take one of these steps is grounds for an officer to appeal the discipline imposed.
- For the BPD recommendation to amend § 3-109 of the Public Safety Article to limit judicial review of agency decisions subject to the substantial evidence test and to eliminate the right to appeal on procedural grounds or permit an agency to appeal a not guilty finding, Mr. Davey indicated that it would be extremely difficult for an officer to prevail on appeal using a substantial evidence test. He explained that a law enforcement agency would only need to show that there was some evidence that the officer did what he or she was accused of to uphold a disciplinary determination on appeal.
- Regarding BPD recommendation to eliminate all collective bargaining options for formation of hearing boards and to provide for one or more civilian hearing examiners appointed by the agency's chief, Mr. Davey emphasized that collective bargaining agreements are not forced on departments, but are mutual agreements that have been negotiated.
- Regarding BPD recommendation to amend § 3-104(b)(1) of the Public Safety Article to allow for civilian investigators in disciplinary investigations, Mr. Davey indicated that this could be done with civilians who are trained and qualified.
- Finally, for the BPD recommendation to amend § 3-104(d)(1) of the Public Safety Article to provide for subpoena power during investigations, Mr. Davey indicated that this too could be done and was a reasonable change to the law.

Mr. Davey addressed several specific case examples which had been cited as supporting examples for the proposed BPD changes to LEOBR by Ms. Blumer. Mr. Davey largely dismissed the facts presented in each of these cases as having less to do with the procedural dictates of LEOBR and more to do with BPD's frustration in its own mismanagement of the disciplinary process under existing law.

In response to a question, Mr. Davey indicated that some law enforcement agencies have incorporated LEOBR into agency collective bargaining agreements.

In response to another question, Mr. Davey indicated that there were aspects of LEOBR that could be changed but that those issues would need to be examined in detail. Among aspects that could be changed, Mr. Davey indicated that LEOBR could be amended to specify a period of time between when an officer is charged and when a hearing board must convene to adjudicate the charge. Mr. Davey specifically noted later in the meeting that officer discipline in Baltimore City is not as much of a priority as it should be. Mr. Davey indicated a desire to see departments held more accountable in their execution of the provisions of LEOBR.

In response to a question regarding whether Mr. Davey would be opposed to a database allowing civilians to track the status of a complaint through the disciplinary process, Mr. Davey indicated that he would not be opposed to such a system.

Following Mr. Davey's testimony, the commission addressed its potential recommendations and final report. Chair Williams invited commissioners to propose any recommendations that they would like the commission to consider in addition to those already before the commission.

Chair Williams reviewed and the commission discussed items under consideration by the commission.

Commissioner Malone provided an overview of potential changes that could be made to LEOBR, including changes or additions involving disciplinary charging; the role of civilian review boards, investigations; interrogations; hearing board composition; and other issues.

Counsel for the commission, Peter Keith, briefed the commission on arranging testimony of witnesses at upcoming meetings prior to adjournment of the meeting.

September 14, 2020 Meeting

On September 14, 2020, the commission interviewed former BPD Deputy Commissioner Dean Palmere. A summary of the interview can be found on page 96 of this report.

September 21, 2020 Meeting

On September 21, 2020, the commission discussed its recommendations.

September 28, 2020 Meeting

On September 28, 2020, the commission discussed its recommendations and was briefed by counsel on a survey of BPD officers. The results of that survey can be found on page 105 of this report.

October 9, 2020 Meeting

On October 9, 2020, the commission discussed its recommendations.

October 13, 2020 Meeting

On October 13, 2020, the commission interviewed former BPD Commissioner Anthony Batts. A summary of the interview can be found on page 90 of this report.

October 16, 2020 Meeting

On October 9, 2020, the commission discussed its recommendations.