

The Community Oversight Task Force's Recommendations

for Strengthening Police Accountability and
Police-Community Relations in Baltimore City

August 2018



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List of Acronyms

ACLU	American Civil Liberties Union
BBBS	Big Brothers Big Sisters
BPD	Baltimore (City) Police Department
BWCs	Body-Worn Cameras
CBA	Collective Bargaining Agreement
COPA	Civilian Office of Police Accountability
COTF	Community Oversight Task Force
CRB	Civilian Review Board
DOJ	Department of Justice
GTTF	Gun Trace Task Force
IA	Internal Affairs
LBS	Leaders of a Beautiful Struggle
LEOBR	Law Enforcement Officers Bill of Rights
MPIA	Maryland Public Information Act
NAACP-LDF	National Association for the Advancement of Colored People Legal Defense Fund
NACOLE	National Association of Civilian Oversight of Law Enforcement
NBC	No Boundaries Coalition
OCRWE	Office of Civil Rights and Wage Enforcement
OPR	Office of Professional Responsibility
OSI	Open Society Institute
PAC	Police Accountability Commission

Executive Summary & Recommendations

The Community Oversight Task Force (COTF) was established on June 27, 2017 when Mayor Catherine Pugh appointed nine community members to serve as the COTF. Over the past year, the COTF has conducted extensive research on various models of civilian oversight, developed working relationships with internal stakeholders and a broad range of oversight experts, and engaged in community outreach to receive public feedback on our recommendations. Below are the COTF's core recommendations for improving police-community relations, and for securing effective, transparent, and accountable policing.

Report Recommendations

- **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 COPA's recommendations for discipline are not followed by the Police Commissioner, 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.
 - **As an interim measure to improve civilian oversight** until the COPA comes into existence, equip the existing Civilian Review Board (CRB) with full access to information and resources necessary to do their jobs and fulfill their statutory mandates.
-

Police misconduct
in Baltimore has
wreaked havoc on
the mental and
emotional well-being
of the city's residents,
and severely
undercut their
trust in the police,
and government
more broadly

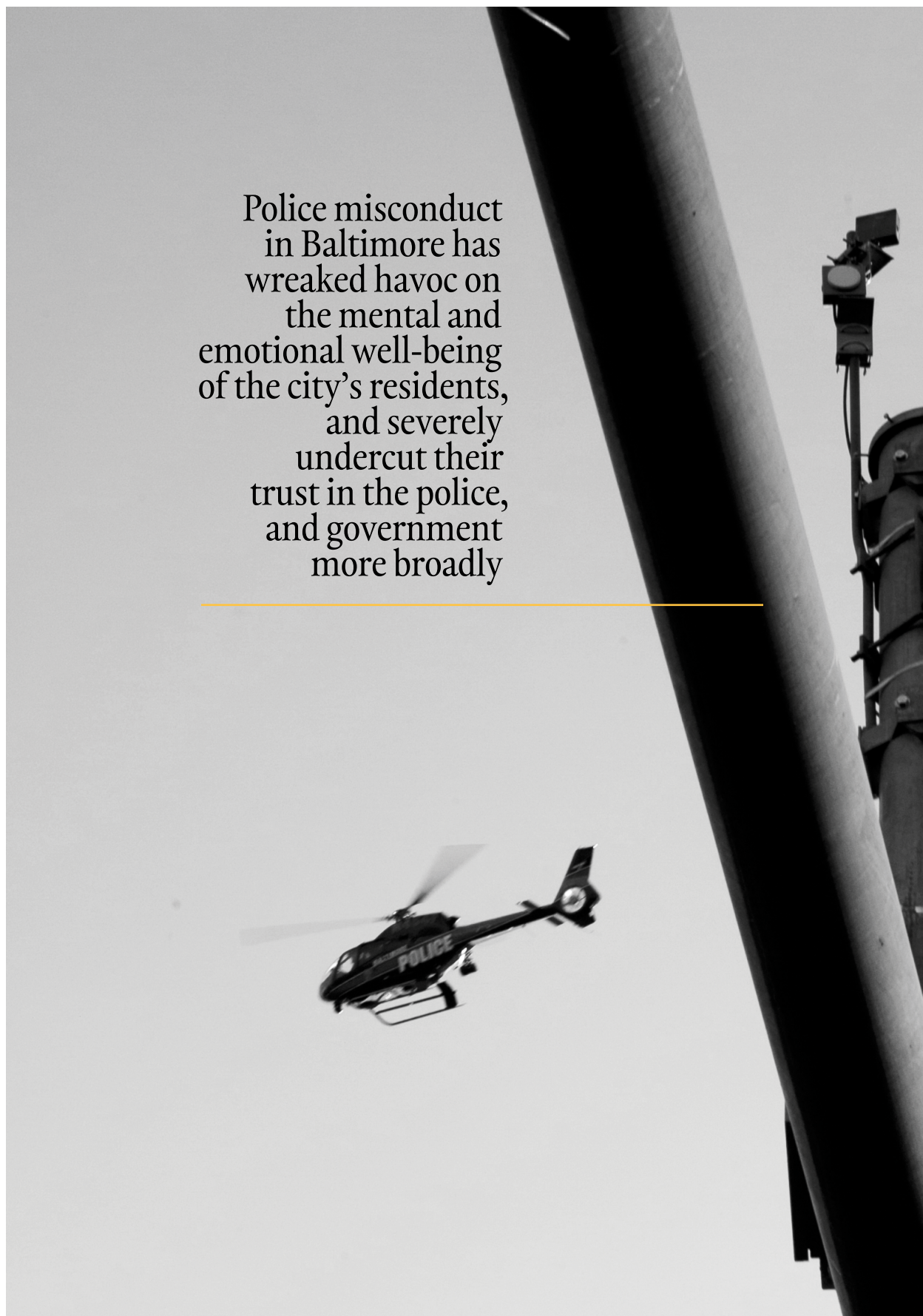


Photo: Jack Sorokin



The only pathway
from the current
climate of mistrust
to faith in the
police, is through
an independent,
professional and
fully empowered
Civilian Office of
Police Accountability
(COPA)

1.0 Introduction

More than a tragic, unjustified death of an unarmed Black man at the hands of law enforcement, the death of Freddie Gray and the city's subsequent resistance tied Baltimore to a larger, developing mainstream conversation about police reform and long-standing tensions between Black communities and the police.

1.1 Background

In April 2015, the issue of police brutality in Baltimore received national attention because of the tragic death of Freddie Gray. Gray was arrested by the BPD on April 12, 2015, for carrying a knife, one that the State's Attorney's Office would eventually argue is legal under Maryland state law. While in police custody, Gray suffered multiple injuries, including three broken vertebrae, an injured voice box, and a severely severed spinal cord. Gray became comatose as a result of his injuries, and he died on April 19, 2015, one week after he was arrested.

More than a tragic, unjustified death of an unarmed Black man at the hands of law enforcement, the death of Freddie Gray and the city's subsequent resistance tied Baltimore to a larger, developing mainstream conversation about police reform and long-standing tensions between Black communities and the police. Freddie Gray's death was one in what is now many high-profile murders of unarmed Black men (and boys) committed by the police in the United States.

In the aftermath of Gray's death—and the protests that ensued—the Department of Justice (DOJ) agreed to requests made by community advocates and civil rights organizations to initiate an investigation into the BPD. The report stemming from this investigation was released in August 2016, detailing patterns of excessive force and unconstitutional policing. In particular, the DOJ found a pattern of illegal stops, searches, and arrests, especially of

African-American residents. They also determined that the BPD retaliated against citizens for engaging in protest, a constitutionally protected freedom. As a result of these findings, the city of Baltimore, the BPD, and the DOJ entered into a Consent Decree, a court-ordered agreement, to reform the BPD's policies, practices, and training.

1.1.1 Policing in Baltimore in the 1800s

Of course, the issue of police brutality and strained police-community relations did not begin with the death of Freddie Gray. Modern day policing in America gained its form and function in the 1800s when the merchants of industrializing cities in the North lobbied for tax dollars to deputize the developing police force as a public institution to safeguard private property and goods. In the South, the development of law enforcement was similarly situated around the protection of economic interests, namely, the preservation of slavery, as slave patrols¹ were legally empowered to recover runaway slaves and discourage slave revolts (Waxman). With African Americans occupying chattel status, police in the North were also empowered as slave catchers and slave code enforcers who profiled and deported former slaves who sought asylum in free states.

Acknowledging the historical relationship between slavery and policing, is absolutely vital to recognizing the racist foundations of American policing. Perhaps the most relevant contemporary examples that demonstrate that police forces were developed, in large part, to control Black bodies and maintain racial apartheid, is the number of recent incidents where White Americans have called the police on Black Americans just because they were in public spaces. Examples include a White Starbucks employee in Philadelphia who called the police on two Black men sitting in the store waiting for a business partner, a White woman in Oakland calling the police on a Black family who were barbequing at the park, and a White Yale student who called the police on a Black Yale student for taking a nap in a common area (Griggs; Herreria; Horton). Sadly, all these incidents occurred this year, in 2018.

The legacy of race-based policing is still clearly manifested in modern-day practices and patterns across the United States, and particularly in Maryland. As a former slave state, when the Maryland State Legislature established the BPD in 1853 to provide for better security for life and property in Baltimore, the property they referred to included enslaved people. Created and designed to protect property and to enforce slave codes, the modern-day BPD is a state agency that has seen limited cultural reforms while operating under the same mandate and authority to protect private property, usually at the risk of violence against Blacks and other minorities. That the BPD is rooted in the historical oppression of Black people—the very same community it has been shown to disproportionately commit violence against in the modern day—should be enough to cause

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While slave patrols predated the public police force, policing systems in the South assumed that mandate in their roles of protecting private “property” and enforcing segregation and the political disenfranchisement of Blacks.

anyone to take civilian oversight reform seriously.

Effective civilian oversight, then, would not only signal a credible commitment to policing that is accountable to communities, but it would also help to dismantle the remnants of Maryland's history of chattel slavery.

1.1.2 Zero-Tolerance Policing

The BPD's toxic culture and long-standing tensions with the Black community in Baltimore stem not only from policing being rooted in the American institution of slavery but also from Maryland's particular battle with people of color in the era of "zero-tolerance policing." At the height of nationwide criminal justice mania, stoked by promises of young Black "superpredators" and urban bloodbaths, the early 1990s and 2000s were defined by law enforcement practices predicated on the harassment and over-incarceration of poor, usually Black, communities (Alexander; Drum).

Baltimore's participation in zero-tolerance policing was driven by then-Mayor and now former Governor Martin O'Malley, who responded to crime rates by emphasizing an aggressive, "zero-tolerance policing" strategy that prioritized making large numbers of stops, searches, and arrests—often for misdemeanor street offenses like loitering and disorderly conduct. The pillars of what would become the trauma and terror of mass incarceration were also the standard operating procedures for the BPD. Today, little has changed about that approach to policing and, in turn, police brutality. The Baltimore Sun's 2014 expose, "Undue Force," documented case after case of police misconduct, millions of Baltimore City dollars paid to settle lawsuits against officers using excessive force, and dozens of civil rights violations.²

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Please see: <http://data.baltimoresun.com/news/police-settlements>

1.2 The Consent Decree and the Community Oversight Task Force (COTF)

The Consent Decree is designed to ensure that the unconstitutional policing identified in the DOJ report of 2016 is prevented from happening in the future. The DOJ report uncovered policing practices in Baltimore that violated the first, fourth, and fourteenth constitutional amendments, as well as the 1964 Civil Rights

Act, the Safe Streets Act of 1968, and the Americans with Disabilities Act of 1990. Serious policing reforms made in each of the areas designated in the Consent Decree should result in policing that is more effective, transparent, impartial, and accountable.

One central mandate of the Consent Decree was that the city of Baltimore establishes a COTF. In June 2017, Mayor Catherine Pugh appointed nine Baltimore City residents to serve as the COTF. The members were tasked with studying the existing system of civilian oversight in Baltimore and identifying barriers to police accountability. It is also responsible for developing recommendations on how to strengthen police accountability in the city and for proposing ways to improve police-community relations.

1.3 **Outline of the Report**

The following report begins with a discussion of the historical and structural factors that led to Baltimore's Consent Decree and the establishment of the COTF. Section two discusses the work that the COTF did over the past year to fulfill its mandate. The COTF established three key subcommittees: External and Comparative Research, Baltimore City Institutions Research, and Community Engagement. The External and Comparative Research subcommittee studied numerous models of civilian oversight employed across the country and assessed whether and how each respective model might benefit Baltimore.

The Baltimore City Institutions Research subcommittee studied the institutions currently involved in civilian oversight in Baltimore, including the CRB and the BPD, among others. Finally, the Community Engagement subcommittee devised ways to disseminate information to the public about the COTF's work and received input from the community about our recommendations for reform.

Section three of the report describes the current system of civilian oversight that exists in Baltimore and provides an analysis of the weaknesses of that system. It argues that the current system is woefully deficient, lacking the independence, authority, and resources necessary to achieve police accountability.

The COTF lays out its vision for achieving police accountability in section four of the report.

In this section, the COTF introduces its guiding principles that inform many of the recommendations in this report. These include a commitment to the independence and comprehensiveness of

the civilian oversight agency, as well as to racial equity, accountability, transparency, and transformative justice. Importantly, the COTF asserts that the new oversight structure needs to be greatly expanded in its authority, structure, scope, and functions to meet the needs of Baltimore residents affected by decades of unconstitutional³ and biased policing.

Section five gives a brief explanation for why the BPD is oddly a state of Maryland, rather than a city of Baltimore, agency. The reason for this stems back to Civil War politics in Maryland and concerns the federal government had about the Baltimore police force siding with the Confederacy. When the war was over, the federal government gave control of the Baltimore police force back to the state of Maryland, where it has remained until this day.

Baltimoreans should no longer be precluded from influencing the policies, priorities, and procedures of the BPD because of historic civil war political contests. The norm across the United States is for police departments to operate as local, not state, agencies. The city of Baltimore should control its own police department as every other local jurisdiction in the state of Maryland does. The COTF believes that full police accountability in Baltimore will only be possible when control of the BPD is returned to the city.

Several initiatives for strengthening police-community relations are discussed in section six of the report. Police-community relations will only improve when citizens and the police have multiple opportunities for interaction and meaningful exchange. The COTF recommends several strategies for transforming relations between these two groups in this section.

The COTF fully recognizes that the re-imagined system of oversight that we propose here is broad sweeping, and therefore will take time and substantial resources to establish and become fully operational. We propose several recommendations that will improve police-community relations and the effectiveness of the current oversight system in the interim. These recommendations are presented in section seven of the report. The final section of the report discusses next steps for the COTF and concludes the report.

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Throughout the report we make several references to the term “unconstitutional policing.” It is worth noting that there is some controversy around this term. Because many American institutions, including the Constitution, were established before Black Americans could participate in or shape them, some would argue that these institutions do not necessarily reflect the interests, values, preferences, or beliefs of Black Americans and other minority groups who were barred from participating in the political process as full citizens. According to this line of thinking, it’s possible to have policing that is fully constitutional, yet still discriminatory. Therefore, there is some debate about whether we should aspire to “constitutional” policing, or instead aspire to “bias-free” policing, or “democratic” policing. The COTF does not collectively take a stand on this question. The DOJ and the parties to the Consent Decree use the term constitutional to delineate specific legal violations that require remedy. Therefore, the COTF uses the term to remain consistent with the language found in the Consent Decree.

2.0 The COTF's Work From 2017–2018

Using the Consent Decree as a guide, committee members looked at the principles, structures, procedures, and challenges associated with community and civilian oversight of the police in Baltimore and other cities.

2.1 Establishment of Subcommittees

The COTF began its work very soon after coming into existence. Its first meeting was held on July 19, 2017. At the second meeting of the COTF, held on July 27, 2017, the task force agreed to establish three subcommittees to manage the division of labor effectively.

The COTF subcommittees were as follows:

- **External and Comparative Research Subcommittee:** This group was tasked with researching how community and civilian oversight functions in other jurisdictions. Using the Consent Decree as a guide, committee members looked at the principles, structures, procedures, and challenges associated with community and civilian oversight of the police in other cities.
- **Baltimore City Institutions Research Subcommittee:** This subcommittee was in charge of developing an understanding of institutions in Baltimore that are related to the community oversight function. This included the CRB, the BPD, City Council, and the Maryland State Legislature. This subcommittee also explored the history of policing in Baltimore and constitutional issues related to policing.

- **Community Engagement Subcommittee:** This group focused on ways of engaging the community to seek its input and understand its perceptions of policing and civilian oversight in Baltimore. The group developed strategies for the COTF to engage with the community directly. The COTF held five public workshops in different regions of the city,⁴ as well as a number of focus groups with members of the Latinx/immigrant community and incarcerated youth. The insights gleaned from these public workshops and focus groups inform a number of the recommendations contained within this report.

In order to use the short amount of time we had to conduct our work most efficiently, much of the work of the COTF was completed in the subcommittees. To ensure that the entire task force remained on the same page, however, the subcommittees gave updates on their work at meetings of the full COTF. Moreover, the norm was to vote on all major decisions that applied to the task force as a whole in the meetings of the full COTF.

2.2 External Funding and Partnerships

The COTF recognized very early on in its work that it would need access to resources to do its work well and fulfill its mandate. With the generous assistance of Open Society Institute (OSI) Baltimore, the COTF had the revenue necessary to undertake some of its most essential functions. The grant from OSI enabled the COTF to hire two consultants, a Writer and a Community Outreach Coordinator. Given that the COTF was comprised of all volunteers, a Writer was brought on board to assist the COTF with compiling its report. The Community Outreach Coordinator developed and managed the COTF's social media presence, as well as assisted with the logistics of the public workshops and travel.

Finally, the OSI grant allowed key work-related travel to take place. The COTF immediately contacted the National Association of Civilian Oversight of Law Enforcement (NACOLE). Two COTF members attended NACOLE's annual conference in Spokane, Washington, and one COTF member traveled to Boston for a day-long meeting with NACOLE's staff about national best practices for civilian oversight of law enforcement. Subsequently, the COTF regularly consulted with NACOLE for advice and expertise. In addition, we also brought experts from New Orleans and Seattle into Baltimore to share their insights and expertise on civilian oversight, and a number of COTF members traveled to Denver to meet

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The COTF's public workshops were held in Central-West Baltimore (Union Baptist Church), Northwest (Empowerment Temple), Southeast (Patterson Park Public Charter School), Northeast (Mount Pleasant Church and Ministries), and Southwest (The Power House).

with their oversight experts. During these trips, the COTF was able to engage in one- to two-day-long activities devoted solely to thinking and learning about civilian oversight and the various elements of it that might be best suited to Baltimore's needs. Our travel also helped us solidify a network of experts whom we consulted on an on-going basis as we seek to build the best model of police accountability for our city.

2.3 Partnerships with Internal Stakeholders

In addition to building partnerships with external civilian oversight experts, the COTF also developed relationships with internal stakeholders. Over the past year, the COTF had regular⁵ meetings with the Consent Decree monitor, the DOJ, the compliance division of the BPD, and the city of Baltimore. The COTF also held a number of meetings with key civil rights and advocacy groups throughout the city, including the NAACP Legal Defense Fund (NAACP-LDF), No Boundaries Coalition (NBC), Leaders of a Beautiful Struggle (LBS), and CASA of Maryland.

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Meetings with each of these groups usually occurred at least once monthly.

3.0 **The Current System of Civilian Oversight in Baltimore**

The current review board system lacks the resources, expertise and legislative mandate to provide effective oversight of the police in Baltimore. Even if all those deficits could be overcome, the legacy of poor performance—and the resulting reputational damage of the current body—cannot.

3.1 **The Baltimore Police Department (BPD) Civilian Complaint Process**

The BPD has an internal process for receiving and processing citizens' complaints of officer misconduct. Individuals may file a complaint in-person at any police station, or by mail, e-mail, phone, or calling the 24-hour complaint intake hotline. Complaints are then investigated internally by the Office of Professional Responsibility (OPR).

Draft BPD policy number 306 (dated 30 March 2018), if fully implemented and adhered to, will go much further than the department has previously to make the complaint process more accessible and transparent. However, as it currently stands, the internal BPD process for managing, investigating, and resolving complaints is not at all transparent to the public. For instance,

there is no information on the BPD's website about the timeframe for resolving complaints, the various outcomes that may result from the investigation of complaints, or instructions or contact information for following up on complaints. The BPD website simply states that "upon receipt of a complaint or allegation, every effort is made to ensure a thorough, fair, and timely investigation is conducted" (BPD Website Citizen Complaints Page). And, the police commissioner's final decisions are not open to the public.

But even more problematic than the lack of information and transparency on how the BPD handles complaints is the lack of trust Baltimoreans have in the BPD. The Schaeffer Center for Public Policy at the University of Baltimore conducted a public opinion survey in November 2015 to gauge individuals' perceptions of the police (among other issues). The interviews were conducted by phone with a large sample of residents from Baltimore City, the greater Baltimore metropolitan area, and the rest of Maryland. While there were no questions that directly asked residents about their level of trust in the police, almost three-quarters (72%) of Baltimore City residents felt that police officers treat minorities and Whites differently. Baltimore City also had the highest percentage of respondents of all three regions surveyed to say that they or someone in their family had been treated unfairly in the last twelve months (47% compared to 14% in the Baltimore metro region and 18% in the rest of Maryland). The number of Baltimoreans who perceive unjust treatment at the hands of police is roughly triple that of the surrounding areas in Maryland.

Survey respondents were also asked other questions about their views of the police. Consider the strong majorities on the following questions: a full 63% of Baltimore City residents felt that the "police use more physical force than necessary when dealing with ethnic/racial minorities," 56% felt that "the police use race/ethnicity when deciding to stop someone," and 59% reported that "when police officers do something wrong, they usually get off with no punishment" (Maryland Policy Choices). Again, the figures on these indicators are substantially higher for Baltimore City than other surrounding areas in the state. With strong majorities of Baltimoreans who feel that the police use force excessively, engage in biased and discriminatory policing, and commit wrongdoing with impunity, it would not be a stretch to conclude that confidence in the police is extremely low in the city of Baltimore.

Some may argue that the above-mentioned figures for Baltimore City may have been temporarily inflated or elevated because the survey was completed just months following Freddy Gray's death when tensions in the city were still running high. However, the DOJ findings and report released in 2016 detailing widespread unconstitutional policing and disproportionate stops, searches, and arrests of minorities lend credence to this data.

While some of city residents' distrust of the police may stem from

The current system is woefully deficient, lacking the independence, authority, and resources necessary to achieve police accountability.

the lack of transparency within the BPD and the perceived lack of procedural justice that exists within the BPD, much of it is a result of Baltimoreans' direct experiences with and/or perceptions of corruption within the BPD. Numerous examples, including the recent convictions of members of the elite Gun Trace Task Force (GTTF), police body camera footage showing BPD officers planting evidence on citizens (De Valle), and proof of officers repeatedly lying under oath yet remaining employed by the BPD (Rector) all confirm many Baltimoreans' views that the police themselves do not respect, nor uphold, the rule of law.

3.2 **Establishment, Scope, and Functions of the Civilian Review Board (CRB)**

Currently, civilian oversight of the police in Baltimore is largely exercised through the CRB. The CRB was established in 1999, and it is housed within the Baltimore City Office of Civil Rights and Wage Enforcement (OCRWE). The CRB should have a total of nine members serving on the board, one from each Baltimore City police district. All board members are selected by the Mayor and confirmed by the City Council.

The CRB is responsible for investigating misconduct complaints leveled against the BPD, the Baltimore City Sheriff's Office, the Baltimore School Police, as well as the police forces of Morgan State University and Baltimore City Community College. The CRB has the authority to investigate complaints of police misconduct, but only in five specific areas: excessive force, false arrest, abusive language, harassment, and false imprisonment (although the Consent Decree is requiring the investigation of more categories). Victims or witnesses of the five acts mentioned above may file a complaint against law enforcement officials, and they may file complaints online, in-person at the OCRWE, or at any police station. All complaints must be filed within one year of the alleged incident.

Once a complaint is filed, the CRB may choose to conduct its own investigation concurrently with the Internal Affairs (IA) investigation that is conducted within the BPD, or it may simply choose to wait for the IA investigation to be completed. Once the investigation is complete and the board reviews the findings, it may choose to sustain the complaint (charges are true), not sustain the complaint (charges not sufficiently proven), exonerate (the act occurred, but it was lawful or justified), or go to mediation. The

board may also rule that the complaint was unfounded or send the complaint to the IA unit for further investigation. Finally, the board's disciplinary recommendation is sent to the Police Commissioner, who makes the final decision about whether and how to discipline the officer.

3.3 **Deficiencies of the Civilian Review Board (CRB) Model**

The current structure of civilian oversight in Baltimore is antithetical to police accountability. First, while the CRB is described as an independent agency, it is not. There are a number of ways in which true independence is lacking in the current system of oversight. The CRB is under the direction of the OCRWE, a city office that is run by a mayoral appointee. The head of the agency is therefore directly accountable to the Mayor, not the people. Political independence is necessary for civilian oversight to be seen as credible and legitimate.

There is another way in which the CRB is not fully independent, and one that goes more directly to the heart of the complaint process. Victims and witnesses of misconduct often file complaints at police stations as they are allowed to do. But this approach poses two main problems for achieving police accountability. First, because the CRB is limited to investigating only certain types of complaints, that classification of complaints into these categories can be made arbitrarily by the police rather than the CRB, placing citizens at a disadvantage. The second issue is that CRB members and staff often do not receive all complaints that are filed, or they do not receive them in a timely manner.⁶

These concerns have been substantiated by a Baltimore Sun investigation. According to the Sun, between 2013 and 2015, the BPD failed to forward more than two-thirds of police misconduct complaints received at their stations (Rentz). The BPD is responsible for forwarding all complaints they receive to the CRB for review. Having residents file complaints at the police station gives officers, who may have a vested interest in protecting fellow officers, the power to decide whether a complaint gets reviewed. This means that the CRB is dependent, fully in some cases, on the BPD's good will to do their jobs. With the recent convictions of the GTTF (Fenton), the federal tax charges filed against now former Commissioner DeSousa (Rector), instances where BPD officers have been caught planting evidence on residents (De Valle), and the recent revelation that a BPD Chief stole citizens' money to finance

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This was a common complaint mentioned in the COTF's meetings with CRB staff.

personal vacations through Europe (Rector), the citizens of Baltimore cannot depend on the goodwill of the police force. Civilian oversight cannot be guaranteed to function properly and impartially when officers participate in the civilian complaint process. This process must be completely independent of police control.

In addition to the lack of independence, the CRB has no real authority. It does not have effective subpoena power, and it exercises no real leverage in ultimately getting the Police Commissioner to take its recommendations for discipline seriously. Moreover, neither 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.” Classifying disciplinary records in this way impedes transparency, and without transparency, there can be no accountability.

Finally, the CRB has never been adequately funded, staffed, or resourced. For example, up until very recently, the CRB had only a single investigator to process complaint cases for a department with more than 3,000 officers (Houppert). Limited resources and staff have meant that many cases are backlogged and that, when they finally are resolved, the decision comes long after the set deadline.

All of the deficiencies outlined above have created a civilian oversight system that is seen as ineffective and illegitimate. Neither citizens nor the police have any faith in the CRB as it stands today. The limited scope and authority of the CRB has created a situation in which police accountability is difficult, if not impossible to achieve. And, the legitimacy deficits of this system cannot be overcome. The CRB in its current form has very little, if anything, to offer Baltimoreans, and it must be abolished. If it is to have effective, impartial oversight, Baltimore must begin from a clean slate.

4.0 **Baltimore's Civilian Oversight Re-Imagined**

The COTF envisions independent, comprehensive civilian oversight of the police that is rooted in racial equity, accountability, transparency, and transformative justice. Each of our recommendations embodies these various principles, which, if taken seriously, will fundamentally change the relationship between the community and law enforcement in Baltimore City.

4.1 **Overview**

For all the reasons outlined in section three of this report, Baltimore needs a completely new system of civilian oversight to provide Baltimoreans with the police accountability they deserve. The existing structures do not allow the community to weigh-in on BPD policies, procedures or practices in any meaningful way, and they certainly do not ensure that officers are held accountable when they engage in wrongdoing. Beyond the structural and functional deficiencies, the current system also has a reputation for ineffectiveness that is truly beyond repair. Residents of Baltimore have no faith that the current system has the capacity to hold officers accountable when they engage in misconduct, and the police officers themselves lack respect for the system of oversight in its current form.⁷ Therefore, we recommend a completely re-imagined system of oversight, one that will keep officers accountable and bring justice to victims of police misconduct.

In rethinking ways to achieve greater police accountability in Baltimore, the COTF developed a set of core principles to inform our

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In a meeting with a senior Office of Civil Rights and Wage Enforcement (OCRWE) official, they noted that the police “sit and mock” the CRB when they attend meetings to discuss misconduct cases. When asked why the police do this, they said, “Because they know we can’t touch them. They know we have no authority.”

COMMUNITY OVERSIGHT TASK
FORCE OF BALTIMORE CITY

recommendations. The COTF envisions independent, comprehensive civilian oversight of the police that is rooted in racial equity, accountability, transparency, and transformative justice. Each of our recommendations embodies these various principles, which, if taken seriously, will fundamentally change the relationship between the community and law enforcement in Baltimore City. We define each of our core principles below.

4.2 **The Community Oversight Task Force's (COTF) Guiding Principles**

- **Independence.** Civilians who can make their own judgments and are not answerable to anyone except the community must lead oversight of the police department. To maintain this independence, adequate resources—funding and staffing—must be guaranteed and not subject to political discretion.
- **Comprehensiveness.** Civilians must be able to give feedback on all aspects of their interactions with the police—good, bad, or indifferent—and not subject to any limitations based on the type of allegation. The oversight body must have original jurisdiction over any complaint and be able to investigate potential wrongdoing by police even without a specific complaint. Police oversight is not just about addressing individual abuses; civilian oversight must include the capacity to audit procedures, review training and policy, assess trends, and conduct research.
- **Racial Equity.** In response to decades of abuse of power, blatant brutality, and unconstitutional policing, the civilian oversight body must review training and policies for their impact on racial equity, including but not limited to the annual police budget and the acquisition of military equipment. In addition to reforming oversight going forward, Baltimore deserves a process for grappling with the truth of past abuses.
- **Accountability.** The people of Baltimore deserve to know that police misconduct and corruption will be investigated swiftly and responded to appropriately. The oversight body must be able to investigate and question police, and its subpoena powers must be made effective. The oversight body's board should include members of Baltimore's vibrant and diverse communities. Additionally, the BPD serves the people of Baltimore; it must be returned to full city control.
- **Transparency.** The community has a right to know what the police

The existing structures do not allow the community to weigh-in on BPD policies, procedures or practices in any meaningful way, and they certainly do not ensure that officers are held accountable when they engage in wrongdoing.

are doing within legitimate limits of privacy and the need to protect investigations. Research and policy reviews undertaken by the civilian oversight body must be publicly available and accessible to individuals with disabilities, or for whom English is not their primary language. Complainants must have access to navigators to help them through the process. The status of complaints must be easily tracked, and if the police department does not follow the oversight body's recommendations on discipline, the department's reasons must be made clear and public.

- **Transformative Justice.** Accountability must bring opportunities for change, for both police and the community. Victims and perpetrators of police misconduct must have access to practical help, if they need it, around their mental health, economic opportunities, addiction, and other needs. Civilian oversight must make space for the diversity of forms accountability can take, including mediation, peer support, community service, and education. Our goal must be to use punishment as only one tool to create trust between the community and police.

4.3 Expanding the Structure and Scope of Civilian Oversight in Baltimore

4.3.1 Background to the New Civilian Oversight Structure

The COTF spent significant time researching and reviewing existing police accountability models in other cities. It examined dozens of civilian oversight models nationwide, ten of which were studied in extensive depth.⁸ While civilian oversight models are varied and complex, there are three major types of oversight: investigation-focused,⁹ auditing-focused,¹⁰ and review-focused models.¹¹ While no two oversight agencies in the country are the same, almost all oversight agencies share five common goals: improving public trust; ensuring accessible complaint processes; promoting thorough, fair investigations of police misconduct; increasing transparency; and deterring police misconduct (DeAngelis et al. 3).¹²

The COTF understands that there is no “one size fits all” or “best practice” in the creation of a system of civilian oversight of law enforcement. Each city must find a “best-fit” model of oversight based on its own socio-cultural and political issues, and the history

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These include New Orleans, Cleveland, Los Angeles, Oakland, Chicago, New York, Washington, D.C., Philadelphia, Seattle, and Denver.

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Cities with investigatory models include New York, Seattle, Washington, D.C., Pittsburgh, and San Francisco.

10

Cities with auditing models include San Jose, Denver, New Orleans, Los Angeles, and New York.

11

Cities with review-focused models include Denver, Baltimore, San Diego, Indianapolis, Albany, and St. Petersburg, FL.

12

Based on data collected from 97 civilian oversight programs.

of its police agency (DeAngelis et al. 15). After reviewing relevant models and considering the history of policing in Baltimore, the COTF found that Baltimore needs a comprehensive and independent civilian oversight agency that performs three key tasks: (1) investigates alleged misconduct of BPD officers and recommends discipline where misconduct is found (investigative arm), (2) audits the policies and practices of the BPD and makes reform recommendations (policy arm), and (3) engages in robust community outreach to support and implement true community-based policing (community engagement arm).

Public trust in the police is at an all-time low in Baltimore, and our current CRB oversight system—a review-focused model—is beyond repair. In order to have effective, constitutional policing and a police department that has the trust, respect, and support of the community, Baltimore needs a strong system of independent oversight that takes into account the voice and values of the community that is being policed. This hybrid model we are proposing with investigation, auditing, and community outreach components will best serve Baltimore’s needs for civilian oversight.

In order to create an independent and effective accountability agency, the COTF recommends a two-tiered structure for Baltimore: (1) a **Police Accountability Commission** (PAC) made up of community members who will assess and ensure the effectiveness and accountability of the agency, and (2) a **Civilian Office of Police Accountability** (COPA) that will investigate misconduct of BPD officers, audit the practices, policies and procedures of BPD, and address any other issue of concern to the community.

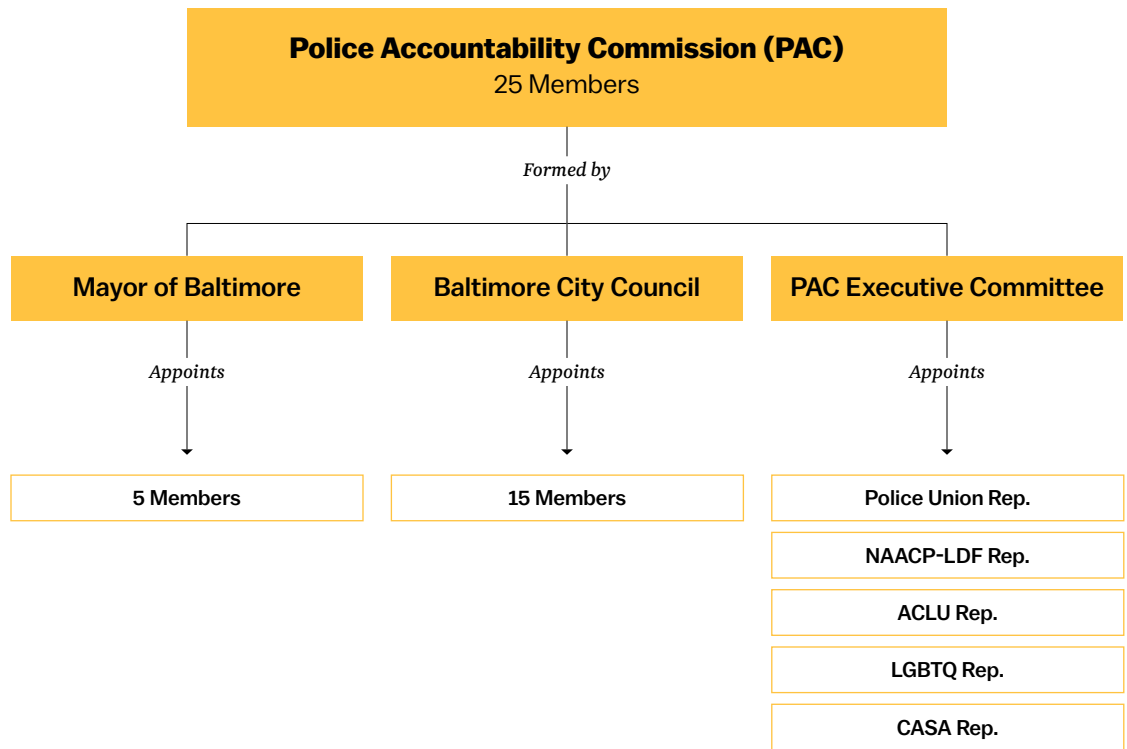
4.3.2 The Police Accountability Commission (PAC)

A PAC is necessary in Baltimore to help ensure responsiveness of the police accountability system to public concerns and to begin to rebuild public confidence in the effectiveness and professionalism of the BPD. As representatives of Baltimore’s diverse communities, the PAC will keep its finger on the pulse of public concerns and thereby provide a community-based perspective on police policies, practices, procedures, and services affecting the public trust.

4.3.2.1 Establishment and Composition of the Police Accountability Commission (PAC)

The COTF recommends that Baltimore’s PAC be established by City Council Ordinance and any other requisite enabling legislation with all deliberate speed.

The COTF envisions a PAC comprised of 25 members. The Mayor of Baltimore will appoint five of the members. At least two of



the Mayor's appointees must be women.¹³ Fifteen members of the PAC will be appointed by the City Council. Each City Councilor will appoint one PAC member who resides in their district, and the City Council President will appoint one member to the PAC as well. Should Baltimore shift to multi-member City Council districts, the PAC will study the nature and implications of this change, and amend the rules governing City Council appointments accordingly.

Both the Mayor and the City Council should encourage representation from groups disproportionately impacted by unconstitutional policing in the city, including African-Americans, Latinos, immigrants, women, and members of the LGBTQ community. They should also strive to realize a PAC that includes individuals from different socio-economic backgrounds, formerly incarcerated individuals, and people from the faith and business communities. Finally, the PAC should have some youth representation, and, ideally, will include civil rights advocates and individuals familiar with the challenges faced by homeless people and those with mental illness and substance abuse issues.

The remaining five positions of the PAC will be designated slots.¹⁴ One position shall be reserved for a police union representative, a staff member of the NAACP-LDF, a staff member of the ACLU, a member of the LGBTQ community, and a representative from CASA of Maryland.

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Because we build in designated slots for interest groups that represent other disproportionately affected communities (e.g. ethnic and racial minorities), we emphasize representation for women here.

14

The Executive Committee of the PAC may change the organizations that receive designated slots to ensure the efficacy and representativeness of the PAC.

Members of the PAC shall have expertise in policing, police oversight, police accountability, public policy, human resources, community engagement, organizational change, law, social justice, training, the social sciences, and other disciplines important to the PAC's work. Altogether, there shall be a balance that allows the PAC as a whole to benefit from the knowledge and expertise of its individual members.

The PAC will be self-governing and functionally independent. The PAC may adopt bylaws to govern its own activities. The PAC members shall serve three-year terms and shall be paid annual stipends for their service. All members must live in Baltimore City. The city must provide staff and resources sufficient to enable the PAC to perform its responsibilities. The PAC's budget and other resources shall be distinct from COPA's.

4.3.2.2 Duties and Responsibilities of the Police Accountability Commission (PAC)

Baltimore's PAC will develop a police accountability system for Baltimore that is community-based, will promote public trust in the police, and will ensure constitutional, impartial policing. The duties and responsibilities of the PAC fall into the following categories: Engagement, Collaboration, Monitoring, and Evaluation. Recommendations that correspond to each of these categories are discussed below.

Engagement and Collaboration: Members of the PAC are required to engage with the public, the COPA, and other relevant agencies and organizations on a regular basis. The COTF recommends that the PAC undertake the following duties:

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- Collaborating with the COPA to effectuate comprehensive oversight of BPD
 - Providing input and feedback to the COPA on issues of concern to the community
 - Reviewing and providing input and feedback on BPD policies and practices of significance to the public
 - Engaging in community outreach related to the police accountability system
 - Holding at least one meeting annually for public comment related to the COPA's annual report
 - Providing information and expertise to city agencies and other organizations pertaining to the police accountability system and constitutional policing

- Identifying and advocating for reforms to state laws that will enhance public trust and confidence in policing

Monitoring and Evaluation: Members of the PAC are expected to monitor and evaluate key actors and agencies to ensure that police accountability is achieved and sustained. Therefore, the COTF recommends that the PAC be responsible for:

- Monitoring and reporting to the community on the progress of the Monitor in the Consent Decree case of *United States of America v. Police Department of Baltimore City, et al.* until such time as the Consent Decree ends
 - Monitoring the COPA and providing a report to the public on its progress toward strategic goals every six months
 - Participating with the Mayor and City Council of Baltimore in evaluating candidates for Police Commissioner whenever a vacancy in the position exists
 - Making recommendations to the **Mayor** and City Council of Baltimore about the hiring of any new Police Commissioner
 - Providing an annual performance **evaluation** of the Police Commissioner and the BPD to the Police Commissioner, the Mayor, the City Council, and the public.
-

Last but not least, the PAC will be responsible for hiring and supervising the Executive Director of the COPA. The PAC will nominate an executive committee that will be responsible for convening a search committee to recommend Executive Director candidates to the full PAC when a vacancy arises. The PAC will be required to meet at least once quarterly to execute its duties and responsibilities.

4.3.3 The Civilian Office of Police Accountability (COPA)

4.3.3.1 Establishment and Structure of the Civilian Office of Police Accountability (COPA)

The COTF recommends that a COPA be established as an independent agency to (1) investigate and recommend discipline regarding

police misconduct; (2) audit the practices, policies, procedures, and training of the BPD and recommend changes and reforms that will improve community trust; and (3) engage with the community to strengthen police-community relations and keep the community informed about policing issues.

The COTF recommends that the COPA be established by state law with all deliberate speed. The COTF envisions a COPA with appropriate professional and support staff. At minimum, the COPA will have a Director, investigators, policy analysts, and community engagement personnel. The staff must also include complaint navigators and administrative support personnel.

The COPA Executive Director must be a civilian with significant legal, investigative, human resources, law enforcement oversight, or prosecutorial experience. They must not have been formerly employed by BPD or any law enforcement agency as a sworn officer and should have a reputation for integrity and professionalism. The Executive Director must have a demonstrated commitment to achieving effective, constitutional, community-based law enforcement.

The Executive Director of the COPA will designate a hiring committee or panel to select employees of the COPA and discharge them, should the need arise. The COPA's employees shall be civilians and none, except investigators, shall have been formerly employed by the BPD or any law enforcement agency as sworn officers. Applicants with previous law enforcement experience must have retired or resigned from the law enforcement agency at least five years before the date of application to be considered for the investigator positions. All of the COPA employees, including the Director, must be Baltimore City residents.

The COPA must be physically housed outside of any BPD facility and be operationally independent of BPD in all respects. The COPA's location and communications must reflect its independence, accessibility, and impartiality. In particular, the COPA's office should be easily accessible by public transportation, have ample parking, and enough space to allow members of the community to observe proceedings that are open to the public. The COPA must exercise its responsibilities without interference from any person, group, or organization, including the BPD Commissioner, other BPD employees, or Baltimore City elected or unelected officials.

The COPA must have complete and immediate access to all BPD controlled data, evidence, and personnel necessary to complete its work.

The COPA must have original jurisdiction over any and all types of police misconduct involving citizens. And the COPA must have full subpoena and investigatory powers so that the very officers that are implicated in a complaint can be interviewed.

Baltimore City must provide staff and resources sufficient to

enable the COPA to be sustained in a permanent fashion and to perform all its responsibilities and duties. The COPA should have a guaranteed minimum annual operating budget that is at least 3% of the BPD budget. The COPA Director must submit an annual budget request to the Mayor. The COPA Director may advocate for resources directly to City Council members or the City Council during the budget process or at any time throughout the year.

How Will COPA Ensure Its Independence?

Physical

The COPA will be located outside of any BPD facility.

Functional

The COPA will have original jurisdiction over any and all cases of police misconduct involving citizens.

Political

The COPA will fulfill its responsibilities without interference from elected officials.

4.3.3.2 Duties and Responsibilities of the Civilian Office of Police Accountability (COPA)

Baltimore's COPA must effectively and independently investigate misconduct by Baltimore police officers, audit the BPD, and keep the community informed of research and policy reforms on issues of interest to the public. The COPA must create a disciplinary system for BPD that discourages misconduct by engaging in thorough and timely civilian-led investigations that metes out fair, impartial, and swift discipline commensurate to the wrongdoing. This will help ensure and maintain a culture of accountability and adherence to policy and constitutional law, but also to professional and ethical norms. The COPA must also audit the practices, policies, training, and procedures of the BPD and make recommendations for reform when appropriate. Finally, the COPA must support citizen participation in the police accountability process; it must develop community programs that help to build trust with the police.

The **investigative** duties and responsibilities of the COPA will include, but not be limited to, the following:

- Establishing and managing processes to initiate (with or without a complaint), receive, classify, and investigate any and all allegations of police misconduct that involve citizens of Baltimore City

- Establishing multiple ways of accepting citizen complaints, including online, in-person, or by phone, text, or mail. Complaints may also be submitted anonymously
- Developing a simple, easy-to-use tracking system for civilian complaints
- Ensuring that the complaint process is fair, impartial, consistent, thorough, timely, understandable, and accessible to the public, BPD employees, and complainants
- Developing clear sets of procedures to be followed for different types of complaints
- Coordinating investigations with prosecutors in complaints alleging criminal misconduct
- Developing cooperation protocols between the COPA and the BPD, and policies and procedures for access to BPD records in real-time; ensuring privacy protections for those records where necessary
- Completing complaint investigations and making recommendations for discipline as expeditiously as possible, with all complaints resolved within 120 days of receipt
- Recommending discipline regarding sustained complaints to the Police Commissioner
- Recommending discipline that involves, where appropriate, restorative justice measures
- Establishing and managing processes to mediate misconduct complaints where appropriate
- Appealing discipline decisions of the Police Commissioner to a three-judge review panel in those cases when the Commissioner does not follow the recommendation of the COPA

The **auditing** duties and responsibilities of the COPA will include, but not be limited to, the following:

-
- Preparing annual reports to the Mayor, City Council, and the public about the COPA's work during the prior year, and an accounting of complaints received and investigated and their outcomes
 - Maintaining an ongoing status report available to the public, about trends regarding complaints, community concerns, and

other activities of the COPA

- Performing periodic audits of the BPD's responsiveness to community concerns and writing reports of its findings
- Performing periodic audits of issues of community concern regarding the actions, policies, procedures, and training of BPD personnel and writing reports of its findings
- Researching general trends and statistics on policing in Baltimore and in the U.S. more generally
- Strengthening policy review capacity in conjunction with a local university or universities
- Making policy-level recommendations (in written reports) regarding any and all current, proposed, or new police policies or rules concerning the hiring, training, supervision, and management of BPD
- Providing training reviews in addition to state-level training certification (in conjunction with a local university) to ensure equity and consistency with norms of democratic policing
- Utilizing racial equity impact tools and methodologies in assessments of BPD policies and procedures (This could also include impact assessments of other communities disproportionately affected by unconstitutional policing, including but not limited to those named in the Consent Decree, such as LGBTQ, immigrants, etc.)
- Mandating racial equity impact reviews of major policies, particularly the annual police budget and 1033 program transfers (militarized training and equipment)
- Identifying systemic problems in BPD's policies, training, supervision, and management identified during its misconduct investigations and writing reports of its findings
- Monitoring and providing input into police priority-setting and budgeting
- Identifying and advocating for reforms to state laws that will enhance public trust and confidence in policing
- Providing information and expertise to city agencies and other organizations pertaining to the police accountability system and constitutional policing
- Conducting "meta-oversight," continuously researching oversight best-practices to improve the COPA

- Establishing standards of professional conduct for the COPA's staff
- Conducting comprehensive training for the COPA's staff on an annual basis
- Designating a COPA staff member to attend all PAC meetings and provide support to the PAC

The **community outreach** duties and responsibilities of the COPA will include, but not be limited to, the following:

- Utilizing complaint navigators to assist citizens with making and tracking complaints
- Creating and maintaining a website to share information with the public about police accountability and the COPA's reports and work
- Developing materials about police accountability and the complaint process and disseminating them to community groups and citizens
- Attending community meetings to educate the public about all

Functions of the Civilian Office of Police Accountability (COPA)

Investigate	Audit	Engage and Inform
Investigate misconduct involving BPD Officers	Collect and analyze data on complaints involving BPD officers	Assist residents with making and tracking complaints
Recommend discipline for sustained complaints	Produce annual reports on policing in Baltimore as well as special reports on issues of concern to the community	Mobilize citizens around policing issues
Appeal PC decisions that differ from COPA recommendations	Assess BPD training, policies and procedures to ensure racially equitable outcomes	Inform citizens of trends, progress and challenges in Baltimore's policing
		Provide opportunities for police officers and citizens to connect in meaningful ways

facets of the COPA's police accountability system

- Developing and implementing community programs that increase trust between citizens and the police
- Mobilizing citizens around police accountability issues
- Addressing any and all policing issues of concern to the community, members of the PAC, the Consent Decree Monitor, the Police Commissioner, the Mayor, or any member of City Council
- Monitoring and reporting to the community on the progress of the Monitor in the Consent Decree case of *United States of America v. Police Department of Baltimore City, et al.* until such time as the Consent Decree ends
- Developing and implementing a Reconciliation Plan to provide the citizens of Baltimore with relief from past harm caused by unconstitutional policing

4.3.4 Benefits of Establishing the Police Accountability Commission (PAC) and the Civilian Office of Police Accountability (COPA)

The model that the COTF is proposing for Baltimore's civilian oversight is a hybrid of the models that exist in other cities. It draws from models in New Orleans, Denver, Seattle, New York, and other cities and adds elements that are both necessary for and unique to Baltimore. The Baltimore police accountability system designed by the COTF can be described as an investigation/auditor/community outreach model.¹⁵ It is intentionally designed to be far-reaching and comprehensive to address the specific needs of Baltimore. It contains the following core components of oversight we believe are necessary to implement and sustain effective oversight for Baltimore: independence, adequate jurisdictional authority, unfettered access to police records, full cooperation of the BPD and the support of stakeholders, adequate funding and resources, public reporting and transparency, trend analysis and proactive policy-making, alternative conflict resolution, and community outreach and involvement.

While each of these eight core components is necessary, the COTF believes that independence is crucial for the implementation of successful oversight of law enforcement in Baltimore. Our research of national models supports this conclusion, and our understanding of the political, social, and cultural tensions in Baltimore's communities reinforces and demands it. The scholarship on civilian oversight models indicates that "[t]he extent to which oversight is independent of police, political actors and other special interests has been argued to be strongly related to

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This model is different from other models that we have reviewed. For example, Denver is a Review/Auditor/Outreach model; NY is an Investigation/Auditor model; Seattle is an Investigation/Auditor/Outreach; and New Orleans is a Review/Auditor model.

effectiveness of oversight.” (DeAngelis et al. 36).

The COTF’s proposed Baltimore model ensures independence in several important ways. It creates structural independence by separating the COPA from the police department, the Mayor, and other city agencies. It adopts an investigation model with broad jurisdictional authority (as opposed to a review model) and therefore replaces BPD’s internal affairs unit with an external, independent way of handling misconduct complaints involving citizens. It limits the involvement of police officers with oversight by preventing current or former police officers from working at the COPA (outside of investigations). Last but not least, the COTF’s proposal requires the PAC and the COPA to be codified in city and state law, thereby making it more difficult to eliminate or censor, and more likely that the accountability system will act with independence. The COTF has built in all these independence elements to our proposed model because we feel strongly that without independent civilian oversight of the BPD, trust cannot be built between the citizens of Baltimore and the BPD.

The COTF is proposing a comprehensive model of civilian oversight for Baltimore because it believes a reactive model will not go far enough to ensure impartial and constitutional policing, nor will it be effective in building trust between citizens and the police. Investigating police misconduct is important, but it is inherently reactive and only happens after alleged misconduct has taken place. The proactive monitoring of trends provides opportunities for problem identification that simply do not exist with a strict reactive model.

Our hybrid model, including investigation, auditing, and community outreach, will result in a BPD that is more honest, community-oriented, and effective. Both the PAC and the COPA can and should proactively address policing issues and analyze patterns of problems to identify and promote solutions that will minimize misconduct in the future. The early identification of problematic trends benefits both the police and the broader community; in the case of the former, officers may have increased opportunities to receive resources necessary to do their jobs more effectively, and with respect to the latter, policing issues that have a negative impact on the community may be improved, if not resolved, before there is unnecessary trauma or loss of life. Finally, it is worth noting that transformative justice is central to our proposed model and vision for improving police-community relations in Baltimore. Our view is that restorative justice and alternative dispute resolution techniques will help to build community in ways that punitive remedies cannot. We recommend that extensive community outreach is done to educate the public and the police on these alternate forms of dispute resolution and that serious efforts be made to bring the police and community together in constructive, ongoing ways.

4.4 **Breaking Down Legal Barriers to Police Accountability**

In order to create the PAC and the COPA as envisioned by the COTF in this report, city and state enabling legislation must be enacted. The enabling statutes must encompass all the powers outlined in this report. The COPA enabling statute must create the COPA in a way that it is exempt from the provisions of the Law Enforcement Officers Bill of Rights (LEOBR). The COTF's recommended civilian oversight system creates a comprehensive way to address police misconduct perpetrated against the public, and it has community-based values at its core. As such, the proposed COPA structure needs to be exempt from LEOBR. The COPA's enabling statute needs to require that any local collective bargaining agreements be in accord with its policies. The current LEOBR and CBA framework should still apply to the BPD internal affairs investigations and disciplinary actions regarding internal misconduct of police officers unrelated to the public. Also, the BPD's internal affairs division should continue to handle those cases. When COPA's enabling legislation is enacted, the current CRB statute shall be repealed and reenacted with amendments establishing COPA.

The COTF believes that new, comprehensive enabling legislation is needed to set up an effective civilian oversight system for Baltimore. An analysis of the legal impediments contained in Baltimore's existing system is instructive and highlights the myriad ways in which the current system is doomed to fail in providing effective oversight and in building trust between the police and the community. The following are current legal impediments to effective civilian oversight in Baltimore:

- The LEOBR, MD Code, Public Safety, §§ 3-104 through 3-113, which was enacted in 1974 to create a formal process for investigating and disciplining police officers for misconduct, only allows sworn officers or the state's Attorney General to investigate and interrogate accused officers. §3-104(b). This provision is much too restrictive and prevents civilians from investigating misconduct allegations.
- The LEOBR sets up a Trial Board hearing process for situations where demotion, dismissal, transfer, loss of pay, or reassignment are recommended for officer misconduct. This three-person Trial Board can include up to two civilian members, but that provision can be changed by local collective bargaining agreements. §§3-107 (a)(1), 3-107(c)(1)(i), and 3-107(c)(5)(i). Article 16(D) of Baltimore's collective bargaining agreement forbids civilians from serving on Trial Boards, thereby eliminating even the possibility of civilian involvement with

Baltimore needs a strong system of independent oversight that takes into account the voice and values of the community that is being policed.

police accountability. These provisions are extremely restrictive and prevent effective civilian oversight for Baltimore.

- The CRB's enabling statute, found at Public Local Law §§16-41 through 16-54 is flawed in multiple ways and further presents legal barriers to police accountability. A comprehensive enabling statute for the proposed COPA would replace the CRB statute in its entirety. The CRB's enabling legislation presents barriers to effective civilian oversight in the following specific ways:
 - o PLL § 16-42(b) excludes too many allegations from its subject matter jurisdiction, allowing review of only five kinds of complaints: excessive force, false arrest, false imprisonment, harassment, and abusive language.
 - o PLL §§ 16-45(a) and 16-46(a)(2) create duplicative and inefficient concurrent jurisdiction with the CRB and the BPD's internal affairs division.
 - o PLL § 16-42(b) does not allow the CRB to initiate investigations. Its authority is triggered only when a complaint is filed. This prevents the CRB from looking into highly publicized incidents and troubling patterns of police practice observed by the public.



Ray Kelly giving an overview of the COTF recommendations to the Statewide reform collaborative CJSJ (campaign for justice, safety and jobs) at Union Baptist Church. Lydia Walter-Rodriguez from CASA is translating

- o PLL § 16-46(b)(1)(i) fails to grant the CRB authority to compel cooperation of the accused officers with its investigations and proceedings. The CRB can only subpoena witnesses to misconduct but not the accused officer.
- o PLL § 16-45 requires BPD's internal affairs division to investigate complaints within 90 days but allows the Board to extend the time indefinitely. Further, the statute does not require the BPD to provide the CRB with full and timely access to all evidence and information in the possession or control of the BPD related to complaint investigations.

- o PLL § 16-48 makes the Police Commissioner the final decision-maker regarding disciplinary action against accused officers and does not require the Commissioner to notify the CRB of what actions the Commissioner takes. Further, if the CRB makes other recommendations to the Police Commissioner about public concerns or policy changes, the Commissioner is under no obligation to report back to the CRB about any actions taken in response.
- o PLL § 16-48(b) allows police officers to expunge certain complaints made against them. This prevents the CRB from getting a full picture of an officer's history of behavior toward the public.
- o PLL §§ 16-49 and 16-50 The CRB's enabling statute allows police labor contracts to limit the CRB's power.
- o PLL § 16-43 authorizes the creation of the CRB but does not grant the CRB an annual operating budget or its own staff. It must depend on the Mayor's Office to assign staff and provide funding to the CRB.
- The Maryland Public Information Act, MD Code §§ 10-611 *et seq.* of the State Government Article, has been interpreted by the Maryland Court of Appeals in the case *Maryland Department of State Police v. Dashiell*, 433 Md 435 (2015) to prevent the disclosure of police misconduct investigatory records because it found them to be protected "personnel records." This case prevents the public from knowing how law enforcement agencies respond to misconduct arising out of contact with the public. The MPIA must be amended to allow public disclosure of actions taken by police departments in response to misconduct allegations.
- The Police Department of Baltimore City is currently an agency of the state of Maryland pursuant to PLL § 16-2. Local control of BPD is necessary for effective civilian oversight of police. State law must be changed to make BPD an agency of the city of Baltimore. This will require Article II Section 27 of the Baltimore City Charter to be amended accordingly.

5.0 **Baltimore City Control of the Baltimore Police Department (BPD)**

The BPD will never be fully accountable to its residents until full control of the department is returned to the city.

The last section of the report focused on recommendations to reform the current system of oversight so that it is comprehensive, independent, transparent, and accountable. Even with these reforms, however, Baltimore City residents will still not reach full police accountability. This is because the city does not exercise complete control over their police department. Therefore, the COTF recommends that control of the BPD be completely returned to the city of Baltimore with all deliberate speed.

Local governments were established in America to bring government closer to the people it serves. The argument is that by having government operate at the local level, citizens have more opportunities to engage in the political process and influence public policies that will affect their lives (Burns). The same idea applies to policing. In most places of the United States, police departments are under the control of local government. Where this is the case, citizens indirectly maintain control of their police departments via their elected officials, and accountability is achieved through elections. Citizens elect local officials who they believe will achieve the kind of policing they want, and if they do not, citizens may vote them out at the next election.

This accountability linkage does not exist in Baltimore because the City Council holds no authority over the BPD (Wenger). While Baltimore City's taxpayers are responsible for funding the BPD and paying for misconduct lawsuits filed against this agency, they exercise little influence over vital policies and operational issues. For example, parameters around the hiring and firing of officers, promotions, and civilian oversight are all set in state law. Shockingly, the reason for this stems back to historic Civil War politics.

The BPD was established as a state agency in the early 1850s but was taken over by the federal government in 1861 because of its role in facilitating the Baltimore Riot of that same year. As most Baltimoreans at that time were Confederate sympathizers, the view is that the Baltimore police enabled union and Confederate forces to clash, leading to a dozen civilian deaths, the death of four soldiers, and dozens more wounded. In 1862, the federal government returned control of BPD to the state, and it has since remained there.

Every other police force in Maryland is governed and regulated by their local charters. The same should be true for Baltimore City. The BPD will never be fully accountable to its residents until full control of the department is returned to the city. Given the broken relationship that exists between the people of Baltimore and the police, the implementation of this recommendation needs to be a top priority.

The norm across the United States is for police departments to operate as local, not state, agencies. The city of Baltimore should control its own police department as every other local jurisdiction in the state of Maryland does.

6.0 **Fostering Stronger Relations Between the Baltimore Police Department (BPD) and the Community**

Instituting an oversight agency that is governed by the community would signal to Baltimoreans that we as a city are ready to begin building a relationship between the community and police that embodies trust and respect.

6.1 **Overview**

The establishment of an independent office of police accountability that is fully equipped with the staff, resources, and authority necessary to hold officers accountable is the only way to lay the foundation for trust in the police. Instituting an oversight agency that is governed by the community would signal to Baltimoreans that we as a city are ready to begin building a relationship between the community and police that embodies trust and respect. The COTF believes that reforms in the following areas can be made to contribute to stronger relations between the BPD and the community:

- **Community Outreach**
- **Diversity, Equity, and Inclusion Initiatives (DEI)**

- **Community Policing**
- **Bias-Free Policing**
- **Across the Board De-escalation**
- **Body Worn Cameras**
- **Transformative Justice and Reconciliation**

6.2 **Community Outreach**

As part of its community outreach arm, the COPA will be directly responsible for staying engaged with local communities. The establishment of the COPA will be a critical first step in convincing Baltimore's residents that institutions are trending in the right direction for improved police-community relations. However, if the BPD is ever to overcome its reputation of being corrupt, ineffective, and excessively forceful, it must do more to reach into communities in meaningful ways.

The establishment of a community outreach wing within COPA in no way suggests that the BPD does not engage in outreach. The COTF is aware that the BPD as an institution conducts various outreach activities within local communities throughout the year. We also know that there are many individual officers who go above and beyond the call of duty by, for instance, assisting community members on their personal time and providing informal mentorship to youth. Unfortunately, most of the community is not aware of this good work being done by the BPD, and it is not clear to what extent outreach work has been institutionalized within the department. From the BPD's website and other publicly available information, one would not necessarily know the number or type of outreach activities that are being carried out by the BPD, nor whether they are conducted uniformly across districts. The COTF encourages the BPD to make this information available to the public.

Even with the community outreach conducted by the BPD, the COTF believes that the COPA should play a role in engaging communities around issues of policing. As a neutral, third-party actor, the COPA will be uniquely positioned to help build trust between the community and the BPD. To that end, the COTF recommends that the BPD host, or be heavily involved with, *quarterly* activities that are designed to build police-community relations in *each* police district. These activities should be open to all members of the

In most places of the United States, police departments are under the control of local government. Where this is the case, citizens indirectly maintain control of their police departments via their elected officials, and accountability is achieved through elections.

community, and they should provide opportunities for meaningful exchange between officers and community members. If hosted by the BPD, the activities should take into consideration the social preferences of community members and be designed to maximize turnout. The activities should be publicized well in advance through multiple communication media outlets.

If the community event is not hosted by the BPD, the BPD should plan well in advance to ensure its presence. Ideally, officers of different ranks, up to and including command staff, would be present at these various activities throughout the year. A detailed report should be submitted to the COPA after each community event. It should document who attended, the nature of the event, and how officers and citizens were able to engage with one another. It should also state what was learned from the event and how the opportunity helped to strengthen relations between the police and community.

The COTF also recommends that there be an official mentoring program for youth that is modeled on the Big Brothers Big Sisters (BBBS) structure. Denver's "Kids and Cops" program could also be especially instructive in building our own model. Finally, Baltimore could look to initiatives like the "reverse ride-along" program in Cleveland as a way to begin facilitating meaningful relationships between new officers and the communities they will serve.

While the quarterly activities in the community would be designed to give officers the opportunity to interact with multiple community members for a relatively short period of time, the mentoring program would involve a much deeper one-on-one connection with a young person over a longer period. Research has shown that the longer-term commitment of mentors has a positive impact on mentees' self-esteem and relationships, while also reducing the likelihood of delinquency and substance abuse (BBBS Website).

Moreover, we expect positive benefits to accrue to officers as well as they come to better understand the young people they are responsible for policing. The time shared with young people will hopefully help officers develop a better appreciation for the numerous challenges facing inner-city youth, give officers more of an opportunity to hear young people's ideas about potential solutions, and hear how they creatively manage the challenges confronting them. As part of our outreach work, the COTF conducted two focus groups with incarcerated youth. When we asked, "What changes could the BPD make to ensure more positive interactions with African American Youth?", we received the following responses:

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- "They assume you doing something even when you are not doing anything. It is like they just be hoping you doing something so they just come mess with you. They are always

so aggressive.”

- “They think all young black males is doing the same thing or doing something bad because of the rest of the neighborhood.”
- “Yes! It’s like he said they think everyone is the same. You can even call for help and they treat you like you doing something wrong.”

Essentially, the responses here suggest that young people want to be treated as individuals and not viewed as one stereotyped, uniform group. They want to be given the benefit of the doubt and not have officers pre-judge them based on their skin color and zip code. When asked, “If you could make one change in the way police officers are trained to interact with African-Americans, what would that be?, we received the following responses:

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- “Just talk to us different. Soon as they see you they are yelling. They don’t know if you need something and they never try help you out.”
 - “Get to know us. We may be out there but sometimes that is all we have, the only way we eat sometimes, and not just trying to break the law. Then they might want to help us and not always lock us up.”
-

The first of the last two responses suggests that this young person believes relations between African-American youth and the police could improve if the police treated youth with basic dignity and respect. The second comment, where we can infer that the respondent is referring to drug dealing when he says, “We may be out there,” shows that young people who do break the law may A) be willing to admit their culpability and B) believe police-youth relations may improve if officers can empathize and understand that as a result of living in endemic poverty, some of them deal drugs to survive.

A little respect and understanding, which is not the same as justifying wrongdoing when it does occur, is what most of these young people see as the key to improving police-community relations. The long-term commitment required to make this kind of program effective, though, means that the BPD will need to provide incentives to officers to encourage participation.

6.3 **Building Diversity, Equity, and Inclusion (DEI) in Baltimore's Policing**

One of the issues that contribute to strained police-community relations in Baltimore is that police officers often are not representative of the communities that they police. According to the BPD's Chief of Science and Management Services Division, as of 2017, 17% of BPD officers resided in the city. An investigation conducted by Robinson showed that the percentage of BPD officers who live in the city declines further still when examining the residency of White officers only. While city residency is not required for one to become a police officer in Baltimore City, having more officers on the force who reside in the city may increase the number of personnel who understand the lived experiences of everyday Baltimoreans. This nuanced view will help to promote mutual understanding between the BPD and the community, contributing to better police-community relations.

To address issues of representation and contribute to the realization of full impartial policing, the COTF recommends that the COPA hire a DEI staff, at minimum 1 DEI Director, to oversee all initiatives designed to increase diversity and equity within the BPD, and the oversight agency itself.¹⁶

6.3.1 The Diversity, Equity, and Inclusion (DEI) Staff Responsibilities and Duties

The DEI staff will work with the BPD to develop strategies and incentives to increase the percentage of BPD officers who reside in the city. We recommend that the BPD aim to increase the number of officers who live in Baltimore City to 55% by 2028. Gradual progress toward this goal should be demonstrated and reported on to the oversight agency every year, and incentives to encourage city residency among officers need to be adopted immediately.

DEI staff will be responsible for reviewing and weighing in on all BPD recruitment qualifications to ensure that they do not disproportionately exclude or impact minorities, including in areas of the city where other minorities are prevalent. For example, in South and Southeast Baltimore, a growing Spanish-speaking population requires Spanish-speaking officers and detectives that are ideally from the very communities they would be policing. Opening positions to non-U.S. citizens, as is the case in other cities and as has been the case throughout U.S. history, may facilitate the recruitment of officers that are of Latinx/immigrant background. The DEI staff will have the authority to recommend

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According to one external expert, the civilian oversight industry has become increasingly dominated by one group, retired police officers. Every effort should be made to ensure that the oversight agency itself is diverse and equitable.

reforms to recruitment policies that do disproportionately exclude/impact minorities.

The DEI staff will also be responsible for reviewing police Academy training and should be allowed to enter the training grounds unannounced, to observe training sessions. The training at the Academy, both the formal manuals and the training that is observed during unannounced visits, will be assessed for racial equity impact.

In coordination with a local university and/or non-profit such as the People's Institute for Survival and Beyond (PISAB), the COPA's DEI staff will develop and implement a comprehensive training plan on cultural competency and implicit biases that will be required for all BPD officers and oversight staff alike. The training should also include extensive coverage of material on the history of race and policing in Baltimore. This training will be updated on an ongoing basis.

Language resources, including translators, need to be readily available to officers and the public. In our public workshops and focus groups, several members of the Latinx community spoke of how assistance is denied or delayed because English is not their first language. Women, in particular, spoke of how often women call the police to report domestic abuse but never get to tell their side of the story because the officer on the scene simply listens to the male who is usually the English speaker of the two. This one example demonstrates how not having proper language resources readily available to officers and residents could literally turn into a life or death situation. Spanish is the second most spoken language at home in Baltimore. The 2010 census estimated that the Latinx community grew by approximately 10% from 2000 to 2009. Adequate language resources are necessary to properly serve and protect all those who live in Baltimore, and assistance should be given with professionalism and goodwill. Multiple participants in our forum expressed that at times they felt just as impotent speaking to a Spanish-speaking operator because of their impatience with the caller. This exemplifies how diversity is but one step in the right direction and that continuous training and emphasis on a culture of cooperation and respect is needed. The DEI staff will audit and report on the availability and quality of these resources on a regular basis and make recommendations for improving these resources where appropriate.

Also, although immigration matters are outside the purview of the BPD, the activity of Immigration and Customs Enforcement (ICE) agents in the city can cause confusion and mistrust amongst the community—in particular when ICE officers operate in plain-clothes or vests, jackets, or other gear that simply say, "POLICE." The COTF urges the BPD to call upon ICE agents performing official business in the city to identify themselves as federal immigration officers and to make clear that they are not officers, agents, or employees of the city.

As a neutral, third-party actor, the COPA will be uniquely positioned to help build trust between the community and the BPD.

The certification process for U-Visas for immigrants must be continuously improved, with an emphasis on ensuring that police officers are better trained to adequately fill out incident reports so that the U-Visa process for the victim/witness is not jeopardized.

Data on minority-police interactions will be tracked, reviewed, analyzed, and reported to the public on a regular basis. This will include data on stops, searches, arrests, as well as incidents involving the use of force, up to and including officer-involved shootings. The DEI personnel will also regularly review body camera footage to assess the quality of minority-police interactions, paying close attention to whether officers are in compliance with their de-escalation policies, which cover all police interactions with citizens not just use of force incidents.

Complaints of identity-based discrimination will be reviewed, processed, investigated, and reported on regularly. They will also be shared with relevant civil rights agencies.

Data on hiring, promotion, and advancement within BPD will be reviewed and reported on to ensure equity across lines of race, ethnicity, gender, national origin, etc. There is a long history of black BPD officers facing racial bias and a hostile work environment within the BPD. For example, in 1996, “the Baltimore Community Relations Commission found that black officers were more likely to be disciplined or fired than white officers [and] in 1998, the City Council’s Legislative Investigations Committee...issued a report on Internal Discrimination in the Baltimore City Police Department” (Davis). The DEI staff of the COPA will monitor complaints of discrimination against BPD officers, but also how the department fares internally with improving racial, ethnic, and gender equity (among others).

The BPD will be required to outline, in an annual report to the COPA and the public, what efforts have been made to ensure that officers are representative of the precincts they serve in terms of race, ethnicity, primary language spoken, gender, etc.

6.4 **Community Policing**

Community-oriented policing ensures that policing strategies consider the values and priorities of local communities. It involves a problem-solving approach to crime that takes place in partnership with the community itself. The COTF recommends that the community-policing model for Baltimore include fully funded and permanent foot posts in residential areas, as these “on the beat” positions allow for relationships between the police and the

community to develop and grow. The development of these one-on-one relationships would not only help to improve police-community relations, but they may also contribute to more effective policing in general. The BPD should work in consultation with the community to establish the most effective placement of foot posts.

The COTF also recommends that the BPD have formal and permanent community liaisons within each district station who will be responsible for staying engaged with the community. These liaisons would be responsible for regularly attending community meetings and events to learn about community priorities and problems from the vantage point of residents. The BPD community liaisons would be required to meet with and provide their direct contact information to all neighborhood association, faith, and advocacy and business leaders so that they have a clear mechanism for providing input to the BPD.

Finally, policies on officer reassignment (especially of foot patrol officers) need to consider the disruption that reassignment might wreak on police-community relations. All reassignments should weigh the relative costs and benefits of reassignments to the community. When reassignments do occur, every effort should be made to give the community ample notice of the reason for the change, where possible.

6.5 Bias-Free Policing

There can be no trust between the police and the community if the police use their vast powers and discretion in ways that are discriminatory, biased, or have disparate impacts on protected classes of people. It should be the goal of BPD to provide fair and equitable services to all citizens of Baltimore. And after every encounter with a BPD officer, a reasonable citizen should feel that they were treated fairly.

Bias-based policing is the differential treatment of any person by officers motivated by any characteristic of protected classes under federal, state, and local laws, as well as other discernable characteristics of an individual. The BPD officers and employees must not engage in bias-based policing. They must not make decisions or take actions that are influenced by bias, prejudice, or discriminatory intent. Law enforcement decisions must instead be based on observable behavior or specific intelligence.

We know that the BPD has engaged extensively in bias-based policing. An illustrative example is traffic stops. The DOJ Report

found that “between 2010 and 2015, black motorists made up 82% of people stopped by the BPD for traffic violations. Black residents make up 60% of the city’s driving-age population.” Furthermore, “[b]lack drivers in the city were 23% more likely to be searched than white motorists, but less likely to have contraband than other motorists.” The DOJ concluded that the “BPD’s high rate of stopping African-American drivers is discriminatory” (United States Department of Justice).

This bias-based policing must be stopped by creating a comprehensive impartial policing policy and training all officers and employees to implement the policy. The BPD has drafted a Fair and Impartial Policing Policy and released it for public comment on June 7, 2018. While this Draft Policy makes some good progress, it does not go far enough to protect the citizens of Baltimore. Specifically, the COTF believes it should more directly and prescriptively address policing that may be unintentionally biased, which results in disparate impacts on protected classes.

The BPD must be committed to eliminating policies and practices that have an unwarranted disparate impact on certain protected classes of people. The long-term impacts of historical inequity and institutional bias can result in disproportionate enforcement of laws by police, even in the absence of intentional bias. The BPD must find ways to protect public safety and public order without engaging in unwarranted and unnecessary disproportionate enforcement.

The BPD must conduct periodic analyses of its data on traffic stops, pedestrian stops, citations, and arrests to identify the BPD practices that have disparate impacts on particular protected classes relative to the general population. When disparate impacts are identified, the BPD must develop and adopt equally effective alternative practices that would result in less disproportionate impact. The BPD must consult with neighborhood, business, and community groups when developing alternative practices. Alternative enforcement practices may include addressing the targeted behavior in a different way, de-emphasizing the practice in question, or any other measure that would eliminate the disparate impact.

Examples of alternative practices include eliminating police officer discretion for minor infractions like having equipment problems on cars. In 2016, the police chief in Hampden, Connecticut reformed traffic stop criteria to eliminate defective equipment stops that were having a disparate impact on African-American drivers (Cohen). The results were impressive. Stops of minority drivers went down by 25%. Most importantly, police-community relations improved. This kind of policy also has the added benefit of stopping the criminalization of poverty because people who get stopped for defective equipment—tail lights out, etc.—tend to be people who can’t afford repairs to their vehicles. When people affected by poverty get tickets they can’t afford, their financial troubles intensify. (Job Opportunities Task Force).

There can be no trust between the police and the community if the police use their vast powers and discretion in ways that are discriminatory, biased, or have disparate impacts on protected classes of people.

The COTF recommends that Baltimore creates a pilot program to identify “can’t arrest” offenses and offenses in which citations or stops will be de-emphasized for the duration of the Consent Decree. A hotline number can be set up to report violations of the new policies directly to the Monitor, and that number should be made easily available to citizens, for example, by posting it on police cars. These efforts to eliminate biased policing and disparate impacts should be monitored to assess their effects on improving police-community relations.

6.6 **Across the Board De-escalation**

The BPD’s draft de-escalation policy (1107) will be, if implemented, a substantial improvement over current de-escalation policy (subsumed within Use of Force Policy 1115). The current policy requires members to “de-escalate as soon as possible and appropriate” but it does not explicitly advise against escalation in the first place. It takes for granted that officers will not escalate a situation unless there is a need to do so to enforce the law. The draft policy is a marked improvement in several respects. First, it states that officers “not do or say anything that escalates an encounter unless necessary”. Second, it requires that, when safe to do so, all officers “use de-escalation techniques in order to reduce the need for force and before resorting to force”. Moreover, the draft policy defines what de-escalation is, and provides various concrete examples of de-escalation techniques.

The COTF believes that the implementation of draft policy 1107 will go a long way toward improving the safety of officers and community members, but it does not go far enough. Officers need to be trained on how to interact with community members so that they are not perceived as escalating a situation. For example, when officers refuse to tell citizens why they are being stopped or detained, this can be perceived as unnecessary escalation on the part of the officer. Draft policy 1107 also does not clearly spell out what the consequences for officers who unnecessarily escalate encounters with citizens. Given the long legacy of the excessive use of force, particularly in Baltimore’s communities of color, it is vital that BPD officers who unreasonably, unnecessarily and disproportionately escalate encounters with community members, be strictly disciplined. It is not enough to simply say that officers who violate use of force policies or laws will be held accountable. The discipline for unnecessary escalation should be clearly spelled out in the policy, and it should

be appropriately progressive depending on the severity of the offense and whether serious bodily injury or death occurred as a result of the officer's actions.

6.7 **Body-Worn Cameras (BWCs) and Other Technology**

The use of BWCs is one potential tool for holding police officers accountable. While they are no panacea for arriving at policing that is fully impartial and constitutional, BWCs can help to improve transparency and accountability within police forces. For example, Braga et al. show that officers who use BWC received fewer complaints and use of force reports relative to officers not wearing body cameras in the Las Vegas Metropolitan Police Department (LVMPD). The findings come from a randomized controlled trial conducted by the authors with more than 400 police officers of the LVMPD. They also found that savings from reduced complaints, and the labor necessary to investigate the complaints, led to significant savings for the police department.

The COTF makes the following recommendations with respect to BWCs:

- The BPD should make all BWC footage available to the oversight agency in real-time.
- All BWC policies need to be made and revised in consultation with the COPA.
- BWCs should be issued to all sworn personnel (with the exception of undercover personnel) as expeditiously as possible.
- Signal technology should be integrated into patrol cars and other police equipment so that recordings automatically begin when weapons such as firearms and tasers are deployed or when patrol car doors are opened and sirens are activated.
- Officers must be heavily penalized, up to and including termination, when they turn off, deactivate, or fail to turn on or activate BWCs in accordance with BPD Policy.
- BWCs should always be turned on and activated in police encounters with individuals that result in the use of force.

The discipline for unnecessary escalation should be clearly spelled out in the policy, and it should be appropriately progressive depending on the severity of the offense

- When technology avails, BWCs need to be controlled and monitored in real-time by a central command station, not operated by individual officers.

We should be mindful that the footage acquired from BWCs will only move the BPD closer to accountability if the BPD's involvement with the community is properly captured on film, and if the public is able to gain swift access to the footage (Abdollah). We must also keep in mind that BWCs are turned on at the individual officer's discretion and that the scene is recorded from the officer's vantage point. Therefore, while footage from BWCs may be helpful for understanding interactions between the police and communities, we must remember that it does not capture the broader context of the interaction that takes place outside the scope of the camera, nor does it record (or fully record) what may have transpired between an officer and a resident *before* the camera is turned on or while it is in buffering mode.¹⁷

6.7.1 Other Technological Recommendations

To hold officers accountable, citizens need to be able to verify the information that they convey to police officers when filing reports. The COTF recommends that the BPD acquire the equipment necessary to make police reports immediately available to citizens as soon as possible. Individuals who call on the police for assistance should not have to wait a week or more to gain access to the information filed in their report. They should have immediate access to their report either electronically, or in print form (citizens' choice). Moreover, Baltimoreans should have electronic access to their cases within the criminal justice system, so that they may track the progress of their cases (including complaints filed against police officers).

6.8 Transformative Justice and Reconciliation

If accountability for actions involves only punishment, officers will tend to see accountability to the community as a zero-sum game where increased accountability is a "loss" for officers. Allegations of abuses by officers, and even confirmed abuses, should be seen not only as violations in need of correction but as evidence

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When the BWC is on, but not activated, it captures video but not audio. The camera is only activated when the officer pushes the activation button twice.

of deeper issues that can and should be addressed as part of the response. Holding officers accountable through the criminal justice system is just one way of addressing their wrongdoings. Other ways, and ones that deal with the impact of officers' actions on the broader community, are transformative justice routes. Evidence shows a high level of citizen and police satisfaction with alternative methods of dispute resolution (Mitchell). Transformative justice approaches seek accountability, but in a way that, if successful, builds empathy, community, and trust. These approaches have the added benefit of addressing problems between officers and the community that may not constitute official crimes or formal conduct violations. Having time and space to address these kinds of issues (e.g., case of excessive force in which officer was not found to be in violation) may help officers and residents alike get to the root of the tensions that exist between them, heal, and move forward in a healthier way.

As transformative justice is about culture change as much as procedures, transformative practices should, as much as possible, be infused into the daily work of officers and not only activated in cases where abuses have been alleged. Therefore, the COTF makes the following recommendations:

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- Maintaining and expanding a mediation program for complaints
 - Reaching out by the COPA staff to both the complainant and officer within 48 hours to help connect them, as needed, to support services, especially but not limited to mental health support, when complaints are lodged against officers
 - Providing regular opportunities for officers to have open, confidential, facilitated discussions with their colleagues of the same/similar ranks—the everyday basis of transformative justice
 - Creating Academy training that covers both the theory of transformative justice and the options available to officers in this regard (e.g., diversion programs, mental health crisis response)
 - Making cultural competency courses and other courses offered to officers through universities open to civilian participants
 - Having a transformative justice specialist(s) on staff who can weigh-in on policy reviews and research conducted by the auditing unit of the COPA
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7.0 Transitional Police Accountability Reforms in Baltimore

Until the PAC and the COPA are established and functional, the current system of civilian oversight review by the CRB must stay in force and be strengthened wherever possible.

Given the legal and financial barriers to establishing an effective police accountability system for Baltimore as outlined in this report, COTF recognizes that it will take time to establish a fully functional system complete with a PAC and a COPA. Until the PAC and the COPA are established and functional, the current system of civilian oversight review by the CRB must stay in force and be strengthened wherever possible. The COTF recommends that the following short-term measures be taken immediately:

- The city should provide the CRB with sufficient additional resources and staffing to enable it to fulfill its legal mandates.
- BPD should enter into a Memorandum of Understanding with the CRB to timely provide the Board with all of the evidentiary materials it needs to thoroughly review the police department's investigation per PLL § 16-46(c)(1), and if the Board so chooses, to conduct a parallel investigation per PLL § 16-46(a)(2). The withholding of this information has stymied the CRB's work.
- The BPD must start providing its investigative case files to the CRB within 90 days as required by PLL § 16-45(a). If the

BPD needs more time, the BPD must begin asking the Board for time extensions per PLL § 16-45(b). The BPD's continuous disregard for these legal requirements must stop immediately.

- The BPD's internal affairs division must not change or create any internal process or policy in any way that impacts the CRB functions without the CRB's input and agreement.
- In cases where the CRB and the BPD's internal affairs render different findings and the Police Commissioner upholds the BPD finding, the Police Commissioner must provide his reasoning to the CRB in writing within 15 calendar days of the decision.
- Pursuant to PLL § 16-43(f)(2), the city of Baltimore should hire and assign counsel to the CRB that is independent of the Baltimore City Law Department—a department that also represents the BPD. Among other things, this independent counsel can ensure that the CRB can exercise its full subpoena power under PLL § 16-46(b)(1)-(2).
- The city of Baltimore should provide consultants and/or specialists to the CRB who can provide technical assistance to the CRB. These consultants can help with drafting CRB's rules and regulations, an operational manual governing all aspects of the CRB's work, investigations, and internal operations. They can also help create a comprehensive training course for Board members and investigators.
- The BPD and CRB must work together to develop policies that protect individuals who have filed misconduct complaints or witnessed misconduct from retaliation or harassment.
- The BPD must prevent all evidentiary materials associated with a misconduct investigation—including audio, video, and photographic evidence—from being deleted or otherwise made unavailable by internal affairs for “lack of evidentiary value.”
- The BPD must allow the CRB access to the training records of officers who have received multiple complaints of misconduct.
- The BPD must allow the CRB to audit an officer's BWC history after an officer receives more than one misconduct complaint against him or her.
- Finally, the city should provide funding for at least two full-time staff persons to facilitate these transitional police accountability reforms and to support the development of the PAC and COPA for Baltimore.

8.0 Next Steps for the Community Oversight Task Force (COTF)

Members of the CRB and its staff have worked diligently to try to hold police accountable within the limits of their mandate. A fully operational PAC and COPA will take time to establish, both procedurally and in legislation, and work must continue at the level of the CRB in the interim.

The COTF recognizes that the work of police accountability and community and civilian oversight reform is in its early stages here in Baltimore. This report sets forth a blueprint for establishing an effective police accountability system that is based on best practices from around the country and from the intense work of grassroots organizations and individual activists here in the city of Baltimore. To take effective advantage of this moment of historic opportunity to transform the relationship between the residents of Baltimore and the police department intended to serve them, and to ensure a smooth transition to the type of police accountability entity that Baltimore needs and deserves, much work still needs to be done.

Some of this work is outlined in the transitional reforms detailed in section seven of this report. Members of the CRB and its staff have worked diligently to try to hold police accountable within the limits of their mandate. A fully operational PAC and COPA will take time to establish, both procedurally and in legislation, and work must continue at the level of the CRB in the interim.

The bulk of the continued work is likely to take place among the variety of grassroots organizations, as well as larger state-level and national partners, that have been engaged in police reform since the DOJ investigation, and even earlier. The work of the COTF was only possible because of the long history of organizing for police reform in Baltimore City. Many individual members of the COTF came to the Task Force from their work on police reform with existing organizations in Baltimore, and all of us are committed to continuing to support work towards police accountability, independent oversight,

and transformative justice within our individual capacities, and in support of organizations committed to a more just and peaceful city.

In addition, we envision a continued role for the COTF for the remainder of the Consent Decree and until the establishment of the PAC and COPA. As a formal creature of the Consent Decree with a specific focus on improving community oversight of the police, a continued COTF can take several specific actions in support of broader accountability and reform work in the city:

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- Advocating for the reforms recommended in this report in collaboration with agencies, organizations, and individuals willing to do the same
 - Monitoring the progress of civilian oversight during the period of the Consent Decree, and reporting to the community, the parties, and the court about that progress
 - Providing a legally-recognized avenue for community input regarding civilian oversight in the Consent Decree process by seeking amicus curiae status on the case of *United States of America v. Police Department of Baltimore City, et. al.*
 - Developing the recommendations in this report into an operational manual for the future PAC and COPA, covering the administrative details needed to implement these recommendations
 - Providing technical input or other support, as needed, on issues covered in this report to organizations advocating for legislative change
 - Devising and implementing with local advocacy groups a public education campaign to provide information to the community on the PAC, the COPA, and general ways to achieve more transparent and accountable policing
 - Conducting surveys and in-depth interviews with residents of Baltimore to inform the development of a reconciliation plan for the city
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We, therefore, recommend that COTF maintain its existence as an entity until the PAC and COPA are fully established and operational. We recommend that all members of the current COTF, as well as all members and staff of the current CRB, be invited to take part in the continued COTF.

Continuing the work of the COTF in the ways listed above will best position Baltimore for the establishment of a police accountability system that is independent, transparent, effective, and accountable.

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The Community Oversight Task Force's Recommendations for Strengthening Police Accountability and Police-Community Relations in Baltimore City

August 2018

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