

# RESPONSE TO REQUEST FOR MONITOR APPLICATIONS

Consent Decree Entered  
April 7, 2017  
Regarding the Police  
Department of Baltimore City

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FOR THE UNITED STATES DEPARTMENT OF JUSTICE

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Baltimore  
Monitor  
Project

COMMUNITY ACCOUNTABILITY INDEPENDENCE

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COMMUNITY ACCOUNTABILITY INDEPENDENCE

# I. Executive Summary

The Baltimore Monitor Project (alternatively, the “BMP” or “Team”) respectfully submits this application to serve as Independent Monitor of the Baltimore Police Department (the “Monitor”) in response to the Request for Monitor Applications, pursuant to the Consent Decree Entered April 7, 2017 Regarding the Police Department of Baltimore City (the “RFA”).

## A CITY ON THE RISE

Baltimore is a world-class city. Its rich cultural diversity and traditions, internationally renowned education and business institutions, location on the second-largest seaport in the Mid-Atlantic, and significant influence on U.S. history and heritage all combine to make Baltimore a great American city. Developers are investing in Baltimore's urban core, resulting in new construction and development of residential and commercial spaces throughout the City's landscape. Arts and cultural festivals, like Light City Baltimore, Artscape, and the African American Festival showcase Baltimore's diverse and vibrant arts and cultural community while uniting residents from across the City's collection of neighborhoods. Baltimore remains an established center for healthcare, medical research, and the biosciences. Baltimore's economy is surging. Not only does Baltimore lead the state of Maryland in economic growth, but a recent study also concluded that Baltimore ranks among the top U.S. cities for job seekers with the City reporting both a large number of job openings and a high and rising median household income.<sup>1</sup>

## CONFRONTING OUR HISTORY

Today's Baltimore reflects a City on the Rise,<sup>2</sup> but systemic discrimination and pivotal events in the City's history have produced social and economic challenges for many Baltimore residents. Redlining, the lending practice through which banks denied mortgage applications in certain Baltimore neighborhoods based in large measure on their racial composition, excluded many African American families from homeownership. Additionally, the enforcement of restrictive covenants and racially-targeted subprime lending have contributed to a historically segregated Baltimore – one in which many of the City's African American residents are concentrated in marginalized communities.

<sup>1</sup> Gina Hall and Jonathan Munshaw, Baltimore Ranks Among Best Cities for Job Seekers, BALTIMORE BUSINESS JOURNAL, March 10, 2017, available at <http://www.bizjournals.com/baltimore/news/2017/03/10/baltimore-ranks-among-best-cities-for-job-seekers.html>

<sup>2</sup> DOWNTOWN PARTNERSHIP, 2016 STATE OF DOWNTOWN BALTIMORE REPORT (2016), available at <http://cdn.s3-media.wbal.com/Media/2017/03/29/46007454-bdad-4024-8af3-2ccabd084542/original.pdf>



The 1968 riots exacerbated the effects of decades of housing discrimination in Baltimore. This moment of civil unrest in the City's history accelerated urban depopulation. In the wake of the 1968 riots, investors and many white city-dwellers, who had once provided much of the economic capital to support urban businesses, relocated to the suburbs. Commerce within Baltimore's African American and poor communities suffered dramatically as a result. Unemployment and poverty remain disproportionately high in these communities. The 1968 riots also provided a basis for imposing new law-and-order policing and criminal justice policies that drove up the incarceration rate to high levels. The law-and-order agenda gave rise to criminal justice strategies such as zero-tolerance policing, the increased use of military technology by local law enforcement, and an over-reliance on incarceration. These policing and criminal justice tactics shifted the focus away from integrating Baltimore's racially and economically segregated neighborhoods and instead reinforced already entrenched divisions around race and class.

The death of Freddie Gray in police custody in 2015 and the civil unrest that ensued focused attention on the problems that systemic discrimination has created in the 47 years since the 1968 riots. These problems include racial inequality, limited social and economic mobility, and a fractured relationship between the Baltimore Police Department ("BPD") and the predominantly African American community it serves. This broken relationship has resulted from longstanding distrust and anger over years of interactions between BPD and African American residents that have too often been characterized by the use of excessive force, disrespectful treatment, and arbitrary and harassing enforcement actions.

The Department of Justice ("DOJ") detailed these experiences of Baltimore residents in its August 10, 2016 Investigation of the Baltimore City Police Department (the "Report"). The Report concluded, based on first-hand accounts supported by objective data that "BPD engages in a pattern or practice of conduct that violates the Constitution or federal law." The Report serves as a sobering account of the painstaking work ahead to reform the BPD. The Report also provides the necessary framework for the Consent Decree entered on April 7, 2017 (the "Consent Decree"). While acknowledging the efforts that BPD has already undertaken to reform its practices, the Consent Decree provides the Baltimore community with a powerful tool for bringing about the positive transformation of policing in this City.



# AN INVESTMENT IN CONSTITUTIONAL POLICING

The Baltimore Monitor Project welcomes the opportunity to join with the Baltimore community, BPD, the City, and DOJ (collectively, the “Parties”) in transforming BPD into a well-trained and well-resourced agency that protects the civil liberties and constitutional rights of all Baltimore residents while effectively ensuring the public safety. The Baltimore Monitor Project is comprised of a diverse group of Baltimore-based judges, attorneys, academics, community activists, criminologists, statisticians, social justice advocates, and thought leaders. Each Team member brings professional, real-world experience with the multifaceted, interdisciplinary, and complex issues impacting criminal justice and policing reform in Baltimore.

Members of our team have

- presided over criminal and civil trials involving BPD officers and Baltimore residents;
- defended and prosecuted Baltimore residents charged with crimes;
- held hearings, drafted reports, recommended legislative reforms concerning police/community relations;
- served as professors at colleges and universities in Baltimore teaching, researching, and writing extensively on topics including constitutional law, race relations, and juvenile and adult criminal justice;
- implemented and managed data analysis systems designed to improve the effectiveness and accountability of City agencies; and
- organized Baltimore community members around conversations about diversity and inclusion

Drawing on our collective understanding of the circumstances that brought Baltimore to this moment, the members of the BMP believe firmly that the successful implementation of the Consent Decree will require a monitoring team that embraces as its guiding principles three core themes: Community. Accountability. Independence.



## COMMUNITY

The BMP believes that implementation of the Consent Decree must be both driven and led by the Baltimore community. This principle reflects the fact that true policing reform will be measured not just by statistics and data but, more importantly, by whether residents of Baltimore actually experience fundamental improvements in their interactions with BPD. Because we are Baltimore-based and keenly aware of the history that has produced the challenges in policing in this City, the members of the BMP are uniquely situated to engage with stakeholders from across Baltimore's communities to build consensus and generate buy-in for effective police practices that protect both the community and constitutional rights.

## ACCOUNTABILITY

The fundamental goal of police reform is accountability. Each of the reforms set forth in the Consent Decree require BPD to be more accountable to the people of Baltimore. They include enhanced transparency and community oversight, better training and resources for officers, improved data retention and analysis practices, and updated departmental policies that conform to both the spirit and letter of the law.

The Baltimore Monitor Project is committed to ensuring BPD's accountability for the reforms required under the Consent Decree by faithfully employing the tools it provides to ensure full and effective compliance. These tools include Outcome Assessments, Compliance Reviews, and Monitor Reports. The BMP also commits to its own accountability to the Baltimore community, the Parties, and the Court by (1) maintaining the highest ethical and professional standards and (2) promoting complete transparency as we assess and report on the implementation of the Consent Decree.

## INDEPENDENCE

With two experienced former federal judges leading the Baltimore Monitor Project, our Team will exercise unparalleled fidelity to independent, evidence-based, and objective assessments of BPD's implementation of the Consent Decree. The Baltimore community and the Parties should know that the BMP will diligently execute its function as an agent of the Court and will remain independent throughout its service as Monitor. The BMP remains loyal to the ideal that constitutional policing is effective policing.



# A MONITOR FOR AND BY BALTIMORE

The Baltimore Monitor Project was formed out of a fundamental belief that members of Baltimore's community have the power, ability, and expertise to successfully effect the change we want for the City where we live and work. The Baltimore Monitor Project is well-prepared to draw upon its diverse Team members and their expertise in policing, civil rights, criminal procedure, monitoring, data analysis, litigation, project management, and local experience with diverse communities in Baltimore to assess and report on the implementation of the Consent Decree and provide technical assistance.

The following is a summary of the Baltimore Monitor Project's team:

- Hon. Alexander Williams, Jr. (Ret.) – Judge Williams will serve as Co-Monitor for the BMP. Judge Williams is a retired federal judge having served on the United States District Court for the District of Maryland from 1994 until his retirement in 2014. He is currently a member of the law firm of Silverman Thompson Slutkin White in Baltimore and serves as a mediator with The McCammon Group. As a mediator, Judge Williams was asked to mediate the settlement negotiations between the family of Freddie Gray and the City of Baltimore which successfully resulted in a settlement of the civil claims arising from his death. Judge Williams is the Founder of The Judge Alexander Williams, Jr. Center for Education, Justice and Ethics in the College of Behavioral and Social Sciences at the University of Maryland, College Park. The Center researches and develops solutions for the prevailing issues facing underserved, minority communities today. Judge Williams previously served as State's Attorney for Prince George's County and as an Assistant Public Defender.
- Hon. Benson Everett Legg (Ret.) – Judge Legg will also serve as Co-Monitor for the BMP. Judge Legg is a retired federal judge of the United States District Court for the District of Maryland where he served from 1992-2013 and as Chief Judge of the Court from 2003-2010 and Senior Judge from 2010 until his retirement in 2013. In his role as Chief Judge, he monitored complex litigation to ensure compliance with federal procedure and court rules. Judge Legg is currently a mediator with JAMS, the largest private alternative dispute resolution (ADR) provider in the world. He is also Of Counsel with the law firm of BaldwinLaw LLC in Baltimore.



- Charles N. Curlett, Jr., Esq. – Mr. Curlett will serve as Project Manager for the BMP and will direct our Legal Team. Mr. Curlett is currently Managing Partner of the law firm of Levin & Curlett LLC in Baltimore where his practice is focused on federal criminal defense and complex civil litigation. Mr. Curlett was previously a partner with Saul Ewing LLP where he served as vice-chair of the White Collar and Government Enforcement practice group. Mr. Curlett served on the Independent Monitor team of the Consent Decree entered by the United States District Court for the Eastern District of Michigan against the City of Detroit and the Detroit Police Department. Mr. Curlett was also an Assistant District Attorney with the Manhattan District Attorney's Office.
- Steven H. Levin, Esq. – Mr. Levin will serve as the BMP's DOJ Liaison and a member of the Legal Team. Mr. Levin is a founding partner of Levin & Curlett LLC. He served as an Assistant United States Attorney in North Carolina and in the District of Maryland, where he was the Deputy Chief of the Criminal Division. In that capacity, Mr. Levin developed, implemented and co-managed all aspects of the Maryland EXILE program, a multi-agency strategy that contributed to major reductions in violent crime in Baltimore and received wide-spread praise from civic leaders. Mr. Levin served as a liaison with the leadership of local, state and federal law enforcement agencies. He also represented the United States Attorney's Office in violent crime reduction meetings with local, state, and federal officials, community members, and business leaders. Mr. Levin is a Lieutenant Colonel and judge advocate in the United States Army, having served as a Circuit Judge of the United States Army Trial Judiciary from 2010 – 2017. Mr. Levin is a graduate of the Army War College and was recently appointed as a judge to the United States Army's Court of Criminal Appeals.

<sup>3</sup> While Mr. Levin is an active military judge, he also remains an attorney licensed to practice in Maryland. His role as DOJ Liaison for the BMP is in his capacity as a practicing attorney.



- G. Adam Ruther, Esq. – Mr. Ruther will serve on the Legal Team and as Co-Police Liaison for the BMP. Mr. Ruther is currently an associate with the law firm of Rosenberg Martin Greenberg, LLP in Baltimore where he focuses his practice on commercial litigation, white collar defense and internal investigation. He previously served as an Assistant State's Attorney both in the Office of the State's Attorney for Baltimore City and the Office of the State's Attorney for Montgomery County. Mr. Ruther has served as an adjunct professor of law at the University of Baltimore School of Law and lectured to police organizations on constitutional policing methods. Mr. Ruther is the co-author of all updates and future editions of Maryland Criminal Procedure, the leading treatise on constitutional criminal procedure in Maryland.
- Jamar R. Brown, Esq. – Mr. Brown will serve on the Legal Team and as Co-Police Liaison for the BMP. Mr. Brown is currently an associate with the law firm of Rosenberg Martin Greenberg, LLP in Baltimore. Mr. Brown previously served as an Assistant State's Attorney for the Office of the State's Attorney for Baltimore City where he prosecuted cases in the District Court, Juvenile, Misdemeanor, and Felony Trial Divisions. As a member of the Juvenile Division, Mr. Brown gained exposure to police-youth interactions in Baltimore and the ways in which agencies like Baltimore City Schools Police and the Maryland Department of Juvenile Services impact juvenile justice in Baltimore.
- F. Michael Higginbotham, LL.M. – Professor Higginbotham will serve as an academic expert for the BMP. Professor Higginbotham is the Dean Joseph Curtis Professor of Law at the University of Baltimore School of Law where he teaches and writes extensively on constitutional law, human rights, race relations, and equal protection. He is the author of the acclaimed book Ghosts of Jim Crow: Ending Racism In Post-Racial America and Race Law: Cases, Commentary, and Questions, the leading casebook in law schools around the country used to explore the intersection of race and the American legal process.
- Natasha C. Pratt-Harris, Ph.D. – Dr. Pratt-Harris will serve as an academic and qualitative data analysis expert for the BMP. Dr. Pratt-Harris is Associate Professor in the Department of Sociology and Anthropology at Morgan State University and serves as Coordinator of the Department's Criminal Justice Program. She teaches courses in community-based corrections, criminology, juvenile delinquency, police and society, research methods, and statistics. Dr. Pratt-Harris has published in the peer-reviewed African Journal of Criminology and Justice Studies, and she has recently co-authored an article that critically assesses police-



involved shootings of unarmed African American males. The article has been submitted for publication in the Journal of Human Behavior for the Social Environment.

- Asha Layne, Ph.D. – Dr. Layne will serve as an academic and qualitative data analysis expert for the BMP. Dr. Layne is an Assistant Professor in the Department of Sociology and Anthropology at Morgan State University. She teaches courses in applied sociology, sociology of law, victimology, urban sociology, community-based corrections, and research methods. Prior to teaching, Dr. Layne served as a crime scene investigator for the Baltimore Police Department. Dr. Layne's research interests include juvenile justice, policing, critical race theory and victimization, and domestic violence. Dr. Layne recently obtained a grant to support the Morgan Community Mile (MCM) Policing Project, a community policing initiative in the Baltimore neighborhoods surrounding the campus of Morgan State University.
- Cristie F. Cole – Ms. Cole will serve as a data process and analytical expert for the BMP. Ms. Cole is currently the Operations Research Analyst and acting Data and Information Technology Manager for the Office of the State's Attorney for Prince George's County. Prior to her current position, Ms. Cole served as Operations Research Analyst for the Office of the State's Attorney for Baltimore City and as the PoliceStat analyst for CitiStat, the City of Baltimore's data-driven management system designed to improve performance of City departments in real-time. Ms. Cole has worked with stakeholders across the criminal justice system to design and implement data collection and maintenance processes that capture accurate, useful data in a way that works within an agency's unique environmental and resource constraints, and to use fast, responsive data analysis to improve organizational effectiveness and accountability.
- Laura L. Dunn, Esq. – Ms. Dunn will serve as the sexual assault prevention expert for the BMP. Ms. Dunn is the Executive Director and Founder of SurvJustice, a national not-for-profit organization that provides legal assistance and victim advocacy to survivors of sexual violence. Through SurvJustice, Ms. Dunn also works with institutions committed to preventing and addressing sexual and gender-based violence by providing training on compliance with federal law, enforcement of victim rights, and development of a culture that supports survivors and encourages sexual respect. Ms. Dunn was actively involved in the lobbying effort that resulted in the 2013 Violence Against Women Act Reauthorization. Ms. Dunn also serves as an adjunct professor at her alma mater, the University of Maryland Carey School of Law, where she teaches a seminar focused on sexual violence and harassment.



- J.C. Faulk – Mr. Faulk will serve as the diverse communities expert and community liaison for the BMP. In addition to his role as a community organizer in Baltimore, , Mr. Faulk engages in diversity and inclusion consulting work in corporate America. Mr. Faulk also founded "Circles of Voices" to facilitate open discussions in Baltimore to address the impact of all forms of prejudice based on differences in human beings. Circles of Voices launched a few months before the Baltimore Uprising following the death of Freddie Gray, and in the last two years, Circles of Voices has hosted more than 2500 participants at 37 separate events. In 2016, Mr. Faulk was awarded an Open Society Institute-Baltimore Community Fellowship, and through his fellowship program, "An End to Ignorance," he has expanded Circles of Voices to provide safe spaces for diverse groups of people to have open conversations to dispel biases, misinformation, and ignorance.
- James P. Lynch, Ph.D. – Dr. Lynch is the executive director of the Maryland Data Analysis Center ("MDAC") at the University of Maryland, which works with Maryland state and local criminal justice agencies to inform policy and programmatic changes through the statistical analysis of existing data housed in agencies' administrative and operational database systems. Dr. Lynch will oversee MDAC's statistical data analysis necessary to the performance of the monitorship. Dr. Lynch is professor and chair of the Department of Criminology and Criminal Justice at the University of Maryland, College Park. Dr. Lynch joined the department after serving as the director of the Bureau of Justice Statistics (BJS) in the United States Department of Justice. He has also taught at John Jay College, City University of New York, and in the Department of Justice, Law and Society at American University. He was vice president-elect of the American Society of Criminology (ASC) and served on the Committee on Law and Justice Statistics of the American Statistical Association. From 2008 to 2010 he was co-editor of the Journal of Quantitative Criminology. Dr. Lynch and MDAC have broad experience conducting in-depth quantitative statistical analysis of police and crime data, pertaining specifically to Maryland.

Each member of our Team already has experience working on the ground in Baltimore. As such, they have seen first-hand the problems that BPD needs to address and can readily apply their respective areas of expertise to developing solutions. This deep collective knowledge makes the BMP uniquely qualified to efficiently oversee the much-needed policing reform in the City, and ensure that the reforms are implemented in a sustainable way.



# SUMMARY OF THE PROPOSED BUDGET

- Below is a summary of BMP's proposed budget; for a full outline of the budget, please see Section V.

<u>Team Member</u>	<u>Hourly Rate</u>	<u>Est. Av. Hrs/Month</u>	<u>Total Yearly Fees</u>
<b><u>CO-MONITORS</u></b>			
Judge Legg	\$400.00	30	\$144,000.00
Judge Williams	\$400.00	30	\$144,000.00
<b><u>PROJECT MANAGER</u></b>			
Mr. Curlett	\$350.00	95	\$399,000.00
<b><u>CONSULTANTS</u></b>			
Prof. Higginbotham	\$300.00	10	\$36,000.00
Prof. Pratt-Harris	\$300.00	10	\$36,000.00
Prof. Layne	\$300.00	10	\$36,000.00
Ms. Dunn	\$300.00	15	\$54,000.00
Mr. Faulk	\$300.00	25	\$90,000.00
Ms. Cole	\$300.00	15	\$54,000.00
<b><u>DATA ANALYSIS</u></b>			
Dr. Lynch/MDAC	\$230.00	9	\$24,840.00
MDAC Research	\$66.50	150	\$119,700.00
<b><u>POLICING</u></b>			
See Section II. Scope of Work	\$300.00	30	\$108,000.00
<b><u>LEGAL</u></b>			
Mr. Levin	\$350.00	5	\$21,000.00
Mr. Ruther	\$265.00	25	\$79,500.00
Mr. Brown	\$265.00	25	\$79,500.00
<b><u>EXPENSES</u></b>			\$49,460.00
<b><u>TOTALS</u></b>		<b><u>484</u></b>	<b><u>\$1,475,000.00</u></b>



# II. Scope of Work

The Baltimore Monitor Project recognizes that BPD has made significant progress on the path to reform by providing officers with additional training, instituting the use of body-worn cameras, committing additional resources to community and youth outreach programs, and investing money into modernizing department technology and infrastructure. The BMP also acknowledges, however, that significant work remains to transform the culture of policing in Baltimore into one that values justice, public safety, and equal treatment. At the core of the BMP's Community, Accountability, and Independence approach is the idea that real change will require mending the divide between the BPD and community and confronting the reality that this divide is based largely on race and class. The BMP has tailored its approach to monitoring the BPD to account for these circumstances as they exist here in Baltimore.

## SELECTION OF POLICE EXPERT

While neither the Consent Decree nor the RFA requires that a Monitor be staffed with a current or former police chief or commissioner, the Baltimore Monitor Project believes that the participation of such an expert is vital to the success of reforming the Baltimore Police Department. However, we know from our current engagement with the Baltimore community that many community members remain skeptical about the role a police expert may have on a monitoring team charged with the responsibility of leading the reform process. To assuage those legitimate concerns, and in keeping with the Baltimore Monitor Project's focus on community, accountability, and independence, we believe that a more open, deliberate, and collaborative process for selecting a police expert to serve on the monitoring team is essential to the success of implementing the reforms required under the Consent Decree.

The input of Baltimore community members and organizations, BPD leadership, the City, and DOJ must be solicited and considered in a careful and collaborative process for selecting this expert. Not only is the input of these stakeholders important to the careful selection of the expert, but it is essential to garnering the type of buy-in and support for the implementation of the Consent Decree from all constituencies of the Baltimore community that is necessary for this process to work. Stated simply, the Baltimore community, the BPD, the City, and the DOJ must each have confidence and be invested in the police expert from day one. Such confidence and respect can best be garnered by inviting these primary stakeholders to have a more direct role in selecting the individual police expert independent of the selection of a core monitoring team.



If the Baltimore Monitor Project is selected, it will conduct an efficient, comprehensive, nationwide search, pursuant to Paragraph 448 of the Consent Decree, for a policing expert who will join the BMP and work collaboratively with all Parties – including the Baltimore community, BPD, and DOJ – to implement the reforms outlined in the Consent Decree. The Baltimore Monitor Project will make this selection collaboratively, with input from all Baltimore stakeholders, especially representatives of Baltimore communities, neighborhoods, and groups who will be impacted most directly by the ideas that the police expert will contribute. The police expert selected to join the BMP must be familiar with the challenges of policing a city like Baltimore, and have a demonstrated track record for successfully implementing community policing and police accountability and transparency reforms – in addition to satisfying the applicable requirements enumerated in Paragraph 26 of the RFA.

Selecting the police expert in this manner will also give Baltimore the benefit of a broader base of police expert candidates from which to choose and will ensure that the police expert remains independent from the core members of the monitoring team: Baltimore stakeholders will select the police expert to serve on the monitoring team rather than having a proposed monitoring team select a police expert for Baltimore. The Baltimore Monitor Project, joined by a hand-picked police expert, will form an efficient and effective monitoring team, specifically tailored to understand and meet Baltimore's policing challenges.

The BMP will develop a clear, well-articulated process for the orderly and efficient selection of the police expert and submit this plan to BPD, the City, and DOJ for review and approval within five (5) days of its selection as Monitor. BMP will finalize the selection of the police expert within a time period sufficient to allow the selected expert to have an active role in developing the BMP's Monitoring Plan within the 90-day period provided for in Paragraph 461 of the Consent Decree and Paragraph 12 of the RFA.

## COMMUNITY ADVISORY BOARD

At the heart of the Baltimore Monitor Project's approach to monitoring BPD's implementation of the Consent Decree is its commitment to community engagement. To facilitate its efforts to engage the community, the BMP will establish a Community Advisory Board composed of representatives from interested community-based organizations and governmental agencies.

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<sup>4</sup> The Community Advisory Board is separate and apart from the Community Oversight Task Force ("COTF") contemplated in Paragraphs 10-14 of the Consent Decree. The BMP fully supports the establishment of the COTF, and believes that both the COTF and the Community Advisory Board are critical to engaging the community and are therefore complementary of each other.



Community-based organizations and governmental agencies like the Office of the State's Attorney for Baltimore City and Baltimore City Schools Police will be invited to appoint representatives to the Community Advisory Board. The BMP's establishment of the Community Advisory Board acknowledges the fact that while the City of Baltimore and BPD are the only local Parties to the Consent Decree, other organizations, constituencies, and agencies are impacted by and have an important role to play in the improvement of policing in this City. The BMP seeks to unite and gain input from these important voices. The Community Advisory Board will serve as a liaison between the BMP and all other Baltimore community stakeholders and will engage directly with the BMP on a regular basis. The BMP will seek consultation and feedback from the Community Advisory Board in developing and executing its Monitoring Plan at every turn.

## MONITORING PLAN

The Baltimore Monitor Project's Monitoring Plan will provide clear-cut, objective standards for determining whether the Baltimore Police Department is in full and effective compliance with the Consent Decree. Developing a Monitoring Plan will require engagement with BPD and Baltimore community stakeholders in order to develop a complete and accurate baseline assessment of BPD departmental policing practices. In particular, the BMP will gather and evaluate BPD data and information concerning (1) policies and procedures, (2) data collection, retention, and analysis systems, and (3) officer training in the following areas:

- Community policing and engagement
- Stops, searches, arrests, and voluntary police-community interactions
- Responding to and interacting with people with behavioral health disabilities or in crisis
- Use of force
- Interactions with youth
- Transportation of people in police custody
- Interaction with citizens exercising First Amendment protections
- Handling of reports of sexual assault
- Use of technology
- Misconduct investigations and discipline
- Coordination with Baltimore City Schools Police
- Coordination with the Office of the State's Attorney for Baltimore City
- Recruitment, hiring and retention
- Staffing, performance evaluations and promotions
- Officer assistance and support



Once this data has been collected, the BMP will analyze it (1) to assess the quality of BPD's records maintenance systems and the reliability of the information and (2) determine the state of BPD policing and departmental practices as demonstrated by data analysis. The BMP will conduct a meticulous comparison of the current state of BPD policing policies against each reform required under the Consent Decree to prepare a comprehensive assessment of the specific objectives that BPD needs to accomplish to achieve Full and Effective compliance with the Consent Decree.

Based on this comprehensive assessment, the BMP will work in collaboration with the Community Advisory Board and BPD to develop the BMP's Monitoring Plan. The Monitoring Plan will specify each and every reform of the Consent Decree and outline in detail for each reform the various objectives that BPD will need to satisfy in order to successfully accomplish that reform. The Monitoring Plan will contain clear-cut benchmarks for achieving each objective and reform necessary to satisfy each Material Requirement of the Consent Decree. These metrics will include useful, well-articulated quantitative and qualitative standards for validly assessing compliance with the Consent Decree. Finally, the Monitoring Plan will set forth explicit timetables for when the BMP will conduct Compliance Reviews and Outcome Assessments to determine the effect of changes made by BPD to reform its policing practices and organizational systems.

After the Monitoring Plan is approved by the Parties and the Court pursuant to Paragraphs 462 and 463 of the Consent Decree, the Baltimore Monitor Project will post the Monitoring Plan on its website and work with the Parties and the Court to facilitate a 30-day comment period, during which members of the Baltimore community may comment and provide feedback on the Plan.

## **COMPLIANCE REVIEWS & OUTCOME ASSESSMENTS**

The BMP's Academic and Data Analysis Experts, in conjunction with the Team's Project Manager will lead the Monitor's compliance review process. Our Data Experts will ensure that BPD is using the industry best-practices for data collection, maintenance, and retention so that their data is accurate, complete, and useful. In conducting the Compliance Reviews, our Team's Data Analysis Experts and the team from MDAC will apply their knowledge of statistical analysis to assess BPD's compliance with the Material Requirements of the Consent Decree based on their critical analysis of BPD data and any other reliable information collected by the BMP in collaboration with Baltimore community stakeholders.



Our Data Analysis Experts are dedicated to using reliable and accepted methods and techniques for each specific subject area of reform. The BMP will determine the subject areas to be assessed in a given Compliance Review based on a number of factors, including the relative urgency with which certain reforms must be accomplished, input from the community regarding areas of particular concern, the availability of resources for completing specific objectives, and established timetables for implementation. The BMP will provide BPD, the City, and DOJ with a clear explanation of the underlying data, its source, and the statistical techniques our Data Analysis Experts used to conduct the Compliance Reviews. The BMP will also brief the Community Advisory Board on its process for assessing BPD's compliance. The BMP will continually refine its statistical analysis techniques and methods as necessary to more accurately assess BPD's implementation of the reforms required under the Consent Decree.

The BMP will conduct Outcome Assessments to determine BPD's compliance with the requirements of the Consent Decree and the degree to which the Baltimore community has experienced a positive impact from BPD's implementation of the reforms. These Outcome Assessments will be performed by the BMP as a whole, working collaboratively with the Community Advisory Board and drawing on the diverse perspectives and skillsets of each BMP team member and feedback from the community. The BMP will also involve members of the BPD's leadership and staff in the Outcome Assessment process throughout the first three years of monitoring. This collaboration will allow BPD to contribute to the process of monitoring and assessing the outcomes of the reforms it has made as it prepares to conduct its own Outcome Assessments three years into the implementation of the Consent Decree.

The BMP's Academic, Data Analysis, and Sexual Assault, and Diverse Communities Experts will design the Outcome Assessments, including a community survey. The experts, including Dr. Lynch and his team at MDAC, Ms. Cole, Dr. Pratt-Harris, Dr. Layne, and Mr. Faulk, will use their expertise to ensure that the Outcome Assessments accurately gauge the BPD's performance in the areas set forth in Paragraph 459 of the Consent Decree, including the following areas:

- Baltimore community's satisfaction with BPD interactions
- Response times for calls of service
- Legal and constitutional sufficiency of arrests, searches, stops and detentions
- Use of force practices
- Policing without regard to race, gender, or class
- Interactions with people experiencing behavioral health disabilities or in crisis



- Interactions between police and Baltimore's youth
- Protection of First Amendment freedom of expression
- Response to calls for sexual assault and interactions with victims of sexual violence
- Adequacy of training
- Officer supervision and discipline
- Accountability and transparency in police conduct matters

The BMP, led by our Data Analysis Experts, will conduct extensive reviews of BPD data collection and retention systems to ensure that BPD is employing best practices to capture data accurately and consistently across its systems.

## RECOMMENDATIONS & TECHNICAL ASSISTANCE

BMP team members have a wide range of experience dealing with the full spectrum of policing and civil rights issues addressed in the DOJ Report and the Consent Decree.

This wealth of Baltimore-specific experience gives the BMP the unique ability to offer recommendations and technical assistance in real-time aimed at improving BPD's interaction with the community early in the monitoring period. Our Team's shared yet unique experiences will allow the BMP to assist the BPD in updating, revising, and adopting new policies, procedures, and practices on (1) police-community interactions and officer training, and (2) data collection, retention, and analysis systems.

The BMP is well prepared to offer recommendations and technical assistance to aid the BPD in developing policies, procedures, and trainings around issues of effective police interactions with the community and constitutional policing methods, including police-youth interactions, responding to victims of sexual violence, and confronting racial and ethnic bias.

- Co-Monitors, Judge Williams and Chief Judge Legg, have presided over and rendered rulings in criminal and civil cases involving claims of BPD officers acting in violation of the United States Constitution.
- Our Legal Team, comprised of Mr. Curlett, Mr. Ruther, Mr. Brown, and Mr. Levin bring to the BMP years of experience as prosecutors, criminal defense attorneys, DOJ supervisor, and civil trial lawyers litigating questions of unconstitutional police interactions with the community – including Baltimore's youth and individuals suffering from behavioral health disorders or in crisis.
- Our Academic Experts, Professor Higginbotham, Dr. Pratt-Harris, and Dr. Layne have written extensively and taught courses on issues of civil rights, community policing, and the intersection of race and the law.



- Our Sexual Assault Expert, Ms. Dunn has devoted her career to and achieved national recognition for advocating for policies and institutional training that improve the handling of sexual assault investigations.
- Our Diverse Communities Expert Mr. Faulk not only worked as a diversity consultant where he educated corporations on confronting bias and learning the value of diverse backgrounds, but he has also been leading discussions about race throughout the Baltimore community.

The Data Analysis Experts on our Team have the experience to offer real-time technical assistance to improve BPD's data collection, retention, and analysis systems in policing areas such as stops, searches, and arrests; interacting with people with behavioral health disabilities or in crisis, Baltimore's youth, and sexual violence victims; instances of use of force; and police officer complaints and misconduct.

- Ms. Cole, as a CitiStat Analyst for the City of Baltimore, oversaw several data analysis systems that tracked data relating to BPD arrests, gun confiscations, and reports of domestic violence to manage performance and maintain organizational accountability. Ms. Cole is already keenly aware of the challenges with BPD's data collection systems and will be able to offer recommendations for improvement on day one.
- Dr. Lynch and the Maryland Data Analysis Center conduct research and data analysis for state and local criminal justice agencies to solve operational and policy challenges throughout the state of Maryland. Dr. Lynch and his team at MDAC will be an invaluable asset to the work of the BMP, especially when paired with the strengths and unique institutional knowledge offered by Ms. Cole, Dr. Pratt-Harris and Dr. Layne.
- Dr. Pratt-Harris and Dr. Layne are trained statisticians and experts in qualitative data analysis. Both have devoted their careers to the use of research and data analysis to study the intersections of race and the criminal justice system.

Additionally, the BMP's police expert – selected independently in consultation with BPD, the City, and Baltimore community stakeholders – along with the BMP will help provide technical assistance and recommendations to the BPD regarding police administration, including training, internal affairs investigations, and overarching departmental policy reforms. This important function of the BMP's police expert in helping reform BPD from within highlights the importance of selecting a police expert in collaboration with all Baltimore stakeholders.



This open process will instill confidence in the police expert among BPD leadership, officers, and civilian personnel as well as the Baltimore community, because all constituencies will have had a voice in selecting the individual who will help lead these reforms.

The BMP will rely on its Team members' multidisciplinary professional experiences, unique perspectives, and shared understanding about the challenges of policing in Baltimore in making pragmatic, results-driven recommendations and offering technical assistance to BPD in implementing the Consent Decree.

## MONITOR REPORTS

The BMP's Legal Team, including Mr. Curlett, Mr. Levin, Mr. Ruther, and Mr. Brown, will prepare the semi-annual Monitor Reports required under Paragraph 471 of the Consent Decree. As Project Manager, Mr. Curlett will oversee and ensure the efficient and thorough preparation of these reports. As a former member of the monitoring team for the Detroit Police Department Consent Decree, Mr. Curlett drafted Monitor Reports on a quarterly basis, and he has a firm understanding of the vital role that ongoing, detailed reporting plays in updating the Court, BPD, City, DOJ, and the Baltimore community on the BPD's implementation of the reforms required under the Consent Decree. A copy of a Report of the Independent Monitor for the Detroit Police Department, which Mr. Curlett substantially drafted is attached in Appendix C. Mr. Ruther and Mr. Brown share Mr. Curlett's dedication to effective, comprehensive reporting and will work closely with Mr. Curlett to ensure the Monitor Reports accurately reflect the BPD's progress implementing the Consent Decree.

The BMP's Reports will be prepared consistent with the requirements provided in Paragraph 471 of the Consent Decree and will include a clear explanation of the BPD's progress in satisfying the Material Requirements of the Consent Decree. Much of the information contained in the Reports will be derived from the Compliance Reviews regularly conducted by the BMP's Data Analysis Experts, trained in social science research and statistical analytics. The Reports will also include information gathered from the BMP's engagement with the Baltimore community throughout the reform process through our Team members' strong connections with Baltimore's diverse communities.



The BMP, including Dr. Pratt-Harris, Dr. Layne, Ms. Cole, and Mr. Faulk, and the Community Advisory Board will engage directly with Baltimore community stakeholders in order to incorporate the experiences of the residents of Baltimore into the BMP's Monitor Reports. The BMP's assessment and reporting on the BPD's progress toward reform will be informed by both statistical analysis and a more community-focused public input process. The combination of these perspectives will allow the BMP to more accurately gauge and report on the effective implementation of new policies, the levels of training achieved by the BPD, and whether the BPD has obtained full and effective compliance.

In an effort to more fully engage the Baltimore community, the BMP will submit a draft of each Monitor Report to the Community Advisory Board for its consideration before the Report is submitted to the Court. The Community Advisory Board will have an opportunity to offer comments and suggest the addition of information to better reflect the Baltimore community's perception of BPD's progress under the Consent Decree. Should the BMP, after careful and thoughtful consideration, decide not to adopt the proposed revisions of the Community Advisory Board, the BMP will facilitate the Community Advisory Board submitting written comments on the Monitor Report. The BMP will post the Monitor Report on its website along with the comments of the Parties and the Community Advisory Board pursuant to Paragraph 472 of the Consent Decree.

Two years after the Effective Date, the BMP will conduct its Comprehensive Re-Assessment as required under Paragraph 469 of the Consent Decree. In conducting the reassessment, the BMP will follow a similar process for transparency and community engagement in preparing the Comprehensive Re-Assessment Report. The Team will provide the Community Advisory Board and the Baltimore community at large an opportunity to comment and provide feedback on the areas of greatest achievement and concern in the BPD's implementation of the Consent Decree. The BMP will incorporate feedback from the Baltimore community and all policing reform stakeholders in making recommendations and providing technical assistance to BPD based on the expertise of our Team members.



# III. Personnel & Current Time Commitments

The Baltimore Monitor Project will be comprised of: (1) two Co-Monitors, (2) one Project Manager, (3) a Legal Team, (4) a Team of Experts, including Scholars, Community Activists, Analysts, Thought Leaders and Police Experts, and (5) the Data Analytics Team of Dr. Lynch and his team at MDAC. The BMP will be headed by two Co-Monitors, the Honorable Alexander Williams, Jr. (Ret.) and the Honorable Benson Everett Legg (Ret.). Our Project Manager, Charles N. Curlett Jr., Esq., will report to Judge Williams and Judge Legg. Mr. Curlett will oversee all work and responsibilities of the BMP and will serve in the role of Monitor should both Co-Monitors be unavailable. Mr. Curlett will also direct the BMP's Legal Team. The BMP's Legal Team will consist of Steve H. Levin, Esq., G. Adam Ruther, Esq. and Jamar R. Brown, Esq.. The Team of Experts will include F. Michael Higginbotham, LL.M., Natasha C. Pratt-Harris, Ph.D., Asha Layne, Ph.D., Cristie Cole, Laura L. Dunn, Esq., and J.C. Faulk,. The Data Analytics Team will be staffed by Dr. Lynch and his team at MDAC.

## CO-MONITORS



**Hon. Alexander Williams, Jr. (Ret.).** Judge Williams has had a 40-year career as an attorney and federal judge in Maryland. Serving as an assistant public defender, the elected State's Attorney for Prince George's County, and as a judge for the United States District Court for the District of Maryland, Judge Williams has experienced criminal justice and policing from multiple perspectives. In his twenty years as a federal judge, Judge Williams presided over hundreds of criminal and civil cases involving police interactions with the community. Through his years of experience of listening to testimony from both the police and community members about their interactions with each other, Judge Williams has developed a nuanced assessments of the broken relationship that exists between police and residents of urban communities like Baltimore. Judge Williams was asked by the City of Baltimore and the family of Freddie Gray to serve as independent mediator in the settlement negotiations of the family's civil claims –



recognizing not only Judge Williams' deep understanding of the legal and cultural issues surrounding police interactions with community members, but also his ability to be fair and impartial in resolving complex disputes.

Judge Williams is also the founder of the Judge Alexander Williams, Jr. Center for Education, Justice, and Ethics in the College of Behavioral and Social Sciences at the University of Maryland at College Park. The Center researches and develops solutions for the prevailing issues facing underserved communities resulting from disparities in the criminal justice system. The Baltimore Monitor Project will benefit from access to the Center's faculty, graduate students, and resources.

Judge Williams is a Member of the law firm of Silverman Thompson Slutkin White, in Baltimore, where he practices law full-time. His responsibilities as Co-Monitor for the BMP will be a significant part of his law practice.



**Hon. Benson Everett Legg (Ret.).** Judge Legg has worked as an attorney and a Judge in Baltimore City for over 40 years. He is the former Chief Judge of the United States District Court for the District of Maryland. Serving as a federal trial judge for 21 years, Judge Legg has significant experience managing complex civil and criminal litigation involving civil rights, constitutional disputes, and class actions to ensure compliance with deadlines and procedural requirements. He was appointed by the Chief Justice to serve on two standing committees of the Judicial Conference of the United States, including the Committee on Court Administration and Case Management. Before joining the bench, Judge Legg spent 16 years as a litigator with a major Baltimore law firm representing clients in a wide array of cases, including antitrust, contract disputes, civil rights, employment discrimination, insurance coverage, intellectual property, toxic torts, and securities.

Aside from his work on the bench, Judge Legg has given back to Baltimore in many ways. He was a member of the Advisory Board of the National Aquarium in Baltimore, a member of the Board of Directors of the American Red Cross, Central Maryland Chapter, and a Trustee of the Executive and Financial Committee of the Maryland Zoological Society, Baltimore. Judge Legg also taught evidence for five years as an adjunct professor of law at the University of Maryland School of Law, and he taught a seminar on Recent Supreme Court Decisions at the University of Baltimore School of Law. Judge Legg has also lectured at the University of Virginia School of Law as well as Georgetown University School of Law.



Upon retiring from the federal bench, Judge Legg joined JAMS, the world's largest private alternative dispute resolution firm. He has become a sought-after mediator and arbitrator, resolving disputes ranging from individual employment discrimination cases, to complex commercial disputes, to class actions. Judge Legg brings a wealth of experience managing large, multifaceted, high profile proceedings in the federal courts. As a trial judge sitting in Baltimore City for over two decades, he developed a keen understanding of the importance of proper police practices that uphold constitutional rights and instill trust in the criminal justice system. He fully understands that law enforcement succeeds only as a partnership between the community and the police, whose ultimate job is to protect the community. His experience, intellect, and pragmatism give Judge Legg an ideal background to serve as Co-Monitor of the Baltimore Monitor Project.

Judge Legg is of counsel to a highly regarded litigation firm, Baldwin Law, LLC, in Baltimore, where he practices law part-time. His responsibilities as Co-Monitor on the BMP team will be a significant part of his law practice.

## PROJECT MANAGER



**Charles N. Curlett, Jr., Esq.** Mr. Charles "Chad" Curlett is the Founder and Managing Partner of the law firm Levin & Curlett LLC. Immediately prior to founding the firm, Mr. Curlett was a partner in the litigation department at Saul Ewing LLP, serving as vice-chair of the White Collar and Government Enforcement practice group. Mr. Curlett previously served as an Assistant District Attorney in both the Trial Division and Investigation Division of the Manhattan District Attorney's Office. Mr. Curlett was a core member of the Independent Monitor team appointed by

the United States District Court for the Eastern District of Michigan to implement consent decrees entered against the City of Detroit and the Detroit Police Department. As a member of this Team, Mr. Curlett was intricately involved in the process of overseeing Detroit's implementation of the consent decree and drafting the team's monitor reports.

A leader in the federal criminal bar, Mr. Curlett is the current Chair of the Criminal Law Section of the Federal Bar Association and President-Elect of the Maryland Chapter.

Mr. Curlett also served as Chair of the Greater Baltimore Committee's Ad Hoc Committee on Best Practices for the Baltimore City State's Attorney.



He and the other members of the Committee surveyed and evaluated the best practices of the leading prosecutors' offices in the Northeast, including the Manhattan, Brooklyn, and Philadelphia District Attorneys' Offices, the United States Attorney's Office for the District of Columbia and the State's Attorneys' offices in four Maryland counties.

Mr. Curlett began his legal career in the Office of the Prosecutor of the International Criminal Tribunal for the former Yugoslavia in The Hague, the Netherlands, where he was principally involved in the investigation and trial of a Bosnian Serb General for genocide committed in Srebrenica, Bosnia and Herzegovina in July 1995. Mr. Curlett was also part of the Atrocities Documentation Team, a genocide investigation undertaken by the United States Department of State in eastern Chad. The team conducted field interviews of Darfurians in UNHCR refugee camps established along the border of Chad and Sudan to protect those fleeing from advancing forces. His experience as an attorney on both sides of the criminal justice system, his track record as an independent thinker committed to advancing law enforcement best practices, and his experience investigating human rights abuses internationally make Mr. Curlett well prepared to serve as Project Manager of the Baltimore Monitor Project. Mr. Curlett and his family live in Baltimore, where he also practices law.

Mr. Curlett practices law full-time. If the BMP is selected as the Independent Monitor, Mr. Curlett's responsibilities as Project Manager for the BMP will become the majority of his legal practice.

## LEGAL TEAM



**Steven H. Levin, Esq.** Mr. Steven H. Levin is a former federal prosecutor and experienced trial attorney. Mr. Levin's experience includes ten years as an Assistant United States Attorney, with six years in the District of Maryland, where he was Deputy Chief of the Violent Crimes Section and a Deputy Chief of the Criminal Division. He also served with distinction for four years as an Assistant United States Attorney in the Middle District of North Carolina. Mr. Levin served on active duty for seven years in the United States Army as defense counsel, an appellate attorney, and a trial attorney. As a trial attorney, Mr. Levin represented the United States in complex contract litigation before the Armed Services Board of Contract Appeals and the Government Accountability Office. Mr. Levin, a Lieutenant Colonel in the Army Reserve, has taught trial



techniques as a Professor of Criminal Law at the Army's Judge Advocate General's Legal Center and School in Charlottesville, Virginia and is now a Judge on the Army Court of Criminal Appeals.

In addition, Mr. Levin participated for several years as an evaluator for the Department of Justice's Evaluation and Review Staff, the DOJ's self-evaluating body. His experience conducting and reporting on investigations both as part of the DOJ and in private practice will allow Mr. Levin to serve the BMP well as our liaison to the DOJ. Mr. Levin's participation on the BMP will become part of his legal practice at Levin & Curlett LLC.



**G. Adam Ruther, Esq.** Mr. Adam Ruther understands the problems created by the civil rights abuses addressed in the DOJ Report and Consent Decree. Prior to entering private practice at Rosenberg Martin Greenberg, LLP, Mr. Ruther served for three and a half years as Assistant State's Attorney for Baltimore City in the Major Investigations Unit, where he investigated and prosecuted gang, organized crime, and violent repeat offender cases. Mr. Ruther previously served as an Assistant State's Attorney for Montgomery County from 2008 to 2011. His experience as a prosecutor, assisting crime victims, working with police, and managing often reluctant witnesses gave Mr. Ruther a deep insight into the complexity of the crime and criminal justice problems facing Baltimore and BPD.

Mr. Ruther is a Baltimore native with strong ties to the community. He is a graduate of the University of Baltimore School of Law, where he has also taught courses in legal skills and constitutional criminal procedure as an adjunct law professor. He is a member of the Maryland State Bar Association's Maryland Criminal Pattern Jury Instructions Committee and is incoming co-chair of the Baltimore City Bar Association's Criminal Law Section. Mr. Ruther also appears regularly as a legal analyst on local television and radio news programs. He has also lectured on constitutional law to police organizations, and is the co-author with Professor Byron Warnken on all updates and future editions of Maryland Criminal Procedure, a leading treatise on constitutional criminal procedure in Maryland. Outside of his legal practice, Mr. Ruther serves as a member of the Board of Directors of the South Baltimore Learning Center, which is committed to providing no-cost adult literacy education and GED training to underprivileged citizens in the Baltimore area. Mr. Ruther lives and practices law in Baltimore.



Mr. Ruther practices law full-time. His work on the Legal Team of the BMP will be a substantial part of his legal practice.



**Jamar R. Brown, Esq.** Mr. Jamar R. Brown is an associate with the law firm of Rosenberg Martin Greenberg, LLP in Baltimore. He previously served as an Assistant State's Attorney for Baltimore City where he handled prosecution of a wide array of criminal cases, including violent crimes, felony firearms and narcotics violations, and cases involving defendants designated by law enforcement as violent repeat offenders. As a prosecutor in Baltimore, Mr. Brown confronted the structural inequities in the criminal justice system which disproportionately affect Baltimore's African American residents.

Mr. Brown serves on the Leadership Council for the Open Society Institute-Baltimore (OSI) where he works to raise awareness of issues that OSI addresses in Baltimore: criminal and juvenile justice reform, expanding access to drug addiction treatment, and dismantling policies that hinder education and development opportunities for Baltimore's youth. Mr. Brown also serves on the Boards of Directors for Pratt Contemporaries, the philanthropic arm of the Baltimore Enoch Pratt Free Library devoted to raising money for child literacy programs, and Court Appointed Special Advocates (CASA) of Baltimore, an organization that recruits, trains, and supervises court-appointed advocates of individual foster children in Baltimore.

Mr. Brown earned his law degree from the University of Maryland Carey School of Law in Baltimore and his undergraduate degree from Emory University. Mr. Brown lives and practices law in Baltimore. Mr. Brown practices law full-time. His work on the Legal Team of the BMP will be a substantial part of his legal practice.



# ACADEMIC EXPERTS, COMMUNITY ACTIVISTS & THOUGHT LEADERS



**Professor F. Michael Higginbotham, LL.M.** Professor F. Michael Higginbotham is a world-renowned expert on constitutional law and civil rights, who lives and teaches here in Baltimore. He is the author of *Race Law* – a leading treatise used in law schools across the country to explore issues of race in the American legal process. A graduate of Brown University, Yale Law School (J.D.), and Cambridge University (LL.M. in International Law and Human Rights), Professor Higginbotham has lectured and taught at University of Pennsylvania Law School, New York University Law School, University of Miami Law School.

He is currently the Joseph Curtis Professor of Law at the University of Baltimore School of Law, where he has taught for almost 30 years and served as interim dean of the law school from 2011 to 2012. Professor Higginbotham has published, lectured, and frequently appeared on news media as an expert on the subjects of constitutional law and civil rights. He has also served as the president of the Public Justice Center, chair of the Maryland Attorney General's Task force on Electronic Weapons, and co-chair of Maryland Governor Martin O'Malley's Transition Team Minority Affairs Working Group. Professor Higginbotham is truly a thought leader in the fields of criminal justice, civil rights, and constitutional law. His expertise will be instrumental to the BMP's efforts to assist BPD achieve constitutional policing.

Professor Higginbotham is a full-time law professor and academic. His work on the BMP team will be part of his overall academic and research schedule.



**Dr. Natasha C. Pratt-Harris.** Dr. Natasha C. Pratt-Harris is on the cutting edge of the movement for criminal and social justice reform in Baltimore. She is an associate professor and coordinator of the Criminal Justice program in the Department of Sociology and Anthropology at Morgan State University, here in Baltimore. She is also a trained statistician and methodologist, with degrees in Journalism, Criminology/Criminal Justice, Criminal Justice Administration (M.S.), and Sociology (Ph.D.). Dr. Pratt-Harris is currently conducting a qualitative research study about Black males who report that they have wrongful



She teaches courses on community-based corrections, criminology, jails and prisons, juvenile delinquency, research methods in criminal justice, police and society, social problems, the sociology of deviance, the sociology of law, and statistics, where she addresses disparities at various stages throughout the juvenile and adult criminal justice system. Dr. Pratt-Harris also supervises students who are interning with criminal justice agencies.

Dr. Pratt-Harris is currently writing a book entitled *Racism, Criminal Justice Reform, and the Vulnerable Black Male Juvenile: A Case Study Analysis of Wrongful Convictions*. She has published in the peer-reviewed *African Journal of Criminology and Justice Studies*. And Dr. Pratt-Harris has published, together with a team of interdisciplinary authors, an article entitled, "Police-involved homicides of unarmed Black males: Observations by Black scholars in the midst of the April 2015 Baltimore uprising" for the *Journal of Human Behavior for the Social Environment*. The article critically assesses police-involved shootings of unarmed black males. Dr. Pratt-Harris's experience and academic background, along with her grassroots work in criminal justice and social reform here in Baltimore, make her an ideal member of the Baltimore Monitor Project. Dr. Pratt-Harris has been involved with engaging the community on the issue of police reform as demonstrated in the flyer attached in Appendix C. Professor Pratt-Harris is a full-time college professor and academic. Her work on the BMP team will be part of her overall academic and research schedule.



**Professor Asha Layne, Ph.D.** Dr. Asha Layne is an Assistant Professor in the Department of Sociology and Anthropology at Morgan State University, and she has seen Baltimore Policing struggles from both sides. Before her career in teaching, she was a Crime Scene Investigator for the Baltimore City Police Department. Most recently, she completed her postdoctoral appointment at Morgan State University with the Division of Research and Economic Development-Morgan Community Mile Initiative, where she assisted in the successful development and acquisition of an innovative Community Action Response Effort (CARE) community policing grant. The grant will support the Morgan Community Mile Community (MCM) Policing Project, a community policing initiative in the Baltimore neighborhoods surrounding the campus of Morgan State University. Professor Layne received her B.A. in Anthropology with a minor in Biology from William Paterson University in New Jersey, her M.S. in Sociology from Morgan State University, and her Ph.D. from Howard University with concentrations in Criminology and Social Inequality.



Dr. Layne's research interests – including domestic violence, juvenile justice, policing, critical race theory and victimization, and violence and ecology – have allowed her to work directly with various organizations such as, Women Accepting Responsibility and the House of Ruth. She has authored several papers and presented her work at conferences and symposiums nationally and internationally, specifically in the West Indies. Professor Layne teaches Applied Sociology, Introduction to Sociology, Social Theory, Sociology of Law, Victimology, Urban Sociology, Community Based Corrections, Research Methods, and Sociology of Deviance. Professor Pratt-Harris is a full-time college professor and academic. Her work on the BMP team will be part of her overall academic and research schedule.



**Cristie F. Cole.** Ms. Cristie Cole is the founder and owner of Firebrand Analytics, a woman-owned business that helps non-profit and government organizations leverage data for effective decision-making. Ms. Cole holds a master's degree in applied sociology, with a concentration in applied research and evaluation. In addition to her strong academic training in quantitative and qualitative research methods, Ms. Cole has extensive experience collecting, cleaning and analyzing data from agencies across the criminal justice system. While in the Baltimore City Mayor's Office of CitiStat, she oversaw PoliceStat, GunStat, and DomesticViolenceStat, which gave her

invaluable ground-level exposure to the realities of policing in Baltimore City. This understanding of BPD, and other partner agencies in the City, heavily informs her data process design. She also served in the Baltimore City State's Attorney's Office, implementing the first formal, systematic data analysis program for that office. Ms. Cole understands what systemic flaws need to be addressed in BPD's data processes to translate data into effective policy. In her current role at the Prince George's County State's Attorney's Office, she sits on the working committee that oversees the implementation of a county-wide police case management system. Her high-level experiential knowledge of Baltimore's data challenges, combined with her data management and process design and implementation experience make Ms. Cole a valuable member of the Baltimore Monitor Project.

Ms. Cole is a full-time employee of the Prince George's County State's Attorney's Office, and she runs a private analytics consulting firm part-time. Ms. Cole plans to make adjustments to both of these time commitments to allow for her work on the BMP team.

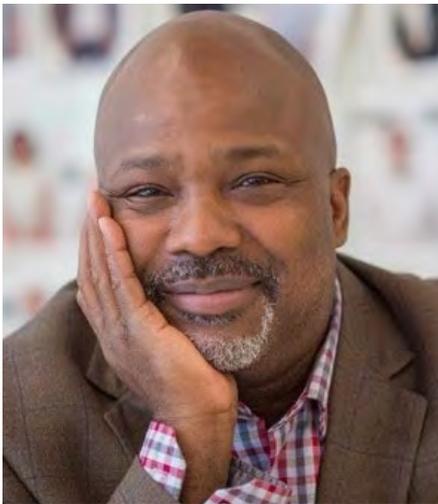




**Laura L. Dunn, Esq.** Ms. Laura L. Dunn is a nationally recognized victim-turned-victims' rights attorney whose work has been featured by HBO Vice, National Law Journal, Rolling Stone Magazine, PEOPLE Magazine, MSNBC, Al Jazeera America, and TIME Magazine, among many other media outlets. Ms. Dunn is a graduate of the University of Maryland Carey School of Law in Baltimore.

While in law school, Ms. Dunn founded the national not-for-profit organization SurvJustice which provides legal assistance and victim advocacy to survivors of sexual violence. Through SurvJustice, Ms. Dunn also works with institutions committed to preventing and addressing sexual and gender-based violence to provide training on compliance with federal law, enforcement of victim rights, and development of a culture that supports survivors and encourages sexual respect. Ms. Dunn was actively involved in the lobbying effort that resulted in the 2013 Violence Against Women Act Reauthorization. Ms. Dunn also serves as an adjunct professor at her alma mater, the University of Maryland Carey School of Law where she teaches a course on federal campus safety laws. As an expert in victims' rights and sexual assault policy for the Baltimore Monitor Project, Ms. Dunn will provide a focused perspective on BPD's handling of sexual assault investigations and treatment of victims.

Ms. Dunn works full-time running her non-profit, SurvJustice. Her work on the BMP team will be part of her full-time work on sexual assault awareness and justice reform.



**J.C. Faulk.** Mr. Faulk had been a diversity consultant for more than 20 years, mostly on the corporate level, when one day he decided to use his talents in a different way. In 2015, he began facilitating open discussions about the impact of fear and prejudice against various diverse groups. He called these discussions, "Circles of Voices."

Since starting this initiative, more than 2500 participants have attended a series of 37 Circles of Voices, LLC events.

The organization brings people of very different backgrounds – socio-economic, racial, age, gender orientation – together to listen to varying perspectives and

face their own biases. In 2016, Mr. Faulk was awarded an Open Society Institute-Baltimore Community Fellowship. Through Mr. Faulk's fellowship program, "An End to Ignorance," he has expanded Circles of Voices. Mr. Faulk will play a pivotal role in the Baltimore Monitor Project.



In addition to his work as a Front Line Activist, J.C. Faulk is also a member of the Greater Baltimore Committee's "The LEADERship" program. This uniquely positions him to have the ear and input of people from all over the city, at different levels of power and influence. His work is trusted across socio-economic and racial barriers. Mr. Faulk has created a platform that engages diverse citizens who are committed to making our City a better place to live and work. This level of access to the Baltimore community gives us the opportunity to begin the process of engaging all stakeholders at very early stages in the monitoring process.

Mr. Faulk's engagement with diverse communities across the City and his insightful approach to communication on difficult topics uniquely position Mr. Faulk to help heal the fractured relationship between BPD and the communities they are sworn to serve through the course of the Consent Decree reform process. Mr. Faulk is a full-time consultant and community activist. His work on the BMP will be a part of his workload in both of these capacities.

## DATA ANALYSIS



**Professor James Lynch, Ph.D.** Dr. Lynch is professor and chair of the Department of Criminology and Criminal Justice at the University of Maryland. Dr. Lynch joined the department after serving as the director of the Bureau of Justice Statistics (BJS) in the United States Department of Justice. Previously, he was a distinguished professor in the Department of Criminal Justice at John Jay College, City University of New York. He was a professor in the Department of Justice, Law and Society at American University from 1986 to 2005 and chair of that department from 2003 to 2005. Dr. Lynch's research focuses on victim surveys, victimization risk, the role of coercion in social control, and crime statistics. He has published four books and numerous articles many of them dealing with crime statistics. He is currently the President of the American Society of Criminology (ASC) and served on the Committee on Law and Justice Statistics of the American Statistical Association. From 2008 to 2010 he was co-editor of the Journal of Quantitative Criminology. Lynch received his B.A. degree from Wesleyan University and his M.A. and Ph.D. in sociology from the University of Chicago. Dr. Lynch is currently the Director of the Maryland Data Analysis Center ("MDAC") at the University of Maryland. MDAC, founded in 2015, works with Maryland state and local criminal justice agencies to inform policy and programmatic changes through the statistical analysis of existing data housed in agencies' administrative and operational database systems. MDAC will be staffing the BMP's statistical analysis needs throughout the monitorship, as part of its regular body of work, overseen by Dr. Lynch.



# IV. Qualifications, Prior Experience & References<sup>5</sup>

As set forth in the Executive Summary, the members of the BMP have the requisite qualifications, prior experience and background to effectively serve as Monitor. The Team members' prior experiences are set forth in the curricula vitae and resumes attached in Appendix A. Below we fully explain our qualifications as required under Paragraph 26 of the RFA.

## **a. Monitoring, auditing, evaluating, or otherwise reviewing performance of organizations such as law enforcement agencies, including experience monitoring settlements, consent decrees, or court orders**

The BMP's Co-Monitors are uniquely experienced in this regard. As former federal trial judges, they have a combined 40-plus years of experience monitoring settlements and court orders and reviewing the performance of police agencies. Their experience in managing large class-action lawsuits, 42 U.S.C. 1983 civil rights cases, complex organized crime cases, cases involving municipalities and state government, and working as mediators in private practice make Judge Legg and Judge Williams eminently qualified to act as the Co-Monitors for the Baltimore Consent Decree.

The other members of the BMP team have similar applicable experience. The BMP's Project Manager, Chad Curlett served as a member of the monitoring team for the Detroit Consent Decree. Furthermore, Mr. Curlett, along with Judge Williams, and Mr. Brown, Mr. Ruther, and Mr. Levin also have experience as criminal prosecutors, who were charged with reviewing police actions and acting as a constant check on the power of the police who brought cases to them for prosecution. Professors Pratt-Harris, and Layne, along with J.C. Faulk have a wealth of experience helping Baltimore Communities engage in their own monitoring of Police activity, right here in Baltimore, and they have all been voices for change in this City.

Ms. Cole also has first-hand experience in monitoring BPD, as she was integral to the maintenance and analysis of the statistical programs used by City Government and

<sup>5</sup> For clarity, we have combined the sections which are set forth individually in the RFA as Paragraph 35 and 36.

In addressing the qualifications of each member of the BMP in response to RFA Paragraph 35, the Application will respond to the exact areas of qualification to be addressed as set forth in Sub-Paragraphs (a) - (r) of RFA Paragraph 26.



the State's Attorney's Office to monitor crime and the BPD. Similarly, Ms. Dunn has devoted her career to monitoring and advising institutions in their handling of incidents of sexual violence. She is a nationally recognized leader in this field and is sought-after for her expertise in helping institutions seek real justice for the victims of these crimes.

**b. Law enforcement practices, including community policing and engagement; use of force and force investigations; practices for conducting and reviewing pedestrian and vehicle stops, frisks, searches, and seizures; practices for conducting and reviewing arrests; crisis intervention and de-escalation techniques; bias-free policing, First Amendment protected speech and public assembly and related rights; intake, investigation, and adjudication of complaints of officer misconduct; civilian oversight; police-youth interactions; and policy development and officer and staff training [and]**

**c. Assessing legal sufficiency and compliance with constitutional and other legal requirements**

The BMP team has a wealth of knowledge and experience in these fields. The legality and efficacy of law enforcement practices and actions are at the heart of the legal process that the Judge Williams and Judge Legg oversaw on a daily basis on the United States District Court. The appropriate use of police power was a topic that was before both Judge Williams and Judge Legg on a regular basis, both in a criminal and civil context. Both of these experienced jurists have a proven track-record for fairly and consistently assessing the actions of law enforcement on a case-by-case basis.

Mr. Curlett, in addition to his experience in these fields as a member of a team investigating international war crimes, and as a Manhattan Assistant District Attorney, has represented both police officers accused of misconduct and citizens seeking redress for police misconduct. He has devoted a significant portion of his career to arguing constitutional issues relevant to law enforcement.

Professor Pratt-Harris and Professor Layne work, research, teach, and publish on these topics full-time. They have made these fields of inquiry their passion and the focus of their life's work. Professors Pratt-Harris and Layne are part of the Morgan Community Mile Initiative, where they spearheaded the successful development and acquisition of an innovative Community Action Response Effort (CARE) policing grant to study policing in the community around Morgan State University, here in Baltimore. These brilliant and driven educators not only understand the social science behind community policing and engagement, they understand the human impact it could have on Baltimore itself.



Professor Higginbotham is a world-renowned scholar on all aspects of Constitutional Law, who has written and lectured on, among many other relevant topics, the historical, societal, and legal impact of the disproportionate and abusive policing of communities of color. He understands the fragility and vital importance of individual constitutional rights and he knows the path to fair and balanced policing in keeping with those rights. Professor Higginbotham has served as the chair of the Maryland Attorney General's Task force on Electronic Weapons, and Co-Chair of Governor Martin O'Malley's Transition Team Minority Affairs Working Group. He is truly a civil rights thought leader, who understands the issues at play here in Baltimore and the importance of the work to be done.

Ms. Dunn is a nationally recognized expert in the field of sexual assault policy, investigations, and victims' rights. She received the Special Courage Award from the United States Department of Justice's Office for Victims of Crime and the AAUW Eleanor Roosevelt Fund Award for founding her non-profit, SurvJustice. Ms. Dunn and her team routinely work as consultants for educational institutions, law enforcement organizations, businesses, and community groups on sexual assault policing practices, policy, prevention, and victims' rights.

Mr. Ruther also brings significant experience and knowledge in these fields to the BMP team. As an Assistant State's Attorney for Baltimore City, Mr. Ruther was part of the Project Ceasefire Initiative. This initiative focused on police and prosecutors engaging in dialogue directly with violent repeat offenders in an effort to change the standard practices of purely reactive policing – to prevent further violent crime, rather than simply prosecute it after the fact. Mr. Ruther is also very well versed in constitutional criminal procedure, serving as co-author on a 1500-page treatise, Maryland Criminal Procedure. Almost half of this text, which is updated by Mr. Ruther and Professor Byron Warnken of University of Baltimore School of Law on a yearly basis, is devoted to Fourth, Fifth, and Sixth Amendment issues. Mr. Ruther has also lectured to police departments on search and seizure law and best practices in police interrogations.

Finally, the police expert that the BMP will select in collaboration with BPD, DOJ, and the community stakeholders, will meet the highest standards of professional and practical experience and engagement in these fields. The opportunity to hand-pick an expert, through careful vetting by all the necessary stakeholders, allows the BMP to tailor its Team specifically to Baltimore's specific needs and concerns.



#### **d. Familiarity and understanding of local issues and conditions, including local experience and expertise with Baltimore's diverse communities, and issues and challenges facing those communities**

The members of the BMP not only understand the constitutional policing challenges that Baltimore and BPD face, they understand Baltimore from first-hand experience. The BMP, as the name suggests, is firmly rooted in Baltimore itself. Its Team members are all connected to this city, and more than half of the members live in Baltimore. The judges and lawyers on the BMP team have seen the effects of BPD's policing on the integrity and efficacy of the criminal justice system in Baltimore. They have seen witnesses who are too afraid to testify, because they feel the police cannot protect them from the criminal element in their communities. They have seen prospective jurors who, based on their own experiences with Baltimore Police, say they will never believe the testimony of a police witness, no matter how credible that police witness's testimony may be.

The academics, organizers, and activists on the BMP team have studied and witnessed the impact of these deficient practices on the communities of Baltimore. They have taught and mentored students who grew up on these streets. They have worked with community stakeholders to resist and report these abuses. They have worked to bring citizens of different backgrounds together to foster greater understanding between otherwise segregated groups.

The Team members of the BMP have lived these problems in one way or another. And the fact that the members of the BMP are tied to and invested in Baltimore is perhaps this Team's greatest strength.

#### **e. Criminology and statistical analysis, including internal and external benchmarking techniques, regression analysis, and other relevant statistical methods**

The complex statistical analysis required of the Team will be led by Dr. James Lynch. As one of the country's most esteemed criminologists, not only has Dr. Lynch published his own voluminous body of research, but he has edited for dozens of peer reviewed journals, including the most important statistical journals in publication. His authority on criminological thought and research is such that in 2010 he was confirmed to lead the Bureau of Justice Statistics, which produces the most rigorous and influential body of statistical reports on national, state, local, and Native American tribal criminal justice statistics in the United States. His books and articles, several of which



are methodological standard-bearers, guide thousands of researchers to greater rigor in their own work. Dr. Lynch's knowledge of advanced statistical techniques will allow him to choose the most appropriate methods for correcting irregularities and under-representation in population samples, and for controlling extraneous factors in regression analysis, both of which will be critical skills in Baltimore City's unique social and economic environment. There is no one in the country better qualified to use advanced statistical analysis to fairly and accurately assess BPD's progress.

#### **f. Familiarity with federal, state, and local laws**

The BMP team includes five practicing attorneys and two retired federal judges, all of whom are barred in the State of Maryland and qualified to practice in the federal courts. This group also includes two former Baltimore City prosecutors (Mr. Brown and Mr. Ruther) and two well-respected defense attorneys (Mr. Curlett and Mr. Levin), who are all well-versed in local law and practice and who are already familiar with many of the key players and stakeholders who will be involved in this process. BMP's expertise in this area is a prime example of the way in which the Baltimore-based team offers the most effective and efficient monitoring solution for Baltimore's Consent Decree.

#### **g. Evaluating organizational change and institutional reform, including by applying qualitative and quantitative analyses to assess progress, performance, and outcomes**

BMP's Data Analytics Experts have an incredibly broad range of skills and experience, all of which will be needed to conduct an organizational evaluation of such a large scale. Dr. Lynch's expertise in rigorous outcome assessments of large federal interventions and policies during his tenure at the Bureau of Justice Statistics perfectly positions him to oversee the assessment design of this project, while maintaining the highest methodological standards. This rigorous quantitative testing will be supplemented by Ms. Cole's analytical work, which focuses on producing real-time, actionable information that justice-system leaders rely upon to inform their day-to-day management. Ms. Cole pioneered the use of data analytics in the prosecution of criminal cases in Baltimore City, and used the same techniques to inform policy and decision making in the Mayor's Office and the Prince George's County State's Attorney's Office.



A rigorous outcome assessment also relies heavily upon qualitative analysis by researchers whose work is grounded in a deep knowledge of the community they study. Dr. Pratt-Harris and Dr. Layne's respective published works frame real-world social phenomena through criminological and sociological thought lenses to provide profound insight and understanding of events, attitudes, and circumstances of social life. In Baltimore City, the only effective qualitative research will be based on an ethnographic understanding of its various communities. Such rich knowledge can only come from being embedded in those communities. This makes Dr. Layne and Dr. Pratt-Harris ideally suited to assess the myriad sociological factors at play in such a complex system.

In addition to qualitative and quantitative analytical experts, Ms. Dunn, who founded one of the leading organizations in the country in the field of sexual assault awareness, prevention, and investigation, brings practical knowledge and real-world experience in assessing legal compliance. She and her team at SurvJustice work with a wide array of institutions to prevent and address sexual and gender-based violence to ensure compliance with federal law, enforcement of victim rights, and development of a culture that supports survivors and encourages sexual respect.

Finally, and perhaps most importantly in Baltimore City, where the most vulnerable communities have lost all faith in governmental institutions, J.C. Faulk is an activist, organizer, and institutional change thought leader who has deep roots in Baltimore's marginalized communities. The trust he has built through his activism and unparalleled commitment to improving Baltimore on a grass-roots level will facilitate community engagement and candor in a way that traditional academics could not. As such, he is a critical lynchpin in the progress, performance, and outcomes assessment team.

#### **h. Working with government agencies, including municipalities, elected officials, civilian oversight bodies, collective bargaining units, and other stakeholders interested in policing issues**

All of the BMP's team members have various forms of experience in these areas. As Judges, attorneys, consultants, activists, analysts, and academics, they have all engaged and worked with government agencies and municipalities, including Baltimore City itself.



### **i. Engaging effectively with diverse community stakeholders to promote civic participation, strategic partnerships, and community policing**

Judge Williams, Professor Pratt-Harris, Professor Layne, Ms. Dunn, Mr. Brown, and Mr. Faulk all have experience working with community stakeholders to build partnerships and promote engagement on policing and public safety and justice issues. Judge Williams' work founding the Judge Alexander Williams, Jr. Center for Education, Justice, and Ethics in the College of Behavioral and Social Sciences at the University of Maryland, Ms. Dunn's work founding SurvJustice, Professors Pratt-Harris and Layne's work with the Morgan Community Mile and its symposium on the Consent Decree, Mr. Brown and Mr. Faulk's work with the Open Society Institute, and Mr. Faulk's work founding Circle of Voices all demonstrate the BMP team's wealth of experience promoting civic engagement in these issues.

### **j. Mediation and dispute resolution, especially mediation of police complaints and neighborhood mediation**

Judge Legg and Judge Williams possess enormous experience in the field of dispute resolution and mediation. As trial judges, both spent decades helping to resolve the most complex and important legal issues in our modern civil and criminal justice system. Since retiring from the bench, both of the BMP Co-Monitors now work as highly sought-after private mediators on wide variety of cases. Complementing the Co-Monitors' judicial experience, J.C. Faulk brings enormously valuable community mediation experience to the BMP team. Through his initiative, Circle of Voices, Mr. Faulk has developed insightful and innovative techniques to help community members and others understand one another and resolve disputes. Professors Pratt-Harris and Layne also have a wealth of experience both practical and academic in working to mediate and resolve complex issues in Baltimore's communities.

### **k. Use of technology and information systems, including data collection and management, and analytical tools, to support and enhance law enforcement practices**

In this area, Ms. Cole brings a remarkable technological skillset to the BMP team. Her technical competencies include database interface design, data validity quality assurance, data analysis for policy making, performance analytics, records management systems training, redundancy elimination in record keeping, and data personnel management, among others. Throughout her career, Ms. Cole has specialized in bringing public institutions' records-keeping practices in-line with data management best-practices.



Additionally, she currently sits on the working committee that is overseeing the implementation of a sophisticated new case management system for police agencies in Prince George's County. Her first-hand knowledge of BPD's inadequate, outdated technological and data infrastructure, coupled with her experience in implementing a complex records management system in a law-enforcement environment make her uniquely qualified to help BPD successfully navigate their impending IT infrastructure upgrades, and to help all the Parties make full use of the resources at their disposal.

**l. Appearing in court as a judge, monitor, counsel, or expert witness, or providing other types of testimony**

The BMP team consists of two former federal judges and five licensed attorneys, all of whom have significant experience appearing before a variety of courts in several different capacities.

**m. Writing complex reports for dissemination to diverse audiences**

The members of the BMP team have experience writing, published legal opinions, legal briefs, memoranda, and other legal documents, statistical reports, newspaper articles and op-eds, scholarly papers and articles published in renowned journals, legal treatises, non-fiction books, and grant applications and reports, among many other genres. As noted in other sections, Mr. Curlett also has specific experience drafting monitor reports while working as part of the Detroit monitoring team. The breadth of writing experience and ability on the BMP team assures that its writings will be well-crafted and accessible to a wide array of audiences.

**n. Providing formal and informal feedback, technical assistance, training, and guidance to law enforcement agencies [and]**

**o. Reviewing policies, procedures, manuals, and other administrative orders or directives, and training programs related to law enforcement practices**

The BMP team as it stands has experience in these areas. Judge Williams and Judge Legg have reviewed policy policies and procedures as part of their work as trial judges for over 40 years. In reviewing Fourth and Fifth Amendment issues in individual cases, reviewing search warrant applications and practices, interviewing and interrogation techniques, presiding over civil rights cases, wiretap investigations, and the investigation of organized crime in Baltimore, the Judges have spent their judicial careers assessing legality and efficacy of the practices of police and giving feedback on those practices.



Similarly, Professor Higginbotham, Mr. Curlett, Mr. Levin, Mr. Ruther, Mr. Brown, and Ms. Dunn have all had experience assessing and giving feedback to police and other institutions on constitutional and civil rights issues. By writing books and articles, teaching seminars, doing work as consultants, or by handling cases as a prosecutors and defense attorneys, the members of the BMP team are very familiar with giving this feedback and guidance to police. The BMP police expert, who will be collaboratively selected, will also have a wealth of experience in this field. The expert's police management and reform experience will be at the forefront of the BMP's work.

#### **p. Municipal budgets and budgeting processes**

Various members of the BMP team have experience working with and through a variety of budgeting processes. Ms. Cole is particularly familiar and experienced with the City's budgeting process. Similarly, most of the members of the BMP team have worked in some capacity with non-profits and governmental organizations that rely on a budgeting or grant writing process to maintain funding.

#### **q. Completing projects within anticipated deadlines and budgets**

All of the members of the BMP's team have spent their careers in project-based, deadline and budget sensitive fields. The members of the legal team, and the Co-Monitors themselves have experience handling large and complex legal cases, which almost always have rigorous budgetary limitations and require close adherence to schedules and deadlines. The academic members of the BMP team are all familiar and experienced with working within grant-funding deadlines and budgets, as well as the deadlines imposed on their scholarly publications. The members of the BMP are no strangers to tight timelines and tight budgets, and they are prepared to approach their work on the BMP with the same professionalism and dedication that they have devoted to the rest of their careers.

#### **r. Any other qualifications the Monitor candidates believe are pertinent to fulfilling the duties of Monitor under the Consent Decree**

As eluded to throughout this Application, the BMP's greatest strengths are its pre-existing knowledge and understanding of Baltimore's policing problems, and the deep personal commitment that each BMP team member has made to helping Baltimore solve those problems. When viewed in the aggregate, the members of the BMP team possess over 200 years of collective life experience in Baltimore City. That value of that level of institutional knowledge when dealing with a city as unique as Baltimore cannot be overstated.



This pre-existing knowledge base, when coupled with the BMP's location in Baltimore, positions the BMP to be extremely efficient and cost-effective as a monitor. The majority of the members of the BMP will not have to fly here or spend weeks living in hotel rooms here just to learn the most basic aspects of the City's geography and culture. Many of the BMP's team members are also already very familiar with the structure and recent history of the BPD, and the City's previous efforts to track and reform its law enforcement efforts. These facts give the BMP a head start on assisting in the Consent Decree reform process that Baltimore truly needs.



# V. Budget

The Consent Decree, including the reforms and the monitoring process it requires, represents an opportunity to invest in Baltimore and the future of policing in this City.

The members of the BMP are mindful of the City's fiscal constraints. The BMP has made a diligent effort to keep the Team lean while also ensuring the BMP comprises the most talented and committed group of individuals required to monitor the implementation of the Consent Decree. The BMP's budget recognizes these challenges and the importance of not exceeding the \$1,475,00 per year cap. The following is a summary of the BMP's proposed budget.

<u>Team Member</u>	<u>Hourly Rate</u>	<u>Est. Av. Hrs/Month</u>	<u>Total Yearly Fees</u>
<b><u>CO-MONITORS</u></b>			
Judge Legg	\$400.00	30	\$144,000.00
Judge Williams	\$400.00	30	\$144,000.00
<b><u>PROJECT MANAGER</u></b>			
Mr. Curlett	\$350.00	95	\$399,000.00
<b><u>CONSULTANTS</u></b>			
Prof. Higginbotham	\$300.00	10	\$36,000.00
Prof. Pratt-Harris	\$300.00	10	\$36,000.00
Prof. Layne	\$300.00	10	\$36,000.00
Ms. Dunn	\$300.00	15	\$54,000.00
Mr. Faulk	\$300.00	25	\$90,000.00
Ms. Cole	\$300.00	15	\$54,000.00
<b><u>DATA ANALYSIS</u></b>			
Dr. Lynch/MDAC	\$230.00	9	\$24,840.00
MDAC Research	\$66.50	150	\$119,700.00
<b><u>POLICING</u></b>			
See Section II. Scope of Work	\$300.00	30	\$108,000.00
<b><u>LEGAL</u></b>			
Mr. Levin	\$350.00	5	\$21,000.00
Mr. Ruther	\$265.00	25	\$79,500.00
Mr. Brown	\$265.00	25	\$79,500.00
<b><u>EXPENSES</u></b>			\$49,460.00
<b><u>TOTALS</u></b>		<b><u>484</u></b>	<b><u>\$1,475,000.00</u></b>

Judge Williams will be employed through his law firm, Silverman Thompson, Slutkin and White, LLC. Judge Legg will be employed through an LLC. Mr. Curlett and Mr. Levin will be employed through their law firm, Levin & Curlett LLC. Mr. Brown and Mr. Ruther will be employed through their law firm, Rosenberg Martin Greenberg, LLP. The Maryland Data Analysis Center has prepared a budget outlining the scope of its work; the proposed budget is attached in Appendix B.



# VI. Collaboration & Cost Effectiveness

The BMP is well-positioned to be the most effective and efficient monitoring option for Baltimore. The relationships, contacts, and knowledge of Baltimore that the BMP Team Members already have will allow them to work collaboratively with BPD leadership, the City, the DOJ, and community stakeholders beginning very early in the monitoring process. The local roots of the BMP will help the Team collaborate with its new partners quickly, and the time that will be saved by leveraging the Team's local knowledge will translate into great efficiency and cost effectiveness.

As explained throughout this Application, the BMP team has unique, boots-on-the-ground experience studying and addressing many of the issues in the Consent Decree. For example, Mr. Brown and Mr. Faulk, through their work with the Open Society Institute, have been well briefed in the civil rights and social justice issues facing Baltimore and have already been involved in meetings with stakeholders and DOJ officials regarding the Consent Decree and its goals. Mr. Faulk especially is deeply connected to Baltimore's community stakeholders and is well positioned to engage and collaborate with them and with BPD to foster engagement and understanding. Similarly, Professor Pratt-Harris and Professor Layne have already been working on projects through Morgan State University to spread awareness and understanding about the Consent Decree and the reforms it is designed to foster, and they are prepared to continue to engage and collaborate with the Parties to achieve those goals.



# VI. Potential Conflicts of Interest

**Hon. Alexander Williams, Jr.** - As a retired United States District Court Judge, Judge Williams was an employee of the United States Government and draws federal retirement benefits. He has been a judge presiding over cases involving the United States, the State of Maryland, and Baltimore City. Further he was the appointed mediator in the civil suit brought by the family of Freddie Gray against the City of Baltimore. Aside from these historical involvements, Judge Williams has no known active conflicts of interest.

**Hon. Benson E. Legg** – As a retired United States District Court Judge, Judge Legg was an employee of the United States Government and draws federal retirement benefits. He has been a judge presiding over cases involving the United States, the State of Maryland, and Baltimore City. Aside from these historical involvements, Judge Williams has no known active conflicts of interest.

**Charles N. Curlett, Jr.** – On January 9, 2017, Charles Curlett publicly confirmed his intention to seek the office of Baltimore City State's Attorney in the 2018 election.<sup>6</sup> To date, however, Mr. Curlett has neither formally announced his candidacy nor has he filed a certificate of candidacy with the Maryland State Board of Elections. To avoid any conflicts of interest or the appearance of impropriety, if the BMP Team is awarded the contract to serve as the independent monitor, Mr. Curlett will not enter the race for Baltimore City State's Attorney. He will instead apply his considerable experience in the field of criminal justice to serving as the project manager for the Monitorship, thereby advancing community efforts towards police reform and the improvement of Baltimore's criminal justice system.

<sup>6</sup> Justin Fenton, Baltimore Attorney Says He Will run against Marilyn Mosby in 2018, THE BALTIMORE SUN, January 9, 2017, available at <http://www.baltimoresun.com/news/maryland/crime/bs-md-curlett-states-attorney-20170109-story.html>



Charles Curlett is currently co-counsel to James Owens, Esq. in the matter of James Owens v. Gary Dunnigan et al., Civil Action No. 1:11-cv-3295-GLR, pending in the United States District Court for the District of Maryland. The defendants are three former detectives with the Baltimore Police Department. James Owens brought his action under 42 U.S.C. § 1983 alleging that the defendants violated his constitutional rights by intentionally withholding exculpatory evidence during his 1988 murder trial. Mr. Curlett and his co-counsel secured a reversal of the District Court's earlier dismissal in the United States Court of Appeals for the Fourth Circuit.<sup>7</sup>

Charles Curlett previously represented Wendell Griffin in the matter of Wendell Griffin v. Baltimore Police Department et al., Civil Action No. 1:13-cv-03387-JFM, in the United States District Court for the District of Maryland. The defendants were the BPD and three former detectives. Wendell Griffin brought his action under 42 U.S.C. § 1983 alleging that the defendants violated his constitutional rights by intentionally withholding exculpatory evidence during his 1982 murder trial. The matter was dismissed by the District Court, which dismissal was upheld by the United States Court of Appeals for the Fourth Circuit.<sup>8</sup> Mr. Curlett continues to represent Mr. Griffin in a petition for writ of error coram nobis before the Circuit Court for Baltimore City seeking the vacatur of his criminal conviction.

**G. Adam Ruther, Esq.** – Mr. Ruther served from 2011 to 2015 as an Assistant State's Attorney for Baltimore City. He has also been employed at various times by the University of Baltimore School of Law, which is a part of the University of Maryland System.

**Jamar R. Brown, Esq.** – Mr. Brown served from 2012 to 2016 as an Assistant State's Attorney for Baltimore City. Mr. Brown also served as a law clerk to the Hon. Marcella A. Holland, a currently retired judge of the Circuit Court for Baltimore City. In his capacity as a law clerk, Mr. Brown was an employee of the State of Maryland.

**Natasha C. Pratt-Harris, Ph.D.** – Dr. Pratt-Harris is a full time employee of Morgan State University, which is a state agency. She has also done contractual work including additional teaching and some contractual research. She has been employed in the past with the following state agencies - Department of Juvenile Services, Department of Human Resources, University of Maryland Baltimore County, University of Maryland College Park, University of Baltimore, Coppin State University, Salisbury University

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<sup>7</sup> Owens v. Baltimore City State's Attorneys Office, et al., 767 F.3d 379 (4th Cir. 2014).

<sup>8</sup> Griffin v. Baltimore Police Department et al., 804 F.3d 692 (4th Cir. 2015).



compensation for lecture, and currently works as an evaluator for Safe Streets under the Baltimore City Health Department, grant funded by the US Department of Justice.

Dr. Pratt-Harris grew up in Baltimore city and has family in the area. She knows of persons who work in the criminal justice system who are police officers or retired police officers, agents, or law enforcement employees. Dr. Pratt-Harris is close friends with retired Detective Lakeesha Thomas and current Sgt. Kim Glanville, and retired Detective Nathan Warfield is her goddaughter's father. She attended school with current officer Charles Lee, and her godbrother Parish Whitaker is a retired police officer. In 2010, Dr. Pratt-Harris was sued by an MTA bus driver for a minor traffic accident that occurred in March 2009, but the case was dismissed by the court and noted as a frivolous lawsuit by the judge.

**Asha Layne, Ph.D.** – Dr. Layne is a full time employee of Morgan State University, which is a state agency. Dr. Layne was previously employed by BPD as a civilian crime scene technician until 2011. She has no other current conflicts of interest to report.

**Professor F. Michael Higginbotham** – Prof. Higginbotham is an employee of the University of Baltimore School of Law, which is part of the University of Maryland System, which is a state agency. Prof. Higginbotham has no other conflicts of interest.

**Cristie Cole** – Ms. Cole was employed by Baltimore City in several difference capacities, working as part of the Baltimore City Mayor's Office as a CitiStat Analyst and for the Baltimore City State's Attorney's Office as an Operations Research Analyst. She has no current conflicts of interest.

**Maryland Data Analysis Center** – In addition to being housed in the Department of Criminology and Criminal Justice at the University of Maryland (which is a state agency), the Maryland Data Analysis Center has an uncompensated Advisory Board, consisting of state and local officials who lead various criminal justice agencies in Maryland. The Board has three law enforcement representatives: Commissioner of the Baltimore City Police Department; Chief of the Montgomery County Police Department; and Chief of the Prince George's County Police Department. Duties of Advisory Board members include attending meetings (one held thus far in 2015), and advising MDAC on the availability of data, and the research needs of their agencies.

Since the departure of Commissioner Batts, who sent representatives to our first meeting, we have had no contact with the Baltimore City Police Department. MDAC is tentatively planning to hold a meeting of the Board later this year, and would normally invite Commissioner Kevin Davis to that meeting. Commissioner Davis's involvement on the Board will not affect MDAC's ability to conduct effective and unbiased data analysis for the BMP.



**Dr. James Lynch** was employed by the United States Government while he was director of the Bureau of Justice Statistics in the United States Department of Justice (2010-2013). More recently, during 2014-2016, Dr. Lynch consulted with the Bureau of Justice Statistics, via an Intergovernmental Personnel Action, to manage the National Crime Statistics Exchange (NCS-X), which developed a nationally representative sample-based system of police administrative records on crimes known to the police. He has also conducted contract and grant-funded work for various state agencies during and prior to his time at MDAC. A complete list of those projects is included in Dr. Lynch's CV, in Appendix A.

Also, in the interest of disclosure and related to the MDAC, Dr. Jinney Smith, who is the Associate Director of the MDAC, has a spouse who is employed by the United States Department of Justice. Mr. Curtis Gannon is the Principal Deputy Assistant Attorney General at the Office of Legal Counsel, and is presently serving as Acting Assistant Attorney General of that office. <https://www.justice.gov/olc/meet-leadership>





Baltimore  
Monitor  
Project

COMMUNITY ACCOUNTABILITY INDEPENDENCE

# Curricula Vitae and Resumes

# APPENDIX A



## **Hon. Alexander Williams, Jr.**

### ***Education***

**M.A.R.S.-Ethics, Temple University, 1995**

**M.A., Howard University School of Divinity, 1991**

**J.D., Howard University School of Law, 1973**

Cum Laude

**B.A., Howard University, 1970**

### ***Jurisdictions Admitted to Practice***

**Washington D.C., 1974**

**State of Maryland, 1973**

### ***Focus***

The Honorable Judge Williams (retired) focuses his practice on complex civil litigation and federal criminal cases. With extensive experience presiding over thousands of complex civil litigation and federal criminal cases Judge Williams is the only practicing retired Federal Judge in Maryland to advise clients on these matters.

### ***Professional History***

The Honorable Judge Alexander Williams, retired from the United States District Court for the District of Maryland on January 3, 2014. He has written over 7 volumes of published opinions and has presided over 6,000 complex civil and 1,000 federal criminal cases. Some of his more recent published opinions included:

Hodge v. Stephens (D. Md. 2013): a motion to dismiss a variety of constitutional and state law claims against municipality, police department and officers for alleged unreasonable search and seizure.

International Waste Industries Corp v. Cape Environmental Management, Inc. (D. Md. 2013): a motion for summary judgment on claims of breach of contract, quantum meruit, unjust enrichment, detrimental reliance, and intentional misrepresentation.

Lanier-Finn v. Department of the Army (D. Md. 2013): a claim for administrative review of Department of the Army's determination on pay and other benefits.

Lockheed Martin Corp. v. United States (D. Md. 2013): an opinion on pleading and tax procedure.

United States v. One 2007 Harley Davidson Street Glide Motorcycle VIN (D. Md. 2013): a civil forfeiture case.

Currie v. Wells Fargo Bank (D. Md. 2013): a mortgage fraud and breach of contract opinion.

Benahmed v. BAE Systems (D. Md. 2012): a motion to dismiss Title VII employment discrimination and retaliation claims.

Feldman v. Pro Football, Inc. (D. Md. 2008): a hearing impaired lawsuit where Judge Williams ordered the Redskins to provide close captioning of public announcements and music.

Audubon Naturalist Society of The Central Atlantic States et al. v. United States Department of Transportation et al. (D.Md.2007): an opinion upholding the environmental challenge to the Inter County Connector (Highway 200), a two billion dollar Fed/State project.

Prior to his appointment to the federal bench by President Clinton in 1994, Judge Williams served Prince George's County in Maryland in many capacities, including as State's Attorney (elected for two terms), Public Defender, Special Counsel, Hearing Examiner, and as a Substitute Juvenile Master.

Judge Williams also had a successful career in private practice in Maryland and Washington DC. He is a founder, member and the first president of the J. Franklyn Bourne Bar Association, Inc. and has served for many years as a Professor at Howard University Law School. Judge Alexander Williams is recognized as a top attorney and has earned a perfect 10.0 "Superb" rating from Avvo, one of the most respected attorney rating services in the country.

### ***Government and Judicial Service***

- 1994-2014: Judge, U.S. District Court for the District of Maryland
- 1987-1994: Elected State's Attorney, Prince George County, Maryland
- 1975-1987: Municipal Attorney, Prince George County, Maryland
- 1977-1978: Assistant Public Defender, Prince George County, Maryland
- 1980-1987: Special Counsel and Hearing Examiner, Prince George's County Board of Education

### ***Teaching Experience***

- 1991 - 2006 Adjunct Professor, Howard University School of Law
- 1986 – 1989 Professor of Law, Howard University School of Law
- 1980 – 1986 Associate Professor, Howard University School of Law
- 1978 – 1980 Assistant Professor, Howard University School of Law

*(Subjects Taught: Municipal Law, Criminal Law, and Criminal Procedure, Business Organizations, Remedies, Civil Procedure, Public Service Ethics)*

### ***Honors and Awards***

- 2013: James H. Taylor Award
- 2009: Certificate of Appreciation for Outstanding Community Service
- 2008: Distinguished Service Award
- 2000: J Franklyn Bourne Bar Association, Inc.,
- 1998: National Black Students Association
- 1994: YMCA Commitment To Youth Award
- 1994: Deans Award (Howard Law School) For Community Service
- 1991: Honorary Degree, Doctor Of Humane Letters
- 1991: A Founding Member Of The Howard Law School
- 1987: Distinguished Service Award

### ***Published Opinions***

International Federation of Professional and Technical Engineers v. United States, 934 F. Supp.2d 816 (D.Md.2013)

Daniels v. Housing Authority of Prince George's county, 940 F. Supp. 2d 248 (D.Md.2013)

Advance Dental Care, Inc. v. Sun Trust Bank, 906 F. Supp.2d 442 (D.Md.2012)  
Metropolitan Regional Information Systems, Inc. v. American Home Realty Network, Inc., 888 F. Supp. 2d 691 (D.Md.2012)  
Hawkins v. Leggett, F.Supp.2d Civil Action No. 12-cv-00623 AW, 2013 WL 3218964 (D.Md. June 24, 2013)  
Senior Executives Association v. United States, Civil Action No. 8:12-cv-02297-AW, 2013 WL 1316333 (D.Md.Mar.27, 2013)  
Byrd v. Johnson, 467 B.R. 832 (D.Md.2012)  
Doe v. Tenenbaum, 900 F. Supp.2d 572 (D.Md.2012)  
StemCells, Inc. v. Neuralstem, Inc., Civil Action Nos. 8:06-cv-01877-AW, 8:08-cv-02664-AW, 8:08-cv-01173-AW,2012 WL 1184545 (D.Md.Apr. 6, 2012)  
Fletcher v. Lamone, 831 F. Supp. 2d 887 (D.Md.2011) (Williams, J., concurring)  
Feldman v. Pro Football, Inc., 579 F. Supp. 2d 697 (D.Md. 2008)  
Audubon Naturalist Society of The Central Atlantic States et al. v. United States Department of Transportation et al., 524 F. Supp. 2d 642 (D.Md.2007)

***Professional & Bar Association Memberships***

**Maryland State's Attorney's Association**

Member Since: 1989-1994

Vice President

**(Maryland State) Handgun Roster Board**

Member Since: 1993 - 1994

Member

**American Heart Association, Southern Maryland Division**

Member Since: 1990 – 1991

President

**Student Suspension Monitoring Committee, Prince George's County Public School System**

Member Since: 1987 - 1989

Chairman

**Washington Suburban Sanitary Commission**

Member Since: 1986 - 1987

Chairman

**Washington Suburban Sanitary Commission**

Member Since: 1983 - 1985

Commissioner (vice chairman)

**Member, Merit Selection Panel to Select, U.S. Magistrate**

Member Since: 1985

**Maryland State Commission on Medical Discipline (Appointed by Governor Harry Hughes)**

Member Since: 1980 -1985

Commissioner

**Human Relations Commission Prince George's County, Maryland**

Member Since: 1978 - 1981

Commissioner

**Greater Laurel-Beltsville Hospital**

Member Since: 1985 - 1987

Board of Directors



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#### **Case Manager**

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*"He's clearly prepared and has read the briefs and asks questions."*

*"He's fabulous. He understands the law, is well-read on the cases and well-prepared."*

*"He's very evenhanded."*

*"His level of courteousness is very high. He's a real gentleman."*

*-Almanac of the Federal Judiciary, 2012*

#### **Hon. Benson Everett Legg (Ret.)**

**Hon. Benson E. Legg (Ret.)**, the former Chief Judge of the United States District Court for the District of Maryland, brings deep experience to his full-time ADR practice. As a federal trial judge for 21 years, he presided over every type of complex civil case that comes before the federal courts. Before joining the bench, he spent 16 years as a business litigator with a major law firm, representing clients in a wide array of cases including antitrust, breach of contract, civil rights, employment discrimination, insurance coverage, intellectual property, toxic torts, and securities. After taking senior status, Judge Legg conducted settlement conferences for the district court in a variety of matters.

During his career on the federal district court, Judge Legg earned high marks for his legal ability and judicial temperament. He is known for being well-prepared, courteous, and even-handed.

#### **ADR Experience**

As a Senior Judge of the U.S. District Court for Maryland, he presided over settlement conferences in a variety of matters, including:

- Breach of Contract: Alleged breach of a post-employment covenant not to compete
- Consumer Class Action: Alleged violations of consumer protection laws involving retail installment sales contracts
- Securities Class Action: Alleged violations of the Securities Exchange Act of 1934
- Employment: State employee who alleged that her termination was discriminatory (ADEA, FMLA, and ADA); Teacher who claimed that her termination was based on race and pregnancy (Title VII); Warehouse worker who alleged discrimination based on her sex, female (Title VII); Insurance company employee who claimed sexual harassment by a supervisor (Title VII)
- Insurance Coverage: Dispute over the coverage afforded by a commercial crime insurance policy
- Intellectual Property: Suit by a publisher alleging copyright and trademark infringement
- Products Liability: Alleged motor vehicle defect

#### **Representative Matters**

In addition to his long experience as a business litigator, Judge Legg spent 21 years as a U.S. District Judge handling a large civil docket. What follows is a representative sample of the types of the complex matters over which he presided:

- **Administrative Law**
  - *Alemi v. Qatar Airways*, Civil No. L-11-3420: decided the required forum for suit under Warsaw Convention
  - *Fleming v. Barnhart*, 284 F.Supp.2d 256: thoroughly analyzed the standards that the Social Security Administration was required to employ when addressing a complicated medical claim
  - *Huff v. U.S. Department of the Army*, 508 F.Supp.2d 459: significant procedural rulings in a disability claim action brought by a veteran
  - *MCI Telecommunications, Inc. v. T.A. Communications, Inc.*, 40 F.Supp.2d 728: decided which state law claims were and were not preempted by FCC rulings under the Federal Communications Act
  - *U.S. v. Lockheed Martin Corp.*, 423 F.Supp.2d 522: *qui tam* action seeking to recover penalties under the False Claims Act against government contractor that operated uranium enrichment plant
- **Admiralty**
  - *In The Matter Of Complaint Of Eternity Shipping, LTD.*, 444 F.Supp.2d 347: vessel owner and manager filed action seeking limitation/exoneration from liability for damages resulting from the collapse of a crane aboard vessel that killed two seamen
  - *Sullivan v. General Helicopters, Intl.*, 564 F. Supp.2d 496: crane operator who moved disabled helicopter from ship to pier sought marine salvage award
- **Antitrust**
  - *Baltimore Scrap Corporation v. The David J. Joseph Co.*, 81 F.Supp.2d 602: scrap metal company, whose zoning permit was clandestinely opposed by competitor, sued for antitrust violations
  - *Merck-Medco Managed Care, Inc. v. Rite Aid Corporation*, 22 F.Supp.2d 447: terminated prescription contractor brought antitrust claim against retail pharmacies
- **Arbitration**
  - *PC Construction Co. v. City of Salisbury*, Civil No. L-12-0062: city not required to arbitrate construction dispute
  - *Western Maryland Wireless Connection v. Zini*, 601 F.Supp.2d 634: ruling that plaintiff's action for breach of contract and fraud was barred by affirmative defense of arbitration and award
- **Bankruptcy**
  - *Coleman v. Simpson*, 327 B.R. 753: transfers voided as fraudulent
  - *In re Preston Trucking Company, Inc.*, 392 B.R. 623: in a case involving the WARN Act and LMRA, chapter 11 debtor-in-possession brought interpleader action against union representing company's former employees
  - *Snyder v. IRS*, 337 B.R. 542: determined whether the IRS could use summary assessment procedure without first issuing a notice of deficiency

- **Breach of Contract**

- *Abhe & Svoboda, Inc. v. Bell BCI Company*, 520 F. Supp.2d 701: subcontractor on a contract for the construction of jet fuel tanks for the Department of the Navy sued the general contractor claiming that the failure to pay in full violated the Miller Act
- *Dunnaville v. McCormick & Company, Inc.*, 21 F.Supp.2d 527: prospective buyer of a corporation's subsidiary, which was ultimately sold to another, brought suit for breach of contract, tortious interference, and unjust enrichment
- *Enfield Equipment Co. Inc. v. John Deere Company*, 64 F.Supp.2d 483: farm equipment dealer brought contract and tort claims against manufacturer that withheld its consent to the dealer's sale of its distributorship
- *Legore v. OneWest Bank*, FSB, Civil Case No. L-11-0589: suit under Home Affordable Modification Program claiming improper failure to modify home mortgage
- *Mobray v. Zumot*, 553 F.Supp.2d 554: claims for breach of contract and negligent misrepresentation in connection with the sale of an apartment building. Other rulings reported at 536 F.Supp.2d 617
- *Onusko v. JP Morgan Chase Bank, NA*, Civil Case No. L-09-1080: plaintiff alleged that employer broke a promise to build a sub-prime mortgage unit around her
- *Quality Systems, Inc. v. Warman*, 132 F.Supp.2d 349: alleging a mass raid on its workforce, a company that provides staffing for government contracts sued competitor and former employees
- *Redner's Markets, Inc. v. Joppatowne G.P. Limited Partnership*, Civil No. L-11-1864: major shopping center tenant sued landlord claiming breach of a restrictive use covenant
- *Tech USA, Inc. v. Evans*, 592 F.Supp.2d 582: employer brought action against former employee for violation of confidentiality and non-competition agreement; extensive discussion of enforceability of forum selection clause
- *Trans/Air Manufacturing Corporation v. Merson*, 524 F.Supp.2d 718: manufacturer brought action against former employee and competitor to enforce post-employment confidentiality and non-competition covenant
- *U.S. Bank Trust National Assn. v. Nielsen Enterprises MD*, 232 F. Supp.2d 500: in a complex real estate case involving a hotel, the master servicer of pool of commercial mortgage loans brought action against mortgagee

- **Civil Rights/Constitution**
  - *Allen v. Columbia Mall, Inc.*, 47 F.Supp.2d 605: juvenile patrons sued mall alleging racial discrimination and unlawful search and seizure
  - *Biggs v. Board of Education of Cecil County, Maryland*, 229 F. Supp.2d 437: disabled middle school student brought action against school board under the ADA, the Rehabilitation Act, and Title IX, alleging failure to adequately deal with teasing by other students
  - *Evans v. Saar*, 412 F.Supp.2d 519: prison inmate sentenced to death sued state claiming that its lethal injection protocol violated the 8th Amendment
  - *Farmer v. Ramsay*, 41 F.Supp.2d 587: caucasian applicant for admission to university medical school sued alleging that he was denied admission on the basis of his race; summary judgment ruling reported at 159 F. Supp.2d 873
  - *Hall v. St. Mary's Seminary & University*, 608 F.Supp.2d 679: student brought action against university asserting claims for discrimination under the Rehabilitation Act, the ADA, and Title VII
  - *Housley v. Holquist*, civil number L-10-1881: Section 1983 suit contending that county police officers used excessive force when retrieving a person ordered to undergo a psychiatric examination
  - *Martino v. Bell*, 40 F.Supp.2d 719: significant rulings regarding Maryland's Local Government Tort Claims Act in suit brought by detainees against county and county police officers
  - *Muntjan v. Waltemeyer*, 166 F.Supp.2d 424: plaintiff, who was acquitted of murder brought action against police officers, city council, and mayor
  - *Orgain v. City of Salisbury*, 521 F.Supp.2d 465: nightclub and its operators brought federal civil rights suit against city, county, police chief, and licensing officials, alleging that the club was singled out for heightened scrutiny because of its "hip hop" nights; see also *Habash v. City of Salisbury*, 618 F. Supp.2d 434
  - *Rosenfeld v. Montgomery County Public Schools*, 41 F.Supp.2d 581: caucasian siblings sued school district alleging that admissions process for magnet schools was tainted by racial profiling
  - *Wagner v. Short*, 63 F.Supp.2d 672: disabled student and his parents sued state Department of Education and others under the Individuals with Disabilities Education Act
- **Class Actions/MDL**
  - *Doe v. Blue Cross Blue Shield of Maryland, Inc.*, 173 F.Supp.2d 398: participants in group health plan filed class action complaint alleging covert application of overly restrictive coverage criteria
  - *Howell v. State Farm Insurance Companies*, 448 F.Supp.2d 676: alleging breach of contract and breach of fiduciary duty, insureds brought proposed class action against private flood insurers; summary judgment rulings reported at 540 F.Supp.2d 621
  - *In re ProteGen Sling and Vesica System Products Liability Litigation*, presided over MDL 1387 as transferee judge; case settled before trial
  - *Lloyd v. General Motors Corp.*, 560 F.Supp.2d 420: class action against automobile manufacturers to recover damages arising from cost of replacing allegedly defective seating systems; see also 575 F.Supp.2d 714, and 266 F.R.D. 98 (class certification ruling)
  - *Slaughter v. Mayor and City Council of Baltimore*, Civil Case No. L-10-1157: whether personal representative of a firefighter who tragically died during a training exercise may sue City under 42 U.C.C. Section 1983
  - *Stone et al. v. Wayric Services, Inc.*, Civil Case No. L-10-484: opinion deciding that an entity that purchases defaulted debts and subsequently seeks to collect on those debts through litigation is a collection agency required to be licensed under Maryland law
- **Corporations**
  - *Froelich v. Erickson*, 96 F.Supp.2d 507: former employee and minority interest holder in limited liability company challenged reclassification and squeeze-out merger

- **Defamation**
  - *Freyd v. Whitfield*, 972 F. Supp. 940: founders of organization challenging legitimacy of “repressed memory” doctrine filed defamation action against psychologist
  - *Ransom v. Baltimore County*, 111 F.Supp.2d 704: following his arrest and involuntary commitment, police officer brought action against county for defamation, false arrest, and imprisonment
- **Discovery and Procedure**
  - *ASCO Healthcare, Inc. v. Heart of Texas Health Care*, 540 F. Supp.2d 634: pharmaceutical supplier sued purchasers of healthcare facilities for terminating supply contracts; significant ruling on defendants’ motion to dismiss for lack of personal jurisdiction
  - *Doe v. Blue Cross Blue Shield of Maryland*, 103 F.Supp.2d 856: intervenors moved for modification of protective order prohibiting parties from disclosing information that had been designated confidential
  - *Erie Insurance Exchange v. Davenport Insulation, Inc.*, 659 F.Supp.2d 701: failure to preserve fireplace constituted spoliation of evidence, warranting dismissal
  - *FDIC v. Hatziyannis*, 180 F.R.D. 292: deliberative process privilege did not protect FDIC documents from discovery
  - *LWRC International, LLC v. Mindlab Media, LLC*, Civil Case No. L-11-1028: in a Lanham Act dispute involving photos of the host of a television program, court ruled that plaintiff could not use a declaratory judgment action to win a race to the courthouse

- **Employment/Labor**

- *Adams v. Morris*, 706 F.Supp.2d 632: employees brought action alleging assault, battery, and sexual harassment; significant rulings on motions for remittitur and new trial
- *Albero v. City of Salisbury*, 422 F.Supp.2d 549: former employee brought action against municipality and supervisor under Title VII alleging sexual harassment, hostile work environment, and retaliation
- *Alderman v. Baltimore City Police Department*, 952 F.Supp. 256: city police officers sued under the FLSA claiming unpaid compensation for time spent caring for police canines
- *Associated Builders and Contractors, Inc. v. O'Connor*, 75 F.Supp.2d 440: contractor and trade association brought action against Maryland state officials claiming that their refusal to register contractor's apprenticeship program violated federal and state law
- *Bernstein v. The St. Paul Companies, Inc.*, 134 F.Supp.2d 730: white male former employee with disability from polio brought action against former employer alleging reverse race and reverse gender discrimination, age and disability discrimination, and retaliation
- *Blake v. Baltimore County*, 662 F.Supp.2d 417: police officer contended that order requiring him to submit to fitness for duty examination and EEG violated his constitutional rights and the ADA
- *Bowers v. Town of Smithsburg*, 990 F.Supp. 396: former chief of police sued for reinstatement contending that his termination was unauthorized
- *Bruce v. ILA*, 7 F.Supp.2d 609: union member sued local and international unions and trade association alleging violations of the NLRA and the LMRA
- *E.E.O.C. v. Nucletron Corporation*, 563 F.Supp.2d 592: agency contended that employer's offer of separation agreement conditioning receipt of severance benefits upon agreement not to file discrimination claim constituted facial retaliation
- *E.E.O.C. v. Worthington, Moore & Jacobs, Inc.*, 582 F. Supp.2d 731: agency sued on behalf of female employees alleging hostile work environment and *quid pro quo* sexual harassment
- *Greenan v. Board of Education of Worcester County*, Civil Case No. L-10-1868: teacher advanced claims for pregnancy discrimination, race discrimination, and retaliation
- *Hart v. Harbor Court Associates*, 46 F.Supp.2d 441: former female employee sued for hostile work environment, sexual harassment, and retaliation under Title VII
- *Hice v. Director of Workers' Compensation Programs*, 48 F.Supp.2d 501: electrical engineer who suffered heart attack while inspecting national defense communication equipment petitioned for review of decision of Department of Labor's Benefits Review Board affirming denial of worker's compensation benefits
- *Jordan v. CSX Intermodal, Inc.*, 991 F.Supp. 754: female worker alleged wage discrimination in violation of Title VII
- *Parris v. Board of Education of Baltimore County*, Civ. No. L-09-0704: plaintiff contended that board reassigned her in retaliation for raising concerns about discrimination in school system
- *Rockwell v. Mack Trucks, Inc.*, 8 F.Supp.2d 499: former employee sued under the FMLA for wrongful termination
- *Spence v. NCI Information Systems, Inc.*, 530 F.Supp.2d 739: applicant for civilian position with Air Force sued former employer for making defamatory statements about him to Air Force investigators
- *Traversa v. Ford*, Civil No. L-10-442: plaintiff alleged that Maryland Commission on Human Relations violated his civil rights and acted negligently by delaying investigation of his complaint and concluding that he was not disabled; opinion explores scope of qualified and quasi-judicial immunities afforded the commission

- **Government Contracts**

- *Healthcare Architects, Inc. v. Shalala*, 992 F.Supp. 804: software marketer sued HCFA alleging violations of the Competition in Contracting Act

- **Insurance**

- *Brooks v. Metropolitan Life Insurance Company*, 526 F.Supp.2d 534: determining that an administrator's internal claims management guidelines were not relevant compliance verification material within the meaning of ERISA's implementing regulations
- *Flores v. Life Insurance Company of North America*, Civil No. L-10-0098: in ERISA case, court determined that compelling authority was lacking to warrant adoption of "de facto" administrator doctrine
- *Met Life v. Pearson*, 6 F.Supp.2d 469: interpleader action to resolve competing claims to life insurance policy
- *Perdue Farms Incorporated v. National Union Fire Insurance Company of Pittsburg*, 197 F. Supp.2d 370: coverage dispute related to Perdue's misappropriation of chicken roasting process
- *Randi v. GSA*, 995 F.Supp 601: member of insured organization's executive council brought action against liability insurer to recover cost of defending lawsuit
- *Rapid Settlements, LTD. v. U.S.F. & G.*, 672 F.Supp.2d 714: interpleader action involving Maine Structured Settlement Act and Louisiana Structured Settlement Protection Act

- **Intellectual Property**

- *Brown v. McCormick*, 23 F.Supp.2d 594: author of copyrighted quilt block patterns sued Universal Studios, Inc. and others who made a movie titled, *How to Make an American Quilt*; opinion following bench trial is reported at 87 F.Supp.2d 467
- *Cassidy v. Lourim*, 311 F. Supp.2d 456: suit by the heirs of singer Eva Cassidy seeking to bar the re-distribution of a youthful album
- *Dick's Sporting Goods, Inc. v. Dick's Clothing & Sporting Goods, Inc.*, 12 F.Supp.2d 499: Lanham Act trade name infringement suit
- *Home Paramount Control Companies v. FMC Corp/Jagr. Products*, 107 F.Supp.2d 684: distributor sued manufacturer for breach of contract, negligent misrepresentation, and misappropriation of trade secrets
- *Maruti.com v. Maruti Udyog Limited*, 447 F.Supp.2d 494: owner of domain name brought suit against manufacturer under Anticybersquatting Consumer Protection Act
- *Millennium Laboratories, Inc. v. Ameritox, LTD*, 2013 WL 628424: Lanham Act false advertising dispute between medical testing laboratories

- **Personal Injury/Torts**

- *Algrave v. Ocean City*, 5 F.Supp. 2d 354: athlete sued for injuries sustained when he injured himself on a gymnasium floor
- Scores of other diversity suits alleging personal injury based on automobile accidents and other causes

- **Products Liability**

- *Ames v. Apothecon, Inc.*, 431 F.Supp.2d 566: analyzes the learned intermediary doctrine in a suit against a drug manufacturer
- *Higgins v. Diversey Corp.*, 998 F.Supp. 598: suit against manufacturer claiming injury resulting from inhalation of powdered bleach

- **Professional Liability (Legal And Medical)**

- *Briggs v. Cochran*, 17 F.Supp.2d 453: doctor who surrendered license on advice of counsel sued former attorney
- *Cassidy v. Lourim*, 311 F. Supp.2d 456: suit by the heirs of singer Eva Cassidy moved to disqualify former attorney who had represented them in related litigation
- *Edell & Associates v. Law Office of Peter Angelos*, 106 F.Supp.2d 799: seeking portion of contingency fee, consulting law firm sued plaintiff's lead counsel after settlement of major tobacco litigation
- *Imgarten v. Bellboy Corporation*, 383 F.Supp.2d 825: complicated apportionment of attorney's fees, costs, and prejudgment interest in case in which former employee prevailed on claim under Maryland Wage Payment and Collection Law but lost counterclaim for conversion
- *Katims v. Milligen, White, Zelano & Branigan, P.C.*, 706 F. Supp.2d 645: legal malpractice action stemming from the expiration of inventor's patent

- **Securities**

- *Berk v. Maryland Publick Banks, Inc.*, 6 F.Supp.2d 472: shareholder suit under 1934 Act and the parallel provisions of Maryland law

## **Honors, Memberships, and Professional Activities**

- Appointed by the Chief Justice to serve on two standing committees of the Judicial Conference of the United States:
  - Committee on Court Administration and Case Management-Fourth Circuit Representative, 2005-2011
  - Committee on Security and Facilities-Fourth Circuit Representative, 1994-2000
- Member, Judicial Council of the United States Court of Appeals for the Fourth Circuit, 2004-2010
- Member, Maryland Judicial Commission on Professionalism, 2004-2007
- Member, Business Torts Litigation Committee, American Bar Association's Litigation Section, 1989
- Bar Association of Baltimore City: Executive Council (1987-1988); Vice Chairman, Continuing Legal Education Committee (1986-1987); Chairman, Continuing Legal Education Committee (1987-1988)
- Special Reporter to the Appeals Subcommittee, Standing Committee on Rules of Practice and Procedure, Court of Appeals of Maryland, 1983-1985
- Chairman of the Economics of Litigation Committee, Litigation Section, Maryland State Bar Association, 1981-1982
- Past Trustee, Maryland Institute for Continuing Professional Education of Lawyers, Inc.
- Member, Lawyers' Round Table
- Trustee, Executive and Financial Committee member, Maryland Zoological Society, Baltimore, 1990-2004
- Member, Advisory Board, National Aquarium in Baltimore, 1987-2003
- Member, Board of Directors, American Red Cross, Central Maryland Chapter, 1979-1988
- Trustee (including membership on the Executive Committee and service on two headmaster search committees), Gilman School, 2007-present

#### **Publications and Teaching**

- Adjunct Faculty, University of Maryland Law School: taught Evidence in 2011 (with Rignal W. Baldwin, Jr.) and in 2013 (with U.S. District Judge Paul W. Grimm)
- Adjunct Faculty, University of Baltimore Law School: taught seminar in Recent Supreme Court Decisions (with Rignal W. Baldwin, Jr.) in 2011 and 2012
- Lecturer on Fair Trade and Antitrust Regulation, Executive Masters of Business Administration Program, Loyola University Maryland
- Judge Legg frequently guest lectures and presides over moot courts and mock trials at law schools, including Georgetown, the University of Maryland, the University of Baltimore, and the University of Virginia
- Co-Editor, *Appellate Practice Under the Maryland Rules*, published in 1989, Maryland Institute for Continuing Professional Education of Lawyers, Inc.
- Contributing Author, Chapter on Inducing Breach of Contract, *Model Jury Instructions for Business Tort Litigation (Second Edition)*, published in 1988, Section of Litigation of the American Bar Association
- B.E. Legg and J.H. Lewin, Good Trial Judges, Litigation, *The Journal of the ABA Section of Litigation*, Vol. 9, No. 3 (Spring 1983)
- Reliance Electric and 16(b) Litigation: A Return to the Objective Approach?, *58 Univ. of Va. Law Review* 907 (1972)

#### **Background and Education**

- Judge, U.S. District Court, District of Maryland, 1991-2013
  - Senior Judge, June 2012-February 2013
  - Chief Judge, January 2003-January 2010
  - Associate Judge, September 1991-January 2003 and January 2010-June 2012
- Partner, Venable, Baetjer and Howard, 1982-1991 (associate, 1975-1981)
- Law Clerk, Hon. Frank A. Kaufman, U.S. District Court, District of Maryland, 1973-1974
- J.D., University of Virginia School of Law, 1973 (editorial board, *Virginia Law Review*, 1971-1973; Order of Coif)
- A.B., English Literature, *magna cum laude*, Princeton University, 1970

#### **Disclaimer**

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## Professional Experience

### **Levin & Curlett LLC**

November 2011 – Present

Managing Partner

Levin & Curlett is a litigation boutique representing individuals and businesses in criminal matters and civil litigation, and representing whistleblowers in False Claims Act litigation.

### **Saul Ewing LLP**

**Partner, Litigation Department**

January 2010 – November 2011

Chair, Securities Litigation Practice

Vice-Chair, White Collar and Government Enforcement Practice Group

**Associate**

January 2006 – December 2009

Representative Matters in Private Practice:

- Representing a Wall Street financial services firm in litigation in the Southern District of New York against American Airlines arising out of the terrorist attacks of September 11, 2001
- Serving on the team of the Independent Monitor appointed by the United States District Court for the Eastern District of Michigan to implement two consent judgments entered in the matter of United States of America vs. City of Detroit, Michigan and the Detroit Police Department
- Representing the lead analyst on the financial industry trading desk at a leading New York City hedge fund in the SEC's investigation into short selling as a contributing factor to the collapse of Lehman Brothers
- Representing individuals and companies in SEC investigations concerning allegations of insider trading and unregistered business activity and investment programs
- Conducting an internal investigation for a Maryland company, in advance of its merger with a publicly traded company, related to possible violations of the Foreign Corrupt Practices Act
- Conducting an internal investigation for a leading Las Vegas gaming company into performance under a contract with an Australian software provider in advance of approval by the Nevada Gaming Control Board of its sports book software platform
- Representing officers and directors of publicly traded Maryland companies, as well as the corporate entity, in shareholder derivative and class action litigation in the United States District Court in Maryland
- Representing the general partners of a Delaware LLLP in litigation in the Delaware Court of Chancery to remove the managing general partner for the misappropriation of millions of dollars of partnership funds
- Winning a motions hearing to transfer the case of a 15 year-old defendant charged with first degree murder from the Baltimore City Circuit Court to Juvenile Court

- Winning acquittal after trial of a Baltimore City Police Officer prosecuted for actions undertaken in the performance of his duties
- Winning acquittal after jury trial of a New Jersey Police Detective charged with first degree murder following a road-side shooting near Annapolis, Maryland
- Representing criminal defendants as a member of the felony Criminal Justice Act Panel for the United States District Court for the District of Maryland and for the United States Court of Appeals for the Fourth Circuit.

### **New York County (Manhattan) District Attorney's Office**

#### **Assistant District Attorney**

Investigation Division Central

January 2005 – December 2005

Trial Division

May 2001 – December 2004

My work the Trial Division included the prosecution and trial of felony criminal cases involving narcotics and weapons offenses, assault and homicide. Appointed by then District Attorney Robert M. Morgenthau to Investigation Division Central, I focused on the investigation and prosecution of domestic and international financial crime.

### **International Criminal Tribunal for the former Yugoslavia**

The Hague, The Netherlands

January 1999 – July 1999

Law Clerk, Office of the Prosecutor

January 2000 – February 2001

Beginning with a 6 month internship, I provided support under the auspices of the Legal Advisory Section to various trial teams of the Office of the Prosecutor on issues of international criminal law. I was then hired to join the Office of the Prosecutor in January 2000 to work on the investigation into war crimes and crimes against humanity committed in Srebrenica, Bosnia and Herzegovina, in July 1995. I provided legal support for the investigation and was a member of the trial team in the case of the Prosecutor v. Radislav Krstic, against a Bosnian Serb General who was indicted for genocide in Srebrenica.

### **Education**

LL.M., Leiden University, Faculty of Law, 2001

- Public International Law

The Hague Academy of International Law, 1999

- Certificate, Public International Law

Juris Doctor, Brooklyn Law School, 1998

- Recipient, Alexander and Emily Mehr Memorial Prize (awarded to outstanding member of the graduating class for excellence in appellate advocacy)
- Brooklyn Journal of International Law, 1996-1997
- Moot Court Honor Society  
Philip C. Jessup International Law Team, 1997  
National Team, 1998

Bachelor of Arts, Johns Hopkins University, 1993

## **Civic Involvement**

### **Chair, Ad Hoc Committee on Best Practices for the Baltimore City State's Attorney, Greater Baltimore Committee**

In 2010, the Ad Hoc Committee, working with the State's Attorney-elect, surveyed and evaluated the best practices of leading prosecutors' offices in the Northeast, including the Manhattan, Brooklyn and Philadelphia District Attorneys' Offices, the United States Attorney's Office for the District of Columbia and the State's Attorneys' offices in four Maryland counties. The Committee's report served as a template for restructuring the organization and management of the State's Attorney's Office.

### **Investigator, U.S. Department of State, Atrocities Documentation Team**

In the summer of 2004, I served as an investigator for a genocide investigation undertaken by the United States Department of State in eastern Chad. The team conducted field interviews of Darfurians in UNHCR refugee camps established along the border of Chad and Sudan to protect those fleeing from advancing forces. On the basis of the investigation, the Bush Administration took the public legal position that the actions of Sudan's government in Darfur, acting in concert with the Janjaweed militias, constituted genocide.

### **Federal Bar Association**

Chair, Criminal Law Section, 2015-present  
President Elect, Maryland Chapter, 2016-present  
Vice-President, Maryland Chapter, 2015-2016  
2<sup>nd</sup> Vice-President, Maryland Chapter, 2014-2015  
Board of Governors, Maryland Chapter, 2008-2014

**The Leadership** - Greater Baltimore Committee, Class of 2011

**Serjeants' Inn**, a Baltimore law club

Master Serjeant (President), 2015-2017

Buck-Serjeant (Vice-President), 2014-2015

## **Professional Recognition**

Maryland Super Lawyers, White Collar Criminal Defense, 2014-2017

New York Metro Super Lawyers, White Collar Criminal Defense, 2015-2017

*The Daily Record*, VIP Award, Professionals Under 40, 2011

## **Speaking Engagements**

### **Twenty-Sixth Annual National Seminar on Federal Sentencing**

St. Petersburg, Florida, June 29, 2017

*Economic Crimes*

Panelists: **Charles N. Curlett, Jr.**, Levin & Curlett LLC; **John Gleeson Esq.**, Debevoise & Plimpton, LLP, New York, New York; **Robin Kaplan-Eliani, Esq.**, Robin Eliani PLLC, Miami, Florida; **Matthew Mueller, Esq.**, Wiand Guerra King, PA, Tampa, Florida; **Hon. Jed Rakoff**, United States District Court, Southern District of New York; **Kerri Ruttenberg, Esq.**, Jones Day, Washington DC.

**Federal Bar Association – 2016 National Meeting and Convention**

Cleveland, Ohio, September 16, 2016

*What the Busy Trial Lawyer Needs to Know About the Federal Rules of Evidence*

**Panelists:** **Charles N. Curlett, Jr.**, Levin & Curlett LLC; **Hon. Benson E. Legg**, former Chief Judge of the United States District Court, District of Maryland.

**Twenty-Fifth Annual National Seminar on Federal Sentencing**

Orlando, Florida, June 3, 2016

*Plenary Session on Departures and Variances*

**Panelists:** **Hon. Mark Bennett**, United States District Judge, Northern District of Iowa; **Charles N. Curlett, Jr.**, Levin & Curlett LLC; **Katherine Earle Yanes, Esq.**, Kynes Markman & Feldman, P.A., **Brian E. Mass, Esq.**, Frankfurt Kurnit Klein & Selz, P.A., New York, New York.

**Bar Admissions**

Maryland, New York and the District of Columbia

**Court Admissions**

- Supreme Court of the United States
- U.S. Court of Appeals for the Second Circuit
- U.S. Court of Appeals for the Fourth Circuit
- U.S. District Court for the District of Maryland
- U.S. District Court for the Southern District of New York
- U.S. District Court for the Eastern District of New York

# STEVEN H. LEVIN

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Baltimore, Maryland 21202  
410.685.0078  
[slevin@levincurllett.com](mailto:slevin@levincurllett.com)

## PROFESSIONAL EXPERIENCE

### **Levin & Curlett LLC (previously Levin & Gallagher LLC)**

#### **October 2008-Present**

Founding partner in litigation firm focusing on federal and state criminal defense, complex civil litigation, and appellate matters with offices in Baltimore, New York, and Washington, DC. High-profile cases include successful defense of a New Jersey police detective accused of murder, resulting in a full acquittal, and successful defense of a Baltimore Police Officer accused of misconduct and related charges, resulting in a full acquittal. Represented whistleblowers in two cases in which the federal government intervened and recovered in excess of \$25 million.

### **United States Department of Justice**

#### **February 1999-September 2008**

##### **United States Attorney's Office, Baltimore, MD**

##### **Deputy Chief, Criminal Division; Assistant United States Attorney**

##### **January 2003-September 2008**

- **Management:** Served as member of United States Attorney's management team and supervised one of four sections in the Criminal Division, with thirteen Assistant United States Attorneys and four legal assistants. Participated in Office's Indictment Review and Capital Case Review committees.
- **Policy/Strategy:** Developed, implemented, and co-managed all aspects of Maryland EXILE program, a multi-agency strategy that contributed to major reductions in violent crime in Baltimore and received widespread praise from civic leaders and local and national media. Served as liaison with leadership of local, state, and federal law enforcement agencies. Represented the Office in violent crime reduction meetings with local, state, and federal officials, community members, and business leaders.

- **Investigations/Litigation:** Led and supervised investigations and prosecutions of criminal cases involving public corruption, corporate crime, financial fraud, violent crime, firearms offenses, money laundering, narcotics, racketeering, and terrorism. Significant cases included the prosecution of a former law enforcement official for misuse of police department funds, a ground-breaking prosecution of the “Bloods” gang in Baltimore, and the prosecution of three owners and operators of well-known restaurants on money laundering and alien harboring charges.
- **Professional Recognition:** Received the District of Maryland’s Barney Skolnik Award for Prosecution of Public Corruption in 2004 and the Department of Justice’s Project Safe Neighborhoods Award for building the nation’s outstanding violent crime partnership in 2007.

**United States Attorney’s Office, Greensboro, NC**

**Assistant United States Attorney**

**February 1999 - January 2003**

- **Investigations/Litigation:** Prosecuted numerous criminal cases involving wire fraud, securities fraud, mail fraud and bank fraud. Handled all aspects of federal criminal prosecutions. Significant cases included the prosecution of a defendant for securities fraud in excess of \$40 million.
- **Professional Recognition:** Received Organized Crime and Drug Enforcement Task Force award for prosecution of significant narcotics case. Received numerous awards from various law enforcement agencies, to include the ATF, FBI, and DEA.

**United States Army, Judge Advocate General's Corps**

**December 1992-Present**

- **Management:** In support of Operation Enduring Freedom, served on active duty as Branch Chief within newly created Special Projects Division of the Office of The Judge Advocate General. Division was organized to conduct prosecutions before Military Commissions of individuals subject to the President’s Military Order of November 13, 2001 (Detention, Treatment, and Trial of Certain Non-citizens in the War against Terrorism). Managed and supervised public affairs, legislative, and historical functions relating to the Military Commissions.

- **Investigations/Litigation:** Represented the United States in complex contract litigation before the Armed Services Board of Contract Appeals, the Comptroller General of the United States, and Federal Courts. Served as sole Army lawyer assigned to assist the United States Department of Justice, Antitrust Division, in *United States v. Lockheed Martin Corporation and Northrop Grumman Corporation*. Advised and represented soldiers in over 30 courts-martial, pretrial confinement hearings, and administrative discharge proceedings. Represented the United States in criminal appeals before the United States Army Court of Criminal Appeals, the Court of Appeals for the Armed Forces, and Federal Circuit Court of Appeals.

## **EDUCATION**

United States Army War College, MSS, 2016

Wake Forest University School of Law, JD, 1992

University of North Carolina at Chapel Hill, BA, 1989

## **COMMUNITY ACTIVITIES**

Lieutenant Colonel, United States Army Reserve (Military Judge)

Barristers' Law Club, Treasurer

Wednesday Law Club, Member

Beth El Synagogue, Board Member

# G. ADAM RUTHER

25 S. Charles St., 21<sup>st</sup> Floor, Baltimore, MD 21201, 410-830-1861, ARuther@RosenbergMartin.com

## **Legal Experience:**

*Admitted to the Maryland State Bar and the U.S. District Court for the District of Maryland*

### **Rosenberg Martin Greenberg, LLP**

Litigation Associate, April 2015 – Present

Represent clients in business and general litigation matters, as well as criminal cases and investigations in both state and federal courts; Advise clients on business decisions to help limit their risk of litigation; Represent clients in all phases of civil and criminal litigation, including investigations, mediations, discovery proceedings, motions, administrative hearings, trials, and appeals.

### **Baltimore City State's Attorney's Office**

Assistant State's Attorney, October 2011 – April 2015

Investigated and litigated gang, organized crime, and violent repeat offender cases, including homicide cases, in the Circuit Court for Baltimore City while assigned to the Major Investigations Unit; Handled all aspects of prosecution, including grand jury investigation, charging, arraignments, discovery, evidentiary hearings, pre-trial motions, court trials, jury trials (39 to date), post-trial motions, sentencings, and post-convictions; Negotiated plea agreements, alternative dispute resolutions, cooperation agreements, and restitution and subrogation agreements.

### **Montgomery County State's Attorney's Office**

Assistant State's Attorney, August 2008 – October 2011

Litigated cases in the District and Circuit Courts for Montgomery County, while assigned to the District Court Team and the Misdemeanor Jury Trial Team; Handled District Court dockets of up to 80 cases three to four days a week, conducted all case prep, negotiations, pre-trial motions, and bench trials (over 150 total) in the District Court; Handled cases in the Circuit Court for Montgomery County as a member of the Misdemeanor Jury Trial Team, trying cases on appeal and prayed jury trial from District Court; Investigated, charged, and prosecuted all housing and government assistance fraud cases in the County.

Law Clerk to State's Attorney and Deputy State's Attorney, February – August 2008

Assisted State's Attorney, John McCarthy and Deputy State's Attorney, John Maloney in investigation and trial of high profile, complex murder and rape cases; Researched and drafted memoranda and motions on legal issues anticipated in trial; Assisted in the development of case theory and strategy, and prepared presentation materials for opening statements and closing arguments.

### **University of Baltimore School of Law**

Adjunct Professor of Law, Intro to Legal Skills, September 2012 – December 2014

Taught required first-year legal research and writing course; Lectured on legal practice, research and writing; Drafted assignments and fact patterns for students; Graded completed writing assignments and conducted one-on-one critique and editing sessions with students.

Adjunct Professor of Law, Moot Court Program, September 2008 – March 2014

Taught legal writing and appellate oral advocacy in the context of competition in the American Bar Association National Appellate Advocacy Competition; Guided students through preparation of an appellate brief and mooted students to prepare them for oral argument in competition.

**Maryland State Bar Association**

Member, Maryland Criminal Pattern Jury Instructions Committee, February 2012 – Present

Drafted and conferenced pattern jury instructions for publication to criminal law practitioners; Maintain detailed minutes and editing notes on all Committee meetings and assignments and decisions; Assist Committee Reporter, Prof. Michael Millemann in compiling, editing and finalizing proposed instructions for publication.

**Lorman Education Services**

Lecturer, Police Interviews and Interrogations Seminar, August 2012

Lectured as part of a three-person panel on techniques and legal limitations of police interrogations; Prepared detailed lecture materials published to students on the subject.

**Warnken, LLC.**

Law Clerk, May – September 2007

Conducted legal research and drafted legal pleadings and motions. Reviewed case material, participated in discovery process and briefed issues in criminal and civil cases; Assisted in case management, investigation and client counseling.

**Office of the Public Defender of Maryland, Appellate Division**

Rule 16 Attorney, May - November 2006

Briefed and argued an appeal in the Court of Special Appeals from a first degree murder conviction in the Circuit Court for Prince George's County: State v. Robert Lee Humphries, COSA #2506, September Term 2005; Won a reversal of client's conviction.

**Education:**

**University of Baltimore School of Law, JD, Cum Laude, 2008**

LAW Scholar Teaching Assistant, Criminal Law, 2006-2007

Moots Chair, University of Baltimore Moot Court Board

Team Member, J. Braxton Craven Moot Court Competition

Student Board Member, Maryland Crime Victims' Resource Center

**Montana State University, Bozeman, MT, BA, English, Honors Studies, Cum Laude, 2004**

Honors Program Teaching Scholar, 2004

General Studies Teaching Assistant, 2003

**Interests:**

Cycling, Triathlon, Scuba Diving, Skiing, Fly Fishing, Rock Climbing, Guitar, Piano and Fountain Pen Collecting

### **Memberships & Awards:**

Board of Directors of the South Baltimore Learning Center, 2015-Present.  
Baltimore City Bar Association, Co-chair of Criminal Law Section, 2017  
Board of Directors of the Maryland Crime Victims' Resource Center, 2006-2007  
Serjeants' Inn Law Club, 2016-Present  
Maryland State Bar Association, 2012-Present  
American Bar Association, 2016-Present  
National Association of Criminal Defense Lawyers, 2016-Present  
Daily Record Leadership in Law, Generation JD Award, 2017

### **REFERENCES**

#### **The Honorable George J. Hazel**

United States District Judge  
United States District Court for the District of Maryland  
6500 Cherrywood Lane  
Greenbelt, MD 20770  
(301) 344-0637

#### **The Honorable Michael D. Mason**

Judge of the Circuit Court for Montgomery County, Maryland  
Chair, MSBA Criminal Pattern Jury Instructions Committee  
50 Maryland Ave, Ste 801  
Rockville, MD 20850  
240-777-9233

#### **The Honorable Frederic N. Smalkin**

Chief U.S. District Judge D. Md. (Ret.)  
University of Baltimore School of Law  
1420 N Charles St, Room 1004  
Baltimore, MD 21201  
FSmalkin@ubalt.edu

#### **Byron L. Warnken, Esq.**

Professor of Law  
University of Baltimore, School of Law  
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**JAMAR R. BROWN**  
**ROSENBERG MARTIN GREENBERG, LLP**  
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**ADMISSIONS**

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- State of Maryland, 2011
- U.S. Court of Appeals for the Fourth Circuit, 2016
- U.S. District Court for the District of Maryland, 2016

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**PROFESSIONAL EXPERIENCE**

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**ROSENBERG MARTIN GREENBERG, LLP, Baltimore, MD**

*Associate, March 2016 – present*

- Represent businesses, investors, and property owners in various commercial, real estate, and contractual disputes in federal and state courts.

**OFFICE OF THE STATE'S ATTORNEY FOR BALTIMORE CITY, Baltimore, MD**

*Assistant State's Attorney, October 2012 – February 2016*

**Felony Trial Unit, September 2015 – February 2016**

**Misdemeanor Jury Trial Division, May 2015 – September 2015**

**Juvenile Division, September 2014 – May 2015**

**District Court Division, October 2012 – September 2014**

- Represent the state of Maryland in the prosecution of criminal cases including felonies, violent crimes, controlled dangerous substance offenses, and cases involving violent repeat offenders.
- Evaluate all aspects of case files for liability, evidence in support of case, witness credibility, and the best interest of state resources.
- Argue law and motions, direct and cross examine witnesses, and conduct witness trial preparation.
- Served as lead counsel in over 100 trials, including 6 jury trials, in both the District Court of Maryland and Circuit Court in Baltimore City with a success rate of approximately 75% and handled hundreds of pleas.
- Successfully argued in opposition to defense motion to dismiss in case of first impression upholding Baltimore City mayor's authority to institute emergency curfew following unrest in city in April 2015.
- Successfully briefed and argued in opposition to defendant's motion to dismiss based on the lack of the production of physical evidence of controlled dangerous substance at trial.
- Supervised student attorneys practicing under Rule 16 of the Rules Governing Admission to the Bar of Maryland: Trained students on all aspects of prosecution in the District Court of Maryland, including docket and case preparation, trial strategy and technique, and Office missions and objectives.

**UNIVERSITY OF MARYLAND FRANCIS KING CAREY SCHOOL OF LAW, Baltimore, MD**

*Alumni Coach, National Trial Team, August 2011 - present*

- Appointed by law school to staff and support classroom and competition components of law school's nationally ranked National Trial Team advocacy program.
- Teach student members of the team trial strategy and courtroom techniques, including developing case theories and themes, devising effective and persuasive methods of communicating complex ideas to a judge or jury, and marshalling facts in consideration of the law of evidence.

**CIRCUIT COURT FOR BALTIMORE CITY, Baltimore, MD**

*Law Clerk to the Honorable Marcella A. Holland, Administrative Judge, August 2011 - September 2012*

- Conducted legal research and drafted legal opinions and memoranda on substantive and procedural legal issues in all matters before the court including issues addressing the sufficiency of evidence in tort claims involving complicated medical questions, collateral challenges to criminal convictions under the Fourth, Fifth, and Sixth amendments, and the application of Maryland law in connection with venue selection.
- Prepared court for possible issues to be raised with or by counsel in advance of oral argument.
- Drafted judicial orders regarding rulings in a variety of civil actions.

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**PROFESSIONAL EXPERIENCE (continued)**

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**UNIVERSITY OF MARYLAND FRANCIS KING CAREY SCHOOL OF LAW, CLINICAL LAW PROGRAM, Baltimore, MD**  
*Student Attorney, Appellate and Post-Conviction Advocacy Clinic, August 2009 - May 2010*

- Provided representation to clients in direct appeal and post-conviction proceedings of criminal cases.
- Principally wrote and filed an appellate brief in the Maryland Court of Special Appeals regarding a client's appeal of a controlled dangerous substance conviction. Delivered oral argument before the court.

**FINANCIAL SERVICES AUTHORITY, London, UK**

*Legal Extern, Summer 2009*

- Conducted research and prepared memoranda concerning U.S. client asset segregation policies promulgated by the U.S. Securities and Exchange Commission and the development of U.K. client asset reporting requirements.
- Analyzed the U.K. approach to the regulation of client financial assets and the approach taken by U.S. regulators in an effort to identify and evaluate discrepancies.

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**EDUCATION**

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**UNIVERSITY OF MARYLAND FRANCIS KING CAREY SCHOOL OF LAW, Baltimore, MD**

*Juris Doctor, May 2011*

- Order of the Barristers
- National Trial Advocacy Team
- National Finalist, National Institute for Trial Advocacy (NITA) Tournament of Champions (2010)
- Finalist, American Association of Justice (AAJ) Regional Student Trial Advocacy Competition (2010 and 2011)

**EMORY UNIVERSITY, Atlanta, GA**

*Bachelor of Arts in Political Science and African American Studies, May 2006*

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**CIVIC ENGAGEMENT**

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- Board of Directors, Pratt Contemporaries, Enoch Pratt Free Library
- Board of Directors, Court Appointed Special Advocates (CASA) of Baltimore
- Leadership Council, Open Society Institute-Baltimore
- Lawyers' Alliance, Public Justice Center
- Alumni Board, University of Maryland Francis King Carey School of Law
- Alumni Board, Baltimore Chapter, Emory University
- Bar Associations: Maryland State Bar Association, Bar Association of Baltimore City, Monumental City Bar Association
- Contributor, *The Daily Record*, "Generation J.D.," June 2012-November 2012

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**SPEAKING ENGAGEMENT**

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- "Social Determinants of Health: How Crime and Criminal Justice Impact Health," Doctors for America, 2015 National Leadership Conference, Washington, DC, October 10, 2015.

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**HONORS**

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- Maryland Super Lawyers Rising Stars, 2017
- Rising Stars, Living Classrooms Foundation presented by *Baltimore Business Journal*, 2016
- Leadership in Law Generation J.D. Award, *The Daily Record*, 2016
- Fellow, Maryland State Bar Association Leadership Academy, 2014-2015

# **CURRICULUM VITAE OF F. MICHAEL HIGGINBOTHAM**

## **PERSONAL**

Business Address:  
University of Baltimore School of Law  
1401 North Charles Street, Angelos Law Center Room 1115  
Baltimore, MD 21201  
410-837-4649 (Voice)  
410-837-4560 (Fax)  
higginbotham@ubalt.edu (E-mail)  
fmichaelhigginbotham.org (Website)  
@professorhigg (Twitter)

## **EDUCATION**

### **LEGAL**

#### Degrees:

Cambridge University Cambridge, England (GB)  
Master of Laws Degree awarded June 1985 (International Law) (Human Rights)

Yale University New Haven, Connecticut (USA)  
Juris Doctor Degree awarded June 1982 (Constitutional Law) (Civil Rights)

#### Honors:

Yale BALSAs Citation of Merit Award. Master of Laws Degree awarded with Honors.  
Rotary Scholar (Cambridge University). Hawks' Club (Cambridge Athletic Honor Society).  
First ever Full-Blue awarded in Basketball by Cambridge University.

#### Activities:

Student Representative, Yale Law School Admissions Committee. President, Cambridge University Basketball Club. Captain, British Universities Basketball Team.

### **NON-LEGAL**

#### Degrees:

Brown University Providence, Rhode Island (USA)  
Bachelor of Arts Degree awarded June 1979 (Classics and Ancient Greek History)

#### Honors:

Bachelor of Arts Degree awarded Magna Cum Laude. Bachelor of Arts Degree awarded with Honors in Classics.

Activities:

Member, Varsity Football Team. Representative, University Council of Students.  
Counselor, Residential Life Program.

## EXPERIENCE

<u>University of Baltimore School of Law</u> Joseph Curtis Professor of Law, 2013-Present (Endowed Professorship Awarded 2013)	Baltimore, Maryland (USA)
<u>University of Baltimore School of Law</u> Interim Dean, 2011-2012	Baltimore, Maryland (USA)
<u>University of Pennsylvania Law School</u> Visiting Professor of Law, 2011	Philadelphia, Pennsylvania (USA)
<u>University of Baltimore School of Law</u> Professor of Law, 2007-2011	Baltimore, Maryland (USA)
<u>University of Baltimore School of Law</u> Wilson Elkins Professor of Law, 2004-2007 (Endowed Professorship Awarded 2004)	Baltimore, Maryland (USA)
<u>University of Miami Law School</u> Visiting Professor of Law, 2004	Miami, Florida (USA)
<u>University of Baltimore School of Law</u> Professor of Law, 1995-2004 (Promoted 1995)	Baltimore, Maryland (USA)
<u>New York University Law School</u> Adjunct Professor of Law, 1991-2010	New York, New York (USA)
<u>University of Baltimore School of Law</u> Associate Professor of Law, 1991-1995 (Promoted and Tenured 1991)	Baltimore, Maryland (USA)
<u>University of Baltimore School of Law</u> Assistant Professor of Law, 1988-1991	Baltimore, Maryland (USA)
<u>University of Pennsylvania Law School</u> Lecturer in Law, 1986-1988	Philadelphia, Pennsylvania (USA)
<u>Davis, Polk &amp; Wardwell</u> Associate, 1983-1984	Washington, District of Columbia (USA)

United States Court of Appeals  
Law Clerk to Judge Cecil Poole, 1982

San Francisco, California (USA)

## **SELECTED PUBLICATIONS**

### **BOOKS**

Teacher's Manual, RACE LAW: CASES, COMMENTARY, AND QUESTIONS (Fourth Edition), Carolina Academic Press (July 2015)

Casebook, RACE LAW: CASES, COMMENTARY, AND QUESTIONS (Fourth Edition), Carolina Academic Press (June 2015)

Instructor's Guide, GHOSTS OF JIM CROW: ENDING RACISM IN POST-RACIAL AMERICA, New York University Press (April 2014)

Book, GHOSTS OF JIM CROW: ENDING RACISM IN POST-RACIAL AMERICA , New York University Press (March 2013)

Teacher's Manual, RACE LAW: CASES, COMMENTARY AND QUESTIONS (Third Edition), Carolina Academic Press (August 2010)

Casebook, RACE LAW: CASES, COMMENTARY AND QUESTIONS (Third Edition), Carolina Academic Press (May 2010)

Teacher's Manual, RACE LAW: CASES, COMMENTARY AND QUESTIONS (Second Edition), Carolina Academic Press (January 2005)

Casebook, RACE LAW: CASES, COMMENTARY AND QUESTIONS (Second Edition), Carolina Academic Press (January 2005)

Teacher's Manual, RACE LAW: CASES, COMMENTARY AND QUESTIONS, Carolina Academic Press (September 2001)

Casebook, RACE LAW: CASES, COMMENTARY AND QUESTIONS, Carolina Academic Press (September 2001)

### **ARTICLES**

An Open Letter From Heaven To Barack Obama, 32 University of Hawaii Law Review 1 (April 2010)

An Open Letter From Heaven To Justice Samuel Alito, 23 Harvard Blackletter Law Journal 9 (February 2007)

A Dream Revived: The Rise of the Black Reparations Movement, 58 Annual Survey of American Law 447 (February 2003)

Soldiers For Justice: The Role of the Tuskegee Airmen in the Desegregation of the American Armed Forces, 8 William & Mary Bill of Rights Law Journal 273 (June 2000) (reprinted in 1 Nota Bene 19 (Spring 2001))

Affirmative Action in the United States and South Africa: Lessons From the Other Side, 13 Temple International & Comparative Law Journal 101 (February 2000) (reprinted in Portuguese in 3 Cadernos Do PPG Dir./UFRGS 197 (March 2005))

Affirmative Action and the Mistakes of *Adarand*, 1995 Annual Survey of American Law 401 (February 1996)

The Price of Apartheid, 38 Howard University Law Journal 371 (May 1995)

Sins From the Past and Lessons For the Future: Eliminating Apartheid In South African Public Accommodations and the Challenge To An Enlightened Judiciary, 12 Boston University International Law Journal 1 (January 1995)

“Yearning to Breathe Free”: Legal Barriers Against and Options In Favor of Liberty In Antebellum Virginia, with A. Leon Higginbotham, Jr., 68 New York University Law Review 401 (June 1994)

De Jure Housing Segregation in the United States and South Africa: The Difficult Pursuit For Racial Justice, with A. Leon Higginbotham, Jr. and S. Sandile Ngcobo, 1990 University of Illinois Law Review 763 (March 1991)

International Law, the Use of Force In Self-Defense, and the Southern African Conflict, 25 Columbia Journal of Transnational Law 529 (December 1987)

“See No Evil, Hear No Evil, Speak No Evil”: Developing A Policy For Disclosure By Counsel To Public Corporations, 7 Journal of Corporation Law 285 (January 1982)

## **EDITORIALS**

Voting Trump A Big Risk, Baltimore Sun A18 (September 21, 2016)

America’s Racial Soul, Baltimore Sun A15 (June 9, 2016)

Saving The Dream For All, GPSOLO 18 (November/December 2014)

Race-Based Affirmative Action Still Necessary, New York Times (Online)( April 27, 2014)

Jackie Robinson, the Moderate Radical, Baltimore Sun A21 (April 15, 2014)

Ending Racial Disparities, Islamic Monthly 20 (Spring 2014)

Valuing Black Life, Baltimore Afro-American A8 (February 21, 2014)

Congress Must Act To Guard Our Most Important Right, Orlando Sentinel A14 (August 16, 2013)

Access and Fairness in the Fisher Affirmative Action Case, Baltimore Afro-American A7 (June 8, 2013)

Action That's Still Needed, Baltimore Sun A19 (June 7, 2013)

Ghosts of Jim Crow Haunt Us Still, Baltimore Sun A19 (January 24, 2013)

The Case of the Missing Post-Racial Election, Baltimore Afro-American A7 (November 6, 2012)

A Request From Heaven to the President, Daily News A15 (January 31, 2010)

Is America Finally Ready To Elect A Black President?, Desert Sun B8 (October 16, 2008)

Racism Less Pervasive More Complex, Baltimore Sun A21 (April 4, 2008)

Recognition Long Overdue, Washington Afro-American A9 (March 31, 2007)

Worst Supreme Court Decision Ever Continues To Haunt, Washington Afro-American A8 (March 9, 2007)

Setting the Record Straight, Washington Afro-American A11 (January 28, 2006)

Hard-Won Victory Must Be Secured, Baltimore Sun C5 (August 7, 2005)

Bush and the Black Vote, Washington Afro-American A13 (October 30, 2004)

The Court Has Granted Wide Deference To Colleges, Chronical Review B11 (March 28, 2003) (reprinted in 63 Louisiana Law Review 697 (December 2003))

Townsend— The Clear Choice, Baltimore Afro-American A7 (November 2, 2002)

Democrats For Ehrlich? What A Confused Group!, Prince George's Journal A11 (October 31, 2002)

William Gosnell: *Brown's* Unsung Hero, Baltimore Afro-American A6 (July 6, 2000)

Drum Majors For Justice, Baltimore Sun A17 (February 18, 1999)

Glendening—The Clear Choice, Baltimore Afro-American A5 (October 31, 1998)

Bar Group Rolls Up Welcome Mat, Crisis Magazine 12 (September 1998)

A Military Strike Against Racism, Boston Globe A15 (July 25, 1998)

An American Tragedy: The Enduring Legacy of *Plessy*, Baltimore Afro-American A5 (May 25, 1996)

On Gender and Racial Issues Justices Suffer From Rare Disease, 2 University of Baltimore Alumni Magazine 21 (Fall 1995)

And Now The Hard Work Begins In South Africa, Boston Globe A14 (May 16, 1994)

### TRIBUTES

Judge Robert Bell and Racial Equality In Jury Selection, 72 University of Maryland Law Review 1106 (October 2013)

Judge Harry Edwards, contained in AFRICAN-AMERICAN LIVES 266, Oxford University Press (February 2004)

Speaking Truth To Power, 20 Yale Law and Policy Review 341 (July 2002)

Promises Kept, 6 Harvard Journal of African American Public Policy 11 (July 2001)

Who Will Carry The Baton?, 33 Loyola Los Angeles Law Review 1015 (August 2000)

A Man For All Seasons, 16 Harvard Blackletter Law Journal 7 (July 2000)

Saving The Dream For All, Human Rights Magazine 23 (May 1999)

Judge Higginbotham Will Be Sorely Missed, National Law Journal A26 (December 28, 1998)

Thurgood Marshall: Legal Strategist For The Civil Rights Movement, 1997 Association for the Study of Afro-American History 14 (November 1996)

### SELECTED MEDIA APPEARANCES

Guest, CNN Tonight (Discussing Presidential Power), CNN Television (February 6, 2017)

Guest, CNN Tonight (Discussing Muslim Ban), CNN Television (February 3, 2017)

Guest, CNN Tonight (Discussing Trump Inauguration), CNN Television (January 23, 2017)

Guest, CNN Tonight (Discussing King Legacy), CNN Television (January 16, 2017)

Guest, CNN Tonight (Discussing Trump Transition), CNN Television (January 5, 2017)

Guest, CNN Tonight (Discussing Trump Victory), CNN Television (November 18, 2016)

Guest, CNN Tonight (Discussing Trump Candidacy), CNN Television (September 16, 2016)

Panelist, Book TV (Discussing Racial Equality), C-SPAN Television (August 23, 2016)

Guest, 11 TV Hill (Discussing Black History), WBAL Television (February 28, 2016)

Guest, 11 News Sunday (Discussing Police Trials), WBAL Television (December 13, 2015)

Guest, CNN Tonight (Discussing Clinton Candidacy), CNN Television (November 24, 2015)

Moderator, After Words (Discussing Politics with Joy Reid), C-SPAN Television (September 12, 2015)

Guest, Weekends with Alex Witt (Discussing Baltimore Riots), MSNBC Television (May 3, 2015)

Guest, Direct Connection (Discussing Freddie Gray Incident), MPT Television (April 27, 2015)

Guest, CNN Tonight (Discussing Racist Language), CNN Television (April 22, 2015)

Commentator, NBC News Election Coverage (Discussing Maryland Governor's Race) WBAL Television (November 4, 2014)

Panelist, Book TV (Discussing Race Relations), C-SPAN Television (September 21, 2014)

Guest, The Last Word (Discussing Voting Rights), MSNBC Television (May 21, 2014)

Guest, Smerconish (Discussing Donald Sterling), MSNBC Television (April 30, 2014)

Guest, The Cycle (Discussing Voting Rights Act), MSNBC Television (August 28, 2013)

Guest, Piers Morgan Live (Discussing *State of Florida v. Zimmerman*), CNN Television (July 29, 2013)

Guest, On Time (Discussing *Shelby County v. Holder*), WJZ Television (July 28, 2013).

Guest, The Cycle (Discussing Voting Rights), MSNBC Television (July 16, 2013).

## **SELECTED AWARDS**

Black Law Student's Association Award (2014 Outstanding Faculty Member)

Joseph Curtis designation (Endowed Professorship awarded 2013 by the University of Baltimore School of Law)

Power 100 List (100 most influential blacks in law in 2012) (OBABL Media)

Leadership In Law Award (25 most influential leaders in law in Maryland in 2011) (Daily Record)

Educator of the Year (awarded 2009 by the Minority Business Summit)

Wilson Elkins designation (Endowed Professorship awarded 2004 by the University of Maryland System)

Honorary Doctor of Humanities (awarded 2004 at Shenandoah University)

Women's Bar Association Award (2002 Outstanding Faculty Member)

Brown University Athletic Hall of Fame (2001 Group Inductee) (Member 1976 Varsity Football Team)

Distinguished Faculty Award (2000 University of Baltimore Teacher of the Year)

James May Award of Excellence (1995 University of Baltimore School of Law Recognition of Outstanding Teaching)

## **SELECTED SPEECHES**

Keynote Speaker, "Post-Racial Realities," Cornell University Diversity Lecture, Ithaca, New York, March 15, 2017

Keynote Speaker, "Hopeful Dreams," FEMA Black History Month Lecture, Washington, DC, February 28, 2017

Keynote Speaker, "Peace With Justice," Social Security Administration King Memorial Lecture, Baltimore, Maryland, January 11, 2017

Keynote Speaker, "Race and Politics," Heman Sweatt Symposium at the University of Texas, Austin, Texas, April 28, 2016

Keynote Speaker, "Keeping Thurgood's Promise," Thurgood Marshall Lecture at the University of Maryland Law School, Baltimore, Maryland, April 7, 2016

Keynote Speaker, “Keeping the Dream Alive,” James Campbell Matthews Lecture at Albany Law School, Albany, New York, February 10, 2015

Keynote Speaker, “Cause Lawyering,” La Verne Law Review Symposium, Ontario, California, February 28, 2014

Keynote Speaker, “Hopeful Dreams and Post-Racial Realities,” University of Notre Dame Diversity Lecture, South Bend, Indiana, November 14, 2013

Keynote Speaker, “Ending Racism In Post-Racial America,” Cleveland Marshall Law School Constitution Day Lecture, Cleveland, Ohio, September 17, 2013

Keynote Speaker, “Saving The Dream For All,” Delta State University’s James Madison Center Nellie Nugent Sommerville Lecture, Cleveland, Mississippi, September 11, 2013

Keynote Speaker, “Dr. King’s Dream Revisited,” Widener Law School Dean’s Diversity Forum, Harrisburg, Pennsylvania, March 26, 2013

#### **SELECTED AFFILIATIONS**

Member, District of Columbia Bar

Member, NAACP

Member, National Bar Association

Member, Council On Foreign Relations

Member, Brown University Athletic Council

Former Chair, Maryland Attorney General’s Task Force On Electronic Weapons

Former Co-Chair, O’Malley/Brown Transition Team Minority Affairs Working Group

Former President, Public Justice Center

Former Chair, AALS Committee on Recruitment and Retention of Minority Faculty

Co-Founder, Fannie Angelos Program For Academic Excellence

#### **SELECTED INFORMATION**

References, Letters of Recommendation, Employment Evaluations, and Writing Samples available upon request.

**NATASHA C. PRATT-HARRIS**

Morgan State University Department of Sociology and Anthropology  
1700 East Cold Spring Lane Baltimore, MD 21251 443-885-3506  
Natasha.PrattHarris@morgan.edu

**EDUCATION**

Howard University, Ph.D. Sociology, Social Control/Deviance & Urban Track, 2009  
Dissertation: “Graduation and release: Kwanzaa as a reference group, An exploratory case study of Black male college graduates and Black male jail releasees from Baltimore City”

University of Baltimore, M.S., Criminal Justice Administration, 2000  
Thesis: “A new approach in evaluating the employment experiences of former prisoners”

University of Maryland College Park, B.A., Journalism/ Criminology & Criminal Justice, 1996  
Independent Study Paper: “Employment Opportunities for Ex-offenders”

**PROFESSIONAL EXPERIENCE**

**Department of Sociology and Anthropology, Morgan State University, Baltimore, MD**

Associate Professor (Tenured) April 2014 – present  
Criminal Justice Program Coordinator August 2009 - present  
Assistant Professor August 2009 – April 2014  
Lecturer August 2007 – August 2009

Committee Member and Adviser/Chair Dissertations and Theses

Doctoral Dissertation, School of Community Health and Policy, MSU: George Anyumba, “Predictors of Juvenile Recidivism among African American Youth who Reside in Baltimore City, Maryland USA” (Committee Member, Fall 2015 – Spring 2016)

Master’s Thesis, Dept of Sociology and Anthropology, MSU: Ronita Hicks, “Exploring Black Male-Female Relationships: A Content Analysis of Love and Hip Hop Atlanta” (Committee Member, Fall 2015 – Spring 2016)

Master’s Thesis, Dept of Sociology and Anthropology, MSU: Zakia Sterrett, “An Exploratory Study on the Influence of Song Lyrics Referencing Marijuana, Heroin, and/or Ecstasy: Perceptions of Maryland College Students” (Committee Member, Fall 2014 – Spring 2015)

Master’s Thesis, Dept of Sociology and Anthropology, MSU: Alyssa Smith, “Sexualization and Objectification of Females: Rape Culture or Pop Culture” (Advisor, Fall 2013 - Spring 2014)

Master’s Thesis, Dept of Sociology and Anthropology, MSU: Felicia Veale-Buckson, “African American College Educated Women’s Perceptions of Marriage” (Committee chair, Fall 2010 - Spring 2012)

Researcher Summer Transportation Institute Alumni Survey Research Summer 2010  
National Transportation Center, Morgan State University, Baltimore, MD

**Office of Institutional Research, Wilmington University, New Castle, DE**

Director January 2006 – July 2007

Managed the institutional research office of an open access university in New Castle, Delaware. Supervised a senior research analyst and research assistant and provided data and reports about the university as part of federal and state reporting requirements. Presented data to the campus community, state, and federal agencies

**Office of Institutional Research, Morgan State University, Baltimore, MD**

Director January 2002- January 2006

Senior Research Analyst October 2000 – December 2001

Worked under the direction of a university vice-president students and national/state and local organizations (including the Maryland Higher Education Commission) to compile, analyze and disseminate research data about Morgan State University including student enrollment, demographics, credit hours, degrees awarded, as well as student, faculty and staff characteristics. This involved report writing, the design of surveys, web site design, evaluation of instruments, the analysis and management of data, with extensive use of SPSS. Member of the Enrollment Management Committee, extensive work with the Office of Student Retention, and committees to enhance the mission of the university. Five years of membership with the Maryland Association of Institutional Research/Maryland Association for Higher Education, attended several conferences including MDAIR Fall/Spring Workshops, Association for Institutional Research Conferences, Conference on Institutional Research in Historically Black Colleges and Universities Higher Education Research Institute Conference (UCLA), and The Alliance for Equity in Higher Education Summer Academy (Salt Lake City, Utah).

**Criminology, Criminal Justice and Social Policy, University of Baltimore, Baltimore, MD**

Adjunct Professor August 2005 – December 2005, Graduate Statistics

Taught a graduate level statistics course for criminal justice administration masters students. Presented a weekly lecture, training students on the use of the statistical package for the social sciences (SPSS), graded assignments, presentations, and tests.

**Department of Social Sciences, Coppin State University, Baltimore, MD**

Adjunct Professor August 2000 – December 2000, Introduction to Sociology

Taught an introduction to sociology course for undergraduate students. Presented lectures three times per week, graded assignments, tests, and quizzes.

**DHR, Child Support Enforcement Administration, Baltimore, MD**

Statistician V May 1999 – October 2000

Work in the Program Review Unit for Maryland's Child Support Enforcement Agency. Provided statistical reports based on audits of local child support enforcement offices.

**Baltimore Women's Health Study, UMBC, Maryland Institute for Policy Analysis and Research and NIH/ NIDA Baltimore, MD**

Research Assistant December 1997 – April 1999

Worked under the direction of a University of Maryland Baltimore County professor on a longitudinal study, investigating the impact of violence on drug use and HIV risk, sponsored by the National Institute on Drug Abuse. Assist in the development of the data collection

instrument, assist in the training and hiring of interviewers, collect data through qualitative and quantitative interview techniques, screen potential respondents, conduct interviews, write qualitative summary statements, track hard to locate respondents and take relative field notes. Analyze BWHS data through the transcription of qualitative interviews, acquisition and review of literature, construction of variables, running statistical procedures, including regression, ANOVA, and longitudinal techniques. Assist in the preliminary development of a proposed intervention.

## **PUBLICATIONS**

Pratt-Harris, Natasha, et.al. "Police-involved homicide of unarmed Black males: Observations by Black scholars in the midst of the April 2015 Baltimore uprising." *Journal of Human Behavior in the Social Environment*, Spring 2016, Volume 26, Issue 3-4: 377-389. Online and Print.

Pratt-Harris, Natasha (7<sup>th</sup> author). "Scholarly Productivity of Social Work Faculty at Historically Black Colleges and Universities: Are h-Index Scores a Suitable Measure?" *Journal of Social Work Education*, Spring 2016, Volume 52, Issue 1: 95-107. Online and Print.

Pratt-Harris, Natasha. "Disproportionate Minority Contact." *Encyclopedia of Diversity and Social Justice*. Rowman and Littlefield, Spring 2014.

Pratt-Harris, Natasha. "Happy Kwanzaa? An Afrocentric Worldview Comparison of Black Male College Graduates and Black Male Jail/ Prison Releasees." 2013. *African Journal of Criminology and Justice Studies*, 7(1 and 2): 1-23.

Pratt-Harris, Natasha. "Disproportionate Minority Contact for the 21st Century Classroom." *Academy of Criminal Justice Sciences Today*, Volume XXXVIII, Issue 5, November 2013. Electronic.

Pratt-Harris, Natasha. "Good Times and Social Problems." *Everyday Sociology Blog*. W.W. Norton Publishing, August 30, 2013. Electronic.

Pratt-Harris, Natasha. "Pedagogy and Trayvon Martin." *Journal of Blacks in Higher Education*. Features July 21, 2013. Electronic.

## **CONFERENCE PAPERS**

"Police Involved Homicide of Unarmed Black Males: Observations of Black Scholars, in the midst of the April 2015 Baltimore Uprising." Paper to be presented at the annual meeting of the Eastern Sociological Society, Boston, MA, March 2016.

"Social Control, Deviance, and The Way They Came: The Immigrant's Physical Journey to the United States." Paper presented at the annual meeting of the Eastern Sociological Society, New York, NY, March 2015.

“Social Problems through the Lens of Good Times and Temporary Layoffs.” Paper presented at the annual meeting of the Society for the Study of Social Problems, New York, NY, August 2013.

“Health Disparities among the Falsely Accused.” Paper presented at the annual meeting of the Association for Black Sociologists, New York, NY, August 2013.

“Access to Justice and Disproportionate Minority Contact, A Meta-analysis 1961 - 2011.” Paper presented at the annual meeting of the Academy of Criminal Justice Sciences, New York, NY, March 2012.

“Pardon Me: An Introduction to a Case Study Series of the ‘Falsely’ Accused Black Male Juvenile, Charged as an Adult.” Paper presented at the annual meeting of the Eastern Sociological Society, New York, NY, February 2012.

“Graduation and Release: The Intersection of Race, Gender, Socioeconomic Risk, & Culture.” Paper presented at the annual meeting of the Eastern Sociological Society, Philadelphia, PA, February 2011.

## **LECTURES**

“Juvenile Delinquency in the Criminal Justice System.” Virtual (Skype) Guest Lecture Juvenile Forensics. Trinity Washington University, Washington, D.C., September 2015.

“Critiquing the Innocence Movement.” Guest Lecture Juvenile Forensics. Trinity Washington University, Washington, DC, September 2013.

“Racial Disparities in the Juvenile Justice System.” Community Lecture. Part 1 of 4 of the Disproportionate Minority Contact Lecture Series and Lecture 3 of the Psychometrics Guest Lecture Series, Morgan State University, December 2011.

“Keeping them in their Place: Social Control and The Black Male Research Agenda.” Lecture for the Department of Sociology & Anthropology Lecture Series, November 2009.

## **POSTER AND RESEARCH PRESENTATIONS WITH STUDENTS (select)**

Harris, Aajah. 2016. From Daughter to Mentee: Exploring Race and Justice Issues With Mom.” Poster to be presented at the annual meeting of the Eastern Sociological Society. Boston, MA.

Chisolm, Dakarai; Black, Jenae; Belote, Lashaya and Highsmith, Raykyle. 2015. “Problems Associated with African American Men, Youth, and Incarceration.” Oral presentation presented during the Undergraduate and Graduate Research Symposium, Morgan State University, Baltimore, MD.

Stewart, Janelle. 2015. “Hazing, Hierarchy, and the HBCU Marching Band.” Poster presented during the Undergraduate and Graduate Research Symposium, Morgan State University, Baltimore, MD.

Young, Alahyo. 2015. "Urban Family Foodways." Oral presentation presented during the Undergraduate and Graduate Research Symposium, Morgan State University, Baltimore, MD.  
Chisolm, Dakarai. 2015. "Black Lives Matter as the Back Drop for a Study on the Wrongfully Convicted Black Male Juvenile." Poster presented during the Undergraduate and Graduate Research Symposium, Morgan State University, Baltimore, MD.

Stokes, Temple; Seward, Catherine; and Hall, Carolina. 2015. "Crime, the Perception of Crime, and Injustice." Oral presentation presented during the Undergraduate and Graduate Research Symposium, Morgan State University, Baltimore, MD.

Smith, Alyssa. 2013. "Sexualization and Objectification of Females: Rape Culture or Pop Culture?" Presented during the Undergraduate and Graduate Research Symposium, Morgan State University, Baltimore, MD.

Miles, Corey. 2013. "The 'N-Word' Beyond Black and White." Presented during the Undergraduate and Graduate Research Symposium, Morgan State University, Baltimore, MD.

Brown, Laquicha. 2013. "Juvenciles Falsely Accused of a Crime and Charged as Adults, A Case Study Series: My Experience as a Research Assistant." Presented during the Undergraduate and Graduate Research Symposium, April 16, 2013.

Moore, Isiah. 2012. "Disproportionate Minority Contact amongst Juvenciles in the Adult Criminal Justice System, A Research Proposal." Presented during the Undergraduate and Graduate Research Symposium April 19, 2012.

#### Community Service (select)

- Morgan State University and Coppin State University Freddie Gray, One Year Later Executive Planning Team Fall 2015 – present
- Attendee, Congressman Elijah Cummings' forum on "Policing in the Community", April 20<sup>th</sup>, 2015, Bon Secours Community Works, Baltimore, MD
- Panelist, "Where do we go from here? Cointelpro and The 45th Anniversary of the Assassination of Dr. Martin Luther King, Jr. From Dreams to Nightmares and Prison Bars: Not Just A New Jim Crow But an Old and Continued Enslavement." Morgan State University, Baltimore, MD, April 4, 2013.
- Panelist, Black Victims of Violence Video Conference with Dr. Jay Carrington Chunn and the National Black Crime Victims Services Coalition, April 8, 2011, Communications Building, Morgan State University
- Member, History Committee, Historic St. Francis Xavier Catholic Church 150 Year Anniversary 2012 – 2013
- Campus Organizer, Disproportionate Minority Contact Conference, Morgan State University 2011-2012
- Partnership Facilitator, Governor's Office of Crime Control and Prevention/ Juvenile Grant Planning and Review Council and the Department of Sociology and Anthropology, Morgan State University

- Coordinator, Disproportionate Minority Contact in Maryland, Lecture Series Morgan State University, Coppin State University, Bowie State University, Anne Arundel Community College (Fall 2011 – Spring 2012):
  1. (Lecturer) “Racial Disparities in the Juvenile Justice System” Community Lecture. Part 1 of 4 of the Disproportionate Minority Contact Lecture Series and Lecture 3 of the Psychometrics Lecture Series, Morgan State University, December 1, 2011.
  2. (Discussant) “Disproportionate Minority Contact (DMC): Addressing Racial Disparities in the Juvenile Justice System.” Part 2 of 4 of the Disproportionate Minority Contact Lecture Series Baltimore, MD Coppin State University, February 29, 2012.
  3. (Discussant) “Racial Disparities in the Juvenile Justice System” Community Lecture.” Part 3 of 4 of the Disproportionate Minority Contact Lecture Series Bowie, MD Bowie State University, April 3, 2012.
  4. (Discussant) “Disproportionate Minority Contact in Maryland: An Engaged Scholarship Forum” Part 4 of 4 of the Disproportionate Minority Contact Lecture Series Hanover, MD Anne Arundel Community College, May 2, 2012.
- Baltimore International Academy, Board Member 2011 – present  
Partnership facilitator Morgan State University’s Department of World Languages and the Baltimore International Academy July 2009 – present
- Baltimore Police Department Invitation Luncheon with former Commissioner Fred Bealefeld Attendee August 22, 2011
- National Institute of Justice Conference Attendee July 2007, July 2008, June 2009, June 2010, June 2011, Arlington, VA
- Office of Juvenile Justice and Delinquency Prevention Conference Attendee October 2011
- Creator of the “In the Light Survey”, Historic St. Francis Xavier Catholic Church, Summer 2009
- Prisoners AID Association of Maryland, Board Member 2007-2011
- Pioneer City Evaluation, UMBC, Maryland Institute for Policy Analysis and Research and Maryland’s Department of Juvenile Services 1997-1999

Media (select)

<http://www.afro.com/an-open-letter-to-sheriff-jim-deweese/>

<http://www.afro.com/battle-for-police-reform-handgun-penalties-begins/>

<http://613728-web2.afro.com/tonight-afros-first-edition-with-sean-yoes-tuesday-february-23/>

<http://afro.com/little-melvin-williams-and-the-cries-of-baltimore/>

<http://www.blogtalkradio.com/myndtalk-with-dr-pamela-brewer/2015/09/10/myndtalk--what-now-what-next>

<http://www.afro.com/the-power-of-an-apology-forgiveness-and-an-end-to-police-threatening-or-harming-our-teens/>

<http://www.afro.com/baltimore-let-not-your-heart-be-troubled-neither-let-it-be-afraid-john-1427/>

<http://imixwhatilike.org/2015/05/06/no-hooks-and-the-hip-hop-chronicles-talks-media-coverage-of-baltimores-uprisings/>

<http://www.pbs.org/newshour/bb/staggering-arrest-rates-strain-baltimore-community-relationships-police/>

<http://onpoint.wbur.org/2015/04/28/freddie-gray-funeral-violence-police>

<https://kpfa.org/player/?audio=113423>

<http://www.steinershow.org/podcasts/racism/disproportionate-victimization-of-african-americans/>

<http://www.transformingnetworkinfrastructure.com/news/2013/11/05/7521525.htm>

<http://www.afro.com/community-concerned-curfew-will-spur-violence-between-cops-and-kids/>

<http://www.jbhe.com/2013/07/pedagogy-and-trayvon-martin/>

<http://www.steinershow.org/podcasts/january-7-2013-hour-1/>

<http://www.steinershow.org/podcasts/october-1-2012-segment-1/>

# Asha C. Layne, Ph.D.

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## Business Address:

Morgan State University  
Department of Sociology and Anthropology  
Morgan State University  
1700 East Cold Spring Lane  
Baltimore, MD 21251  
Office: 443-885-4268  
asha.layne@morgan.edu

## Professional Profile

- Experience developing and maintaining academic courses and partnerships with professors and other colleagues.
- Extensive background in developing and implementing special assignments and projects for at-risk students, racially and ethnically diverse populations, and second-language learners.
- Skilled faculty member who has a progressive background in academic, governance, qualitative and quantitative research, and instructional environments with focus on transformative learning.
- Evidenced ability to successfully complete tasks and facilitate initiatives, communicate effectively and collaboratively, while maintaining an inclusive and results driven leadership stance.
- Strong ability to share information and raising questions, alternatives, options, and problems that affect the collective power of community organizations and working groups.
- Recruit members to assist with grant writing and integrate fundraising opportunities into every aspect of the organization's mission.

## Education

Ph.D. Sociology  
Areas of Concentration: Criminology and Social Inequality  
Howard University  
Washington, D.C.  
May 2015

**Dissertation Title:      Community, Racial, and Ethnic Differences in the Subtypes of Intimate Partner Violence: An Application of Social Disorganization Theory**

M.S. Sociology  
Area of Concentration: Social Work  
Morgan State University  
Baltimore, MD  
May 2009

B.S. Anthropology  
Minor: Biology  
William Paterson University  
Wayne, NJ  
January 2003

**Research Interests**

- Theoretical and field study of ecological communities and crime
- The roles that spatial patterns and processes play in shaping communities and behaviors
- The role culture and ethnicity play in controlling frequency and levels of domestic violence
- How race, class, and gender is operationalize in different community settings

**Faculty Appointments Summary**

*Morgan State University  
Baltimore, Maryland  
August 2016-Present*

Assistant Professor, Department of Sociology and Anthropology

*Community College of Baltimore County  
Baltimore, Maryland  
January 2015-May 2015*

Adjunct Faculty, College of Liberal Arts

*Loyola University of Maryland  
Baltimore, Maryland  
September 2014-DEcember 2014*

Adjunct Faculty, Department of Sociology

*Morgan State University  
Baltimore, Maryland  
July 2013-May 2016*

Adjunct Faculty, Department of Sociology and Anthropology

*Coppin State University  
Baltimore, Maryland  
September 2009-May 2016*

Adjunct Faculty, College of Behavioral and Social Sciences

**Academic Appointments Summary**

*Howard University  
Washington, D.C.  
January 2012-May 2014*

Graduate Teaching Assistant

*Howard University  
Washington, D.C.  
June 2013-August 2013*

Graduate Research Assistant

*Women Accepting Responsibility  
Baltimore, Maryland  
September 2013-December 2013*

Graduate Researcher

*House of Ruth  
Baltimore, Maryland  
September 2012-December 2012*

Graduate Researcher

**Non-Academic Appointment Summary**

*Morgan State University  
Baltimore, Maryland  
June 2015-Present*

Division of Research and Economic Development  
Community Statistician

*Family League of Baltimore City  
Baltimore, Maryland  
August 2015*

Request for Proposal (RFP) Evaluator  
Grant and Proposal Reviewer

*Baltimore City Police Department  
Baltimore, Maryland  
July 2006-August 2011*

Laboratory Division  
Crime Lab Technician II

**Professional Presentations**

Layne, A. (March 2016). Morgan State University, Morgan Innovation Day. Presented at the Miller Senate Office Building, Annapolis, MD.

Layne, A. (January 2009). Baltimore City Police Department, Crime Scene Investigation. Presented at South Bronx Job Corps Academy, Bronx, NY.

**Certifications/Awards**

*American Educational Research Association Conference  
Washington, D.C.  
April 2016*

The Asa G. Hilliard III and Barbara Sizemore  
Research Course on African Americans and Education

*Howard University  
Washington, D.C.  
June 21013-July 2013*

Standardized Testing Metrics  
NAEP-Howard Statistics and Evaluation

### **Grant Awards/Fellowships**

Awarded the Meyerhoff Grant for postdoctoral work with The Morgan Community Mile (\$46,000).  
Morgan State University, Baltimore, Maryland.  
June 2015-June 2016

Grant awarded for community policing initiative in Northeast Baltimore City (\$30,000). Morgan State University Foundation, Baltimore, Maryland.  
March 2016

### **University Teaching Experience**

#### *Applied Sociology*

Course provides an overview and understanding of sociological theories and methods outside of academic settings with the aim to produce social change through active participation. The use of applied social research and sociological knowledge is used in answering research questions that are defined by specific clients that seek sociological research skills to solve specific problems.

#### *Social Theory*

Course provides an overview and understanding of sociological theories and applications of theory in law, education, research, and other fields. This course encompasses both the classical and contemporary sociological works, as well as its theoretical developments.

#### *Community-Based Corrections*

Focus on the historical and theoretical development of alternative sanctions: probation, parole, diversion, pre-trial release, and intermediate sanctions in the United States. Special emphasis is placed on juvenile offenders in the community, policy implications, and community corrections issues nationwide.

#### *Introduction to Social Sciences*

This is an interdisciplinary social science course with a multi-perspective approach to the study of human society. Course offers a basic understanding of several perspectives on the study of human social life, core concepts, thinkers, and theories for various interdisciplinary subjects such as: anthropology, sociology, political science, and history. This course is also aimed at teaching critical thinking. Developing critical thinking includes learning to differentiate sources of information (facts, opinions, and theory) and understanding the premises and implications of ideas.

#### *Introduction to Sociology*

Focus on the broad overview of sociology and how it applies to everyday life. Major theoretical perspectives and concepts are presented, including: sociological imagination, culture, deviance, inequality, social change, and social structure. Students also explore the influence of social class and social institutions on behaviors.

#### *Family Studies*

Course focuses on the analysis of roles and responsibilities of parenting across different cultural and temporal contexts. The relationship of various conceptual frameworks of familial institutions are examined and the effects of family as a system on individuals and society.

#### *Fundamentals of Criminal Justice Research*

Course provides an overview and understanding of the diversity of research methods in criminology and the criminal justice system. Students have the opportunity to explore and utilize local and national libraries, as well as electronic media in this course of study to link the interaction of theory, research, and

practices in criminal justice. Research methodology, data collections, analytic techniques, data processing resources, and preparation of research reports are developed under this course.

### *Self and Society*

Course is designed to provide students with an interdisciplinary understanding of the relationship between individuals and the social environments in which they live. The study of the mutually-influential interactions between self and society to help explain: (1) the impact of one individual to another individual; (2) the impact of a group on its individual members; (3) the impact of individual members on their group; and (4) the impact of groups on one another.

### *Social Psychology*

Focus on how individuals think, influence, and relate to one another. Overview is provided on popular topics that social psychologists study, including attitudes, aggression, altruism, attraction, authority, and attachment, affect, attributions, and stereotypes. Students also explore how theories and principles are active in social research through interactive surveys.

### *Sociology of Deviance*

Focus on the construction of deviance and deviant behavior in society with an emphasis on the social construction of deviance and societal reactions to deviance and deviants. Examine special forms of deviant behavior and theories that attempt to make sense of deviance in our society.

### *Sociology of Law*

Focus on the historical and theoretical review of United States cultural movements over the last few decades and the role it plays in law and governance. Special attention is placed on the contributions made by specific classical and contemporary theorists to the study of law. Moreover, this course critically evaluates what role sociology and other social sciences should play in the judicial system.

### *Urban Sociology*

Focus on the rapid urbanization and industrialization of society. This course begins with a brief history of urbanization, followed by consideration of central theories of urban sociology including: ecological, political/economic, cultural, and experiential viewpoints. In addition, examination of more recent research will explore how individuals, social interactions, and institutions shape—and are shaped by characteristics of urban space.

### **Expertise**

- Academic Program Development
- Requests for Proposal Evaluation
- Teaching and Learning
- Quantitative/Qualitative Analysis
- Academic Advising
- Crime Scene Investigation
- Courtroom Testimony
- Mentoring
- Grant Writing
- Student Development
- Community Outreach
- Retention Strategies
- Crime Scene Documentation
- Police Investigative Techniques

### **Publications**

Layne, Asha (2015). “Thuggin” in Baltimore City: Capitalism and the Political Economy of Breaking Slave. *The Hampton Institute: A Working Class Think Tank* (July 2015).

Layne, Asha. (2014). Now That’s a Bad B\*\*\*h!: The State of Women in Hip-Hop. *The Hampton Institute: A Working Class Think Tank* (April 2014).

Layne, A. (2013). Intimate Partner Violence among Adolescents: What is being done? *Psychology Research* (August 2014).

### **Works in Progress**

Layne, A. (2016). When Violence Meets Resistance: An Analysis of Violence Resistance.

Dovil, M., Adams-Fuller, T., and Layne, A. (2015). Disasters, Women, and Crime: A Look at Sexual Violence Using the Social Disorganization Theory.

Layne, A. (2015). Qualitative Community Based Research and Community Based Organizations: Are we on the right track? *Psychology Research*.

### **Presentations at Professional Conferences**

Layne, A. (November 2016). Author Meets Critics: *Race, Space, and Suburban Policing*. Panel discussion presented at The American Society of Criminology 72<sup>nd</sup> Annual Conference. New Orleans, Louisiana.

Layne, A. (April 2016). *Failure to Appear: Does race play a factor in the verdicts of domestic violence cases?* Panelist at the 4<sup>th</sup> Annual Conference on Social Injustice: Engaging Critical Race Theory as Pedagogy, Praxis and Activism as a Solution to Social Injustice. Virginia State University, Petersburg, Virginia.

Layne, A. (October 2015). *Community, Racial, and Ethnic Differences and the Subtypes of Intimate Partner Violence: An Application of Social Disorganization Theory*. Paper presented at the 3<sup>rd</sup> Biennial Rex Nettleford Arts Conference, Growing the Arts: Breaking Boundaries. Edna Manley College, Kingston, Jamaica.

Layne, A. (August 2015). *Women in the Spotlight*. Panelist member presented at Morgan State University, Baltimore, Maryland.

Layne, A. (March 2014). *Intimate Partner Violence among Adolescents: What is being done?* Paper presented at Coppin State University annual Criminal Justice Day in Baltimore, Maryland.

Layne, A. (October 2013). *Intimate Partner Violence among Adolescents: What is being done?* Paper presented at the Annual Conference of the Academy of Criminal Justice Sciences in Philadelphia, Pennsylvania.

### **Community Service**

*Morgan State University's The National Society of Collegiate Scholars  
1<sup>st</sup> Annual Faculty vs. Student Debate  
April 2016*

Faculty Debater

*Morgan State University  
24th Annual Undergraduate and Graduate Research Symposium*

*April 2016*

Poster and Oral Presentation Competition Judge

*Maryland Humanities Council  
Maryland History Day Competition  
March 2017*

Paper Competition Judge

*Maryland Humanities Council  
Maryland History Day Competition  
May 2016*

Paper Competition Judge

*Morgan State University  
23rd Annual Undergraduate and Graduate Research Symposium  
April 2016*

Poster Presentation Judge

*Maryland Humanities Council  
Baltimore City History Day Competition  
March 2016*

Website Competition Judge

*Coppin State University  
Connecting Ladies Across Campus  
Baltimore City  
September 2015-present*

Mentor

### **Professional Affiliations and Honors**

- Academy of Criminal Justice Sciences
- Students Against Mass Incarceration
- Institute for Humane Studies
- Frederick Douglass Teaching Scholar
- Howard University Organization of Graduate Students
- American Sociological Association
- Golden Key International Honor Society
- Alpha Kappa Delta Honor Society
- National Scholars Honor Society
- Morgan State University Graduate Student Association

### **References**

**Dr. John Hudgins**, Associate Professor, Sociology  
Coppin State University  
(410) 951-3528  
jhudgins@coppin.edu

**Dr. Elgin Klugh**, Associate Professor, Anthropology  
Coppin State University  
(410) 951-3529

eklugh@coppin.edu

**Dr. Terri Adams-Fuller**, Associate Professor, Criminology  
Howard University  
(202) 806-6854  
tadams-fuller@howard.edu

**Dr. Victor McCrary**, Vice President for Research and Economic Development  
Morgan State University  
(443) 885-4631  
victor.mccrary@morgan.edu

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# CRISTIE F. COLE

2727 North Charles Street, Baltimore, Maryland 21218

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Data Visionary - Maryland Court Records Expert - Collaborative Leader

## SKILLS

Paper to Electronic Data Capture	Data Personnel Management
Database Interface Design	Records Management Systems Training
Data Validity Quality Assurance	Meeting Data Challenges in the Public Sector
Disparate Data Systems Integration	Redundancy Elimination in Record Keeping
Data Analysis for Policy Making	Data Visualization
Data Analysis for Performance Management	Team and Relationship Building

## PROFESSIONAL HIGHLIGHTS

### Police Records Management System County-Wide Integration

Represented the Prince George's County State's Attorney's Office on the working group responsible for implementing a county-wide police records management system, allowing seamless intelligence sharing between the 40+ partner agencies in the justice system in Prince George's County.

### Drug Treatment Court Case Referral Process

Led the redesign and implementation of the Drug Treatment Court case referral process in the Baltimore City State's Attorney's Office. The streamlined process improved efficiency, data capture, and reporting, enabling officials to identify shortcomings in the program and course-correct to increase program effectiveness.

### Alternative Probation Pilot Program Design

Led the design for an alternative probation pilot program and program evaluation within the Baltimore City State's Attorney's Office. Achieved consensus between multiple offices on program processes and policies by creatively accommodating differing priorities and working within resource constraints to author a rigorous and achievable programmatic plan.

### Design of Sharepoint Database for Baltimore Sheriff's Office

Answered an urgent need in DVStat to connect siloed datasets in various partner agencies by designing the specifications for an application and database used by the Baltimore City Sheriff's Office DV Unit that creates a common framework to match domestic violence data.

## EXPERIENCE

### Office of the State's Attorney for Prince George's County

Operations Research Analyst – November 2015 - Present

Currently managing all aspects of the data life-cycle within the Prince George's County State's Attorney's Office, including data collection redesign, personnel training, database maintenance, and data analysis. Also served as acting IT manager from spring of 2016 to spring of 2017.

## **Firebrand Analytics LLC**

**Founder** – *January 2015 - Present*

Founded analytics firm specializing in data analysis for the greater good, helping public-serving organizations use data to inform policy, educate, and manage their organizations. Notable clients include the Abell Foundation and the College Bound Foundation.

## **Office of the State's Attorney for Baltimore City**

**Operations Research Analyst** – *October 2013 - January 2015*

Led the first formal, systematic use of data analysis for the Baltimore State's Attorney's Office in order to improve organizational effectiveness.

## **Baltimore City Mayor's Office**

**CitiStat Analyst** – *January 2013 - October 2013*

Oversaw PoliceStat, GunStat, and DVStat performance management forums, whereby the Mayor, the Mayor's Cabinet, and other high-level stakeholders develop policy and maintain system-wide accountability for reducing violent crime in the City.

## **National Opinion Research Center at the University of Chicago**

**Research Assistant** – *October 2011 - January 2013*

Assisted on pioneering Bureau of Justice Statistics project developing software that automatically recodes criminal history records from every jurisdiction in the United States to standardize court data nationwide, paving the way for groundbreaking federal-level research.

## **EDUCATION**

### **Master of Arts in Sociology: Applied Research and Evaluation**

University of Indianapolis, 2011  
Indianapolis, Indiana

### **Bachelor of Arts in Psychology**

Grand View University, 2009  
Des Moines, Iowa

## **SOFTWARE PROFICIENCIES**

Judicial Information Systems

Judicial Dialog

Microsoft Excel

R and R Studio

Microsoft Access

SPSS

SQL Server Management Studio

Microsoft Publisher

Microsoft PowerPoint

# Laura L. Dunn, Esq.

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## EDUCATION

### University of Maryland Carey School of Law (UMB) – Baltimore, MD

*Juris Doctor*, May 2014

Activities: Nat'l Trial Team, Moot Court Exec. Bd., UMALL President, ILS Event Planner

Bar Admission: State of Maryland (2014), District of Columbia (2016)

### Practitioner Teacher Program - Teach for America – New Orleans, LA

*Teaching Certificate* in Secondary Mathematics, June 2009

Awards: ETS Recognition of Excellence (Top 15%)

Activities: Classroom Management Committee Co-Chair, Secondary Math Content Leader

### University of Wisconsin (UW) – Madison, WI

*Bachelor of Arts* in Psychology & Legal Studies, certificate in Criminal Justice, May 2007

Activities: NCAA Varsity Crew Athlete; Assoc. Students of Madison Student Judiciary; Roosevelt Institute Campus Safety Policy Director; UW PAVE Media Advocate

## SELECTED LEGAL EXPERIENCE

### SurvJustice, Inc. – Washington D.C.

*Founder* (June 2010–present) & *Executive Director* (April 2014–present)

- Manage daily operations; supervise staff; oversee implementation of campaigns & services
- Represent survivors in campus, criminal & civil systems; file administrative complaints
- Develop & present curriculum trainings for institutions & attorneys or advocates

### Silverman, Thompson, Slutkin, & White, LLC – Baltimore, MD

*Law Clerk* (Jan. 2013–May 2013; Sept. 2013–May 2014)

- Drafted civil complaints for Title IX lawsuits; drafted interrogatories & demand letters
- Researched & drafted sections of MADD's amicus brief in *Paroline v. United States* (2013)

### U.S. District Court for the District of Maryland – Greenbelt, MD

*Judicial Intern for the Honorable Paul W. Grimm* (Sept. 2013–Dec. 2013)

- Performed legal research & case document review, authored court documents

### U.S. Senate Judiciary Committee – Washington D.C.

*Law Clerk for Chairman Patrick Leahy (D-VT)* (May 2013–Aug. 2013)

- Authored nomination memorandums & reports; researched & advise on legislation regarding sexual violence & victim rights

## AWARDS & RECOGNITIONS

AAUW Eleanor Roosevelt Fund Award (2017) •

U.S. Department of Justice's Office for Victims of Crime Special Courage Award (2017) •

ABA Commission on Domestic Violence & Sexual Assault (2016 & 2017) •

University of Maryland Carey School of Law Benjamin Cardin Public Service Award (2016) •

NOVA National Advocacy Leadership Center (2016) • Echoing Green Global Fellow (2015) •

Hillary For America Gender Equality Working Group (2016) • Order of the Barristers (2014) •

William P. Cunningham Award (2014) • UMB Champion of Excellence (2014) •

Rose Zetzer Fellow (2012-2014) • UMB Leadership Scholar (2011-2014) •

ETS Recognition of Excellence (2007) • UW Dean's List (2006 & 2007)

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## PUBLICATIONS

*The Anti-Campus Sexual Assault Activism Movement Under Title IX*, in PREVENTING SEXUAL VIOLENCE ON CAMPUS: CHALLENGING TRADITIONAL APPROACHES THROUGH PROGRAM INNOVATION (Sara Carrigan Wooten & Roland W. Mitchell eds., 2016)

*Addressing Sexual Violence in Higher Education: Ensuring Compliance with the Clery Act, Title IX and VAWA*, 15 GEO. J. GENDER & L. 3, 563–584 (2015)

*Panel: Campus and Youth Respond to Gender Violence*, 5 U. MIAMI RACE & SOC. JUST. L. REV. 2, 619–630 (2015)

## SELECTED TEACHING EXPERIENCE

**University of Maryland Carey School of Law** – Baltimore, MD

*Adjunct Professor* (Fall 2015 & Fall 2017)

- Develop & taught seminar on Sexual Violence & Harassment in Education

*Teaching Assistant* (Spring 2015 & Spring 2016)

- Assist professor in Bar Essay Writing Course, grade student assignments, advise students

**Concept Charter Schools - Chicago Math & Science Academy (CMSA)** – Chicago, IL

*Middle School Math Teacher* (Aug. 2009–July 2011)

- Taught full-inclusion class with self-generated ESL & Special Education curriculum

**Northwestern University - Civic Education Project** – Chicago, IL & Baltimore, MD

*High School Teaching Assistant* (Summer 2008 & 2009)

- Taught evening sessions on social justice issues; supervise community service-learning

**Recovery School District - Julian Leadership Academy** – New Orleans, LA

*5-7<sup>th</sup> grade Math, 6<sup>th</sup> grade Science & Social Studies Teacher* (Sept. 2007–Dec. 2008)

- Developed literacy-based math curriculum, with incorporated project-based learning

## VOLUNTEER WORK

**U.S. Department of Justice – Office on Violence Against Women** – Washington, D.C.

*Campus Grant Program Intern* (Sept. 2013–Dec. 2014)

- Reviewed campus prevention programs, developed grantee surveys on campus disciplinary

**Clery Center for Security on Campus** – Philadelphia, PA

*Public Policy Coordinator* (April 2011–May 2012)

- Authored supportive material & online petition; contributed to the Campus SaVE Act

**Promoting Awareness, Victim Empowerment (PAVE)** – Chicago, IL

*Communications Director* (July 2007–June 2010)

- Authored nonprofit website, leadership manual, & bylaws

*Survivor Justice Campaign Director* (Sept. 2007–June 2010)

- Advocated for prosecution of sex crimes; lobbied for legislation addressing sexual violence

**Milwaukee Public Defender's Office** – Milwaukee, WI

*Client Service Specialist Intern* (Summer 2006)

- Authored memoranda on alternatives to revocation & sentencing for judicial review

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## PROFESSIONAL AFFILIATIONS

American Bar Association • National Alliance of Victim's Rights Attorneys •  
Federal Bar Association • Teach for America • NOVA National Advocacy Leadership Center

## LEGISLATIVE & POLICY EXPERIENCE

### **ABA Criminal Services Division Task Force Liaison (2017)**

Served as ABA CDSV liaison to the Task Force on Due Process and Victim Protections

### **ALI Project on Sexual and Gender Based Misconduct Liaison (2016)**

Provide advice and comment on model procedure and protocol drafts for ALI approval

### **ABA Commission on Domestic & Sexual Violence (CDSV) – Policy Subcommittee (2016)**

Develop policy positions for the commission on legislation or projects advancing victim rights

### **Gender Equality Workgroup & Gender-Based Violence Sub-Group (2015)**

Hillary for America campaign member developing talking points and political positions

### **SUNY Sexual Violence Prevent Workgroup (2014) – New York Gov. Cuomo mandate**

Outside expert consulting on system-wide university policies approved Dec. 1, 2014

### **Campus Sexual Assault Roundtable (2014) – U.S. Senate**

Expert consulting on campus sexual assault & Clery Act for Senator McCaskill on June 19, 2014

### **White House Task Force to Protect Students from Sexual Assault (2014) – White House**

Consultant on student activism & campus programs for listening sessions on Feb. 18 & 24, 2014

### **Violence Against Women Act Rulemaking Committee (2014) – U.S. Dep't of Educ.**

Primary student negotiator and Stalking Subcommittee Chair from Jan. 13 – April 1, 2014

### **Campus Sexual Violence Elimination Act (Campus SaVE Act) (2012-2013) – U.S. Congress**

Senate & House Democratic leadership press conference speaker; signed Feb. 28, 2013

### **Jasmine's Law (2010) – Illinois State legislation**

Press conference speaker, author of supportive research & press release; signed July 29, 2010

### **Compassionate Care for Rape Victims (2007) – Wisconsin State legislation**

Testified for public Senate Health Committee hearing; signed March 13, 2008

### **'Justice for Patty' Resolution (2006) – Resolution for the City of Madison, Wisconsin**

Press conference speaker and grassroots organizer; passed on Nov. 21, 2006

## SELECTED TRAININGS, LECTURES & PRESENTATIONS

*Campus Sexual Assault Training*, Statewide Law Enforcement Training on Violence Against Women, Texas Municipal Police Association (July 7, 2017)

*Best Practices in Addressing Campus Sexual Assault*, Wisconsin Department of Justice, UW-Stevens Point (June 2, 2017)

*Title IX and Campus Sexual Assault*, Arkansas State Bar Association, The Annual ArkBar (June 16, 2017)

*Mitigating Campus Sexual Assault in a Changing Political Climate*, George Mason University's Scar School of Policy and Government (Apr. 18, 2017)

*Closing Keynote*, 2017 Annual Conference, Virginia State Sex Offender Treatment Association (Mar. 17, 2017)

## Laura L. Dunn, Esq.

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*Title IX Investigations Panel*, 38th Annual National Conference on Law & Higher Education, The Center for Excellence in Higher Education Law & Policy (Feb. 11-12, 2017)

*Campus Sexual Assault: Overview of What You Need to Know for Campus Proceedings*, National Alliance of Victim's Rights Attorneys Webinar Series (Aug.-Oct., 2016)

*Addressing Campus Sexual Violence*, National Sexual Assault Conference (Washington D.C.) (Sept. 1, 2016)

*Representing College Students in Campus Hearings on Sexual Violence*, Federal Bar Association (Arlington, VA) (June 29, 2016)

*Breaching the Ivory Tower: Effective Legal Advocacy within Campus Hearings*, Annual Victim Rights Conference, National Crime Victim Law Institute (Portland, OR) (June 11, 2016)

*Campus Sexual Assault as an Institutional Balancing Act: Procedural Requirements under VAWA*, Theorizing Consent, University of Texas-Austin (Austin, TX) (April 30, 2016)

*Sexual Assault, Domestic Violence & Stalking on College Campuses*, NOVA National Advocacy Leadership Center Webinar (Alexandria, VA) (April 21, 2016)

*Keynote*, Newcomb College Institute at Tulane University, Louisiana Sexual Assault Student Activist Conference (New Orleans, LA) (Feb. 13, 2016)

*Keynote*, 33<sup>rd</sup> Annual Conference on Crime Victim's Issues, Virginia Victim's Assistance Network (Williamsburg, VA) (Nov. 19, 2015)

*Guest Lecture*, One in Five: The Law, Policy, and Politics of Campus Sexual Assault, Stanford University (Washington D.C.) (Sept. 9, 2015)

*Campus Sexual Assault: Prevention, Support & Justice*, National Global Health Law: O'Neill Colloquium, Georgetown University Law Center (Washington D.C.) (Sept. 9, 2015)

*Advocacy under the Campus SaVE Act: Addressing Gender Violence on Campus*, Wisconsin Coalition Against Sexual Assault (Madison, WI) (Aug. 12, 2015)

*Campus Safety: Addressing Sexual Violence*, 61<sup>st</sup> Biennial Convention, College Republican National Committee (Washington D.C.) (June 12, 2015)

*Supporting Survivors of Campus Sexual Violence*, Beyond Campus Adjudication Conference, University of New Hampshire School of Law (Durham, NH) (March 17, 2015)

*Strengthening Title IX: Campus Safety, Accountability & Transparency*, University of Chicago, Institute of Politics (Chicago, IL) (March 11, 2015)

*Victim Activism Plenary*, 2015 Violence Prevention Conference, National Association of Student Personnel Administrators (NASPA) (National Harbor, MD) (Jan. 12, 2015)

*Addressing Campus Sexual Assault*, Annual Campus Adjudicator Training, University of Maryland Baltimore County (Baltimore, MD) (Sept. 20, 2014)

*Campus SaVE Act Update*, College & University Police & Investigators Conference (CUPIC), George Mason University (Fairfax, VA) (Aug. 6, 2014)

*Voices Panel*, Sexual Assault Summit, Dartmouth College (Hanover, NH) (July 15, 2014)

*The Fight Against Campus Sexual Assault*, 10<sup>th</sup> Annual Young Feminist Leadership Conference, Feminist Majority Foundation (Washington D.C.) (March 29, 2014)

*Campus Sexual Violence Activism*, Converge! Re-Imaging the Movement to End Gender Violence, University of Miami Law School (Miami, FL) (Feb. 8, 2014)

*Keynote*, Campus Sexual Assault Conference, Justice Center for Research, Penn State University (University Park, PA) (Oct. 15, 2013)

*Overview of Clery & Sexual Assault Response*, Campus Grantee Training, Office on Violence Against Women, U.S. Department of Justice (Washington, D.C.) (Feb. 29, 2012)

*Guest Lecturer*, Prof. Rosenfeld's Title IX Seminar, Harvard Law (Boston, MA) (Sept 6, 2010)

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## SELECTED MEDIA

- PEOPLE Magazine, *D.C. Attorney Fights Back After She Was Sexually Assaulted in College* (May 24, 2017)
- Washington Post, *Expelled for Sex Assaults, young men are filing more lawsuits* (Apr. 28, 2017)
- Inside Higher Ed, *Sexual Assault Claims Can Be Costly* (Apr. 6, 2017)
- Buzzfeed, *The Woman Students Call When They've Been Rape on Campus* (Feb. 9, 2017)
- Chronicle of Higher Education, *How a 20-Page Letter Changed the Way Higher Education Handles Sexual Assault* (Feb. 8, 2017)
- Forbes, *Victim-Turned-Victim's Rights Attorney Builds National Organization* (Sept. 6, 2016)
- Forbes, *Law School Grad gets Justice for Survivors of Campus Sexual Violence* (Sept. 1, 2016)
- Washington Post, *Biden & Obama rewrite the rulebook on college sexual assaults* (July 3, 2016)
- Inside Higher Ed, *Replacing 'Tradition with Science'* (March 1, 2016)
- Chronicle of Higher Education, *A Closer Look at 7 Common Requirements in Resolved Federal Sex-Assault Inquiries* (Feb. 8, 2016)
- Inside Higher Ed, *Investigating Sexual Assault, Regionally* (Jan. 25, 2016)
- Huffington Post, *Sanders Comments on Campus Rape, Totally Drops the Ball* (Jan. 12, 2016)
- NBC Dateline, *One Spring Night (St. Paul's School rape case)* (Nov. 6, 2015)
- Legal Talk Radio, *Legalities, Legislation & Initiatives Surrounding Sexual Assault on College Campuses* (Oct. 30, 2015)
- ABC News, *Owen Labrie Faces Sentencing, Court Records Reveal New Details of Prep School Sex Assault Case* (Oct. 29, 2015)
- Fortune Magazine, *App Help Reduce Sexual Assault on College Campuses* (Sept. 1, 2015)
- CBS Morning Show, *Former Student says Faculty New about Sex Traditions* (Aug. 20, 2015)
- Christian Science Monitor, *Beyond Guilt or Innocence in Prep School Rape Case* (Aug. 20, 2015)
- MSNBC, *Accuser's in St. Pauls' Rape Trial Gives Emotional Testimony* (Aug. 20, 2015)
- Today Show, *St. Paul's Rape Trial: Teen Accuser Focused on 'Getting Justice'* (Aug. 19, 2015)
- Washington Post, *The Legal Battles Ahead for Bill Cosby* (July 27, 2015)
- HBO Vice, *Campus Cover Up* (June 6, 2015)
- U.S. News & World Report, *High Schools are Failing Victims of Sexual Assault* (Mar. 5, 2015)
- Chronicle of Higher Education, *Senate's Revamped Sexual Assault Bill puts more Pressure on Colleges* (Mar. 1, 2015)
- Huffington Post, *Arkansas Expels Ex-Olympic Athlete for Sexual Assault* (Feb. 12, 2015)
- AP, *Justice Department: Majority of Campus Sexual Assault Unreported* (Dec. 11, 2014)
- Chronicle of Higher Education, *Rules on Campus Sexual Violence* (Oct. 20, 2014)
- Huffington Post, *Colleges are Already Screwing Up New Campus Safety Law* (Oct. 17, 2014)
- Inside Higher Ed, *The "Yes Means Yes" World* (Oct. 17, 2014)
- Campus Safety Magazine, *Victims' Rights Lawyer Says Colleges Face Challenges Dealing with Stalking Cases* (Oct. 17, 2014)
- MSNBC, *In Combating Campus Sexual Assault, a New Focus on Fraternities* (Sept. 28, 2014)
- Ms. Magazine, *Brief History of Sexual Violence Activism in the U.S.* (Aug. 12, 2014)
- NPR, *New Bill aims to Hold Colleges Accountable for Campus Sex Crimes* (July 31, 2014)
- MSNBC, *Colleges Come Together to Address Campus Sexual Assault* (July 16, 2014)
- Rolling Stone Magazine, *Confronting Campus Rape* (June 4, 2014)
- National Law Journal, *Maryland Law Student Takes on Campus Sexual Assault* (May 13, 2014)
- MSNBC All in With Chris Hayes, *Surviving Sexual Assault* (April 30, 2014)

## J.C. FAULK, MSOD

401 East Lafayette Avenue · Baltimore, Maryland 21202  
301.674.2552 · jcfaulk@circlesofvoices.com

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### ACTIVIST DIVERSITY and INCLUSION PROCESS CONSULTANT

#### SUMMARY OF QUALIFICATIONS

Experienced Process Consultant, Entrepreneur, and Non-Profit Executive; long term track record in improving team and organizational effectiveness in government, corporate and non-profit entities.

#### CAREER HIGHLIGHTS

- Diversity and Inclusion Process Consultant/Group Facilitator: Design and facilitate general OD processes, including Diversity and Inclusion, focus groups, team building, team-development, and strategic planning initiatives in an effort to improve individual, team and organizational effectiveness.
- National Director/Trainer: Designed training procedures and strategic planning processes. Designed and facilitated successful retreats and team development initiatives that led to successful long-term campaign results for a national voter registration non-profit.
- Management Consultant/Trainer: Effectively supported the design and implementation of change initiatives at all levels of multiple client organizations, including corporate, non-profit and government entities.
- Founder/Executive Director: Used entrepreneurial talents to develop and grow multiple urban non-profit organizations, including program design, recruitment and development of strategic plans.

#### EDUCATION

- Masters of Science in Organization Development (MSOD), American University, Washington, D.C. (2006)
  - Excel Portfolio, Management Studies, Maryland University, College Park, Maryland (2000)
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#### PROFESSIONAL EXPERIENCE

##### Founder/Owner

2015 – Pres

##### *Circles of Voices*

- Design group processes to primarily diminish the impact of discrimination and isms (racism, sexism, ageism, homophobia, etc.) in the workplace.
- Facilitate trainings and workshops for mostly non-profit, government and corporate clients.
- 

##### Founder/Executive Director

2015 – Pres

##### *An End to Ignorance*

- Use Circles of Voices (licensed) processes to diminish the impact of discrimination and isms (racism, sexism, ageism, homophobia, etc.) in the community,
- Facilitate no cost citywide diversity workshops.
- Support effective activism in Baltimore.
- Growing the organization to have an impact on the national stage.

## Organization Development Consultant

2004 – 2015

*Life Line Grid, LLC, Baltimore, MD*

- Designed and facilitated multi-day public workshops, including self-awareness and personal growth experimental processes.
- Contracted to design and facilitate general organization development and training initiatives. Collaborated with leadership and other essential personnel within corporate, government and non-profit organizations.
- Collaborated with a team of consultants to facilitate a major corporate train-the-trainer initiative, which included a multiple-year engagement having an effect upon five thousand employees in a large metropolitan hospital.
- Facilitated team-development and team-building processes, retreats, strategic planning meetings, focus groups, cultural assessments and other ongoing general organization development consulting activities as were required.
- Facilitated data gathering processes through individual interviews and surveys.
- Designed and facilitated large and small group meetings at all levels of organizations.
- Documented effectiveness of training, workshops and organization development activities.
- Designed and copyrighted unique Life Line Grid, LLC processes, intensive labs and workshops.

## President/Trainer

1998 – 2004

*HiTechQuest, LLC, Silver Spring, MD*

- Through self-study, prepared for and successfully achieved Microsoft expert certification in the MS Office suite of programs. Built an organization around providing software training and small computer network design for clients (4-12 computers).
- Facilitated Microsoft software training as a Microsoft Office User Specialist (MOUS) expert, dramatically improving client knowledge and technical computer proficiency.
- Increased revenue of sole proprietorship by more than fifty percent per year over a three-year period.
- Developed successful ongoing client relationships at all levels of primarily corporate organizations within the property management industry.

## National Director/Trainer

1995 – 1996

*Project Vote, Inc., Washington, DC*

- Successfully hired, trained and managed a diverse forty-five person east coast staff including State Directors in New Jersey and North Carolina, who then managed their staffs and hundreds of campaign volunteers.
- Designed, facilitated and evaluated training procedures for national staff.
- Point person in the development and implementation of the east coast campaign strategic plan, which led to more than one hundred thousand registered voters during the 1996 Presidential election cycle.
- Supported registration of more than five hundred thousand national voters, through designing and implementing training procedures and developing state strategic plans from the central Washington, D.C. office.

**Management Consultant**

1992 - 1994

*External Consultant, Washington, DC*

- Supported the design and facilitation of diversity training as an apprentice Management Consultant. Collaborated with senior consultants to develop and implement systems change initiatives within corporate, non-profit and government entities.

**Founder/Executive Director**

1991 - 1995

*S.O.U.R.C.E., Inc., Washington, DC*

- Envisioned, designed and facilitated the creation and growth of a 501(c)(3) non-profit organization with the expressed idea of developing successful relationships between diverse groups of people, including their young mentees.
- Created and implemented cross-cultural mentor programs for District of Columbia public school teachers, business executives, mentors and students.
- Gathered and synthesized survey and focus group data. Developed leadership evaluation assessments and feedback sessions for program volunteers and staff.
- Designed and facilitated retreats, citywide focus groups and workshops to address issues of race, diversity and inclusion.

## TRADEMARKS OWNED

Circles of Voices (pending) ('16)  
An End to Ignorance (pending) ('16)

## COPYRIGHTS OWNED

Know Your Lens©, Group/Self Assessment Tool ('11)  
Group Circles©, Team-assessment tool ('10)  
Full Circle©, Self-assessment tool ('09)  
Work Life Grid©, Work Group Assessment Tool ('08)  
Life Line Grid©, Individual Assessment Tool ('07)

## CERTIFICATIONS

Influence, Action and Change Certificate (Gestalt Institute/Ohio) ('11)  
NTL, Diversity Work Conference-Difference & Inclusion ('10)  
Cultural Transformation Tools® (CTT), Level I ('08)  
Field Producer, Cable Access Montgomery ('07)  
OD Practitioners Program Certification (Edie and Charlie Seashore) ('06)  
Microsoft Office User Specialist (MOUS) ('98-'04)  
    MS Excel Expert  
    MS Word Expert  
    MS Power Point Expert  
    MS Access  
    Front Page 98 Advanced  
    HTML Scripting II  
    A+ Certification (AI-Huda, Inc.)  
Certified Mediator - The Center for Dispute Settlement, D.C. Mediation Service ('94)  
Certified Trainer - Prince George's County Human Resources Department ('94)  
NTL, Human Interaction Lab Certificate ('93)

## COMMUNITY ACTIVITIES & MEMBERSHIPS

The Greater Baltimore Leadership, Member '17  
OSI Baltimore Fellow '16-'18  
Black Writers Guild of Maryland, Member  
West Coalition, Member  
Former Maryland State Member, American Society of Training and Development (ASTD)  
Former CBODN, Member  
Former OD Network, Member

**Curriculum Vitae**  
James P. Lynch

**Education:**

University of Chicago, Chicago, IL  
Ph.D in Sociology, 1983  
M.A. in Sociology, 1975  
Wesleyan University, Middletown, CT  
B.A. in Sociology, 1971

**Graduate Work:**

Ph. D. Dissertation: "Community Organization and the Delivery of Police Services"  
Committee: Charles E. Bidwell, Chairman, Morris Janowitz and Irving A. Spergel

M.A. Thesis: "Institutional Change and the Appearance of New Organizations: The Case of Special Police Districts"

Fields of Specialization: Deviance, Formal Organizations

**Awards and Honors:**

President, American Society of Criminology  
Herbert Bloch Award (with John Laub) from the American Society of Criminology  
Confirmed by the Senate as Director of the Bureau of Justice Statistics, 2010  
Nominated Director of the Bureau of Justice Statistics by President Barack Obama, 2009  
Vice President Elect, American Society of Criminology, 2009  
Distinguished Professor, John Jay College, 2006  
Presidential Scholar, John Jay College, 2005  
Visiting Chair, Federal University of Minas Gerais, Brazil 2004  
Executive Board, American Society of Criminology, 2003-2006  
Member, National Consortium on Violence Research, 1998-2005  
Bureau of Justice Statistics Fellowship, 1993  
National Institute of Mental Health Association Fellowship, 1971-1972  
Phi Beta Kappa, Wesleyan University, 1971  
National Collegiate Athletic Association Student Athlete Award, 1971  
Nomination for Rhodes Scholarship, 1971

**Employment History:**

Professor and Chair, Department of Criminology and Criminal Justice, University of Maryland

(2013 to the present)

Director, Maryland Data Analysis Center, University of Maryland, 2015-present

Director, Bureau of Justice Statistics, United States Department of Justice (2010-2013)

Distinguished Professor, John Jay College (2006-2010)

Presidential Scholar, John Jay College of Criminal Justice (2005 –2006)

Chair, Department of Justice, Law and Society, American University  
(2003-2005)

Professor, Department of Justice, Law and Society, American University  
(1997-2005)

Visiting Fellow, Bureau of Justice Statistics, United States Department of Justice  
(1993)

Associate Professor, Department of Justice, Law and Society, American University  
(1992-1997)

Assistant Professor, School of Justice, American University  
(1986-1992)

Research Associate, Bureau of Social Science Research, Inc.  
(1981-1986)

Research Analyst, Bureau of Social Science Research, Inc.  
(1980-1981)

Social Science Intern, Office for Improvements in the Administration of Justice, United States  
Department of Justice  
(1978-1980)

Research Assistant, Department of Sociology, University of Chicago  
(1974-1978)

Evaluation Specialist, Connecticut Planning Committee on Criminal Administration  
(1972-1973)

### **Current and Completed Funded Research:**

**Intergovernmental Personnel Action. United States Department of Justice.** This is a two year effort to manage the National Crime Statistics Exchange (NCS-X) which is a sample based system of police administrative records on crimes known to the police. Bureau of Justice Statistics.

**Maryland Data Analysis Center.** Role: Principal Investigator. This is a three year effort to build a data base of administrative records in the Maryland State Criminal Justice system and to use those data to institutionalize a research and development capability in that system. Arnold Foundation

**Studying the Feasibility of a Risk Assessment Tool for Sentencing.** Role: Principal Investigator. Maryland Governor's Office for Crime Control and Prevention.

**Impact of Incarceration on the Well-being of Families.** Role: Principal Investigator. This study examines the effect on households of the removal and return of members from incarceration using the National Crime Victimization Survey (NCVS). Households with members leaving for or returning from prison are compared with households experiencing return or removal from other sources and those not experiencing any change in composition. The principal focus will be on the victimization experience of households but changes in employment status, income and other attributes of the household will also be assessed. National Institute of Justice.

**Workshop on the Divergence of the NCVS and the UCR.** This funding provided transportation and lodging for a group of nationally recognized experts to meet and present papers explaining why the NCVS and the UCR trends occasionally diverge. These proceedings became an edited volume *Understanding Crime Incidence Statistics: Revisiting the divergence of the NCVS and the UCR* published by Cambridge University Press. National Consortium on Violence Research

**Assessing the Effects of Incarceration on Community Well-being.** Role: Principal Investigator. This study examines the effect of incarceration on the economic and social well-being of communities over a 20 year period. City University of New York and the Soros Foundation.

**Bullying at School: Evidence from the National Crime Victimization Survey.** Role: Principal Investigator. This study examines repeated minor assault victimization at school using the National Crime Victimization Survey. National Center for Juvenile Justice.

**Juvenile Offending Trends: The Victim's View.** Role: Principal Investigator. This study examines juvenile arrest trends from the Uniform Crime Reports and compares them to data on offenders from the NCVS. National Center for Juvenile Justice.

**Developing and Evaluating Imputation Strategies for the Offenses-Known and Arrest Data in the Uniform Crime Reports** Role: Principal Investigator. This grant explores various methods for imputing missing data in the Uniform Crime Reports maintained by the Federal Bureau of Investigation (FBI). The first stage reproduces the current imputation methodology. In the second, we identify other factors associated with non-reporting for use as stratifiers in alternative imputation methodologies. Finally, these new methodologies are tested by systematically deleting data reported to the UCR and imputing these data using the new methodology. American Statistical Association.

**The Role of Areal and Household Characteristics on the Incidence of Domestic Violence.**

Role: Principal Investigator. This grant examines the effect of community crime rates and the social disorganization of communities on the incidence of domestic violence. It employs the confidential Census data maintained by the National Consortium on Violence Research (NCOVR) and it is funded by NCOVR.

**Crime, Coercion and Communities: The Unintended Consequences of Removal on Community Organization.**

Role: Consultant. This project evaluates the effects of massive increases in incarceration and especially drug incarcerations over the past 15 years on the social organization of local communities and, ultimately, the crime rate and criminal involvement of persons in those communities. This study assesses these effects at the community level where the influence of primary institutions of social control are strongest. It will determine whether increases in the use of coercion have had harmful effects on less coercive institutions of social control, and specifically communities. This funding is from the National Institute of Justice (NIJ) through the Urban Institute.

**Investigating Repeat Victimization with the NCVS.** Role: Co-principal Investigator. This project uses longitudinal data from the National Crime Victimization Survey (NCVS) to identify repeat victims of burglary and assault. The repeated measures available in the survey will permit the decomposition of the variance in repeat victimization in that due to heterogeneity and that due to state dependence. These components of the variance are decomposed further by introducing covariates into the model. The intention is to identify repeat victims and to understand why some people become repeat victims and others do not. The funding is from the National Institute of Justice.

**Impact of Drug Enforcement Policies on Health, Drug Abuse, and Youth Violent Crime.**

Role: Consultant. This project examines the implications of drug enforcement policies that remove prime-age men for non-violent, drug-related offenses on neighborhood stability, crime, drug abuse, family structure and public health. The funding is from the Robert Wood Johnson Foundation through the Urban Institute.

**Using Case-Control Methods to Test Opportunity Theories of Victimization.**

Role: Principal Investigator. This project tests the feasibility of using case-control methods for the testing of opportunity theory. It also uses victim ethnographies to develop interviewing techniques suitable for use in large scale surveys that adequately measure key opportunity concepts. The American University and the National Science Foundation provided funding for this project.

**A Comparison of the Length of Time Served in Prison for Similar Offenses in Four Industrialized Nations.**

Role: Principal Investigator. This project compares the length of time served in prison for similar offenses in four industrialized democracies in an effort to test the relative punitiveness of sentencing practices in these countries. This study complements earlier work that examined the propensity to use incarceration as a sentencing option. Together these

papers provide a more comprehensive test of the punitiveness hypothesis. The Bureau of Justice Statistics provides partial funding for this project.

**An Empirical Test of Ecological and Routine Activity Theories of Victimization.** Role: Co: Principal Investigator. This project used recently available data from a supplement to the National Crime Survey (NCS) to test routine activity and ecological theories of victimization risk. This analysis provided a more definitive test of these theories than any previous work. Specifically, it afforded a more detailed look at the relative importance of lifestyle and ecological variables for the risk of victimization. This project was supported by the National Institute of Justice.

**An International Comparison of Incarceration Practices.** Role: Principal Investigator. This project examined the relative punitiveness of sentencing practices in the United States, Canada, England and West Germany. It replicated a study conducted in 1978 in which countries were compared on incarceration rates based upon the number of persons arrested in an attempt to control for different levels of crime across countries. This replication examined more countries and takes advantage of more extensive data that have become available in the interim. This project was supported by the Bureau of Justice Statistics.

**An Empirical Assessment of Optimum Procedures for the Processing of Habeas Corpus Petitions in Federal District Court.** Role: Principal Investigator. This project was designed to assess the potential effects of changes in the rules and procedures used to review federal habeas corpus petitions in district courts. Changes in the organization of the court, the scope of cognizable claims, time limits for filing, and other modifications of current procedures are assessed in terms of the number of meritorious petitions that would not have been heard relative to caseload reductions. This project was funded by the Bureau of Justice Statistics.

**The National Crime Survey Redesign Program.** Role: Project Manager. The program recommended in detail what statistics on victimization should be collected, analyzed, and reported as an element of the national system of criminal justice statistics and to redesign the National Crime Survey on the basis of the soundest applicable survey methodology and organizational provisions. The program, of five years duration, was carried out by a consortium of institutions coordinated by BSSR under contract with the Bureau of Justice Statistics.

**Evaluation of the Institute for Civil Justice.** Role: Project Director. I evaluated the research conducted by the Institute for Civil Justice at the Rand Corporation on various topics in civil justice including arbitration, managerial judges, jury verdicts in personal injury cases and medical malpractice. The work was performed under subcontract to Coopers and Lybrand who was asked to evaluate the Institute.

### **Collateral Professional Activities:**

**Editorships:**

Editorial Board *Journal of Quantitative Criminology*.

Co- Editor, *Journal of Quantitative Criminology*, 2008 to 2010.

Associate Editor, *Criminology*, 1999 to 2003

Associate Editor. *Journal of Quantitative Criminology*, 1997 to 2008.

Associate Editor, Public Policy Series, Georgetown University Press, 1996 to 2000.

Associate Editor, Public Policy Series, American University Press, 1990 to 1995

Associate Consultant, *Journal of Criminal Law and Criminology*, 1990

Deputy Editor, *Justice Quarterly*, August, 1988-89.

Assistant Editor, *Justice Quarterly*. September, 1985-1986.

**Advisory Panels and Committees:**

Member, Task Force on Corruption Measurement, United Nations Office of Drugs and Crime. 2016.

Member, Advisory Committee of the UNODC INEGI Center of Excellence for Statistical Information on Governance, Crime Victimization and Justice, 2013- present.

Member, National Academy of Science Panel on “Improving Federal Statistics for Policy and Social Science Research Using Multiple Data Sources and State-of-the-Art Estimation Methods”

Member, Maryland Police and Corrections Training Commission, 2013-2016.

Member, Criminal Justice Information Advisory Board, State of Maryland, 2013-present.

Member, Advisory Board, Federal Bureau of Investigation’s National Academy, 2014

Member, Committee on Law and Justice, National Academy of Science, 2013-present.

Consultant, National Academy of Science Panel on The Modernization of Crime Statistics, 2013-present

Member, Scientific Committee for the Second International Conference on Statistics of Governance, Crime, Victimization and Justice, Center of Excellence UNODC INEGI Mexico

Member, National Academy of Science Panel on Evaluating Bureau of Justice Statistics Programs, 2007-2009

Member, Institutional Review Board, Police Foundation, 2000-2010, 2013-present.

Member, American Statistical Association Committee on Law and Justice Statistics, 2003-2004

American Society of Criminology Representative, Board of Consortium of Social Science Associations, 2003-2007

Consultant, American Statistical Association Committee on Law and Justice Statistics, 1997 to 1999.

Executive Board, International Division, Academy of Criminal Justice Sciences, June 1997.

Member, Advisory Board, Data Resource Program, National Institute of Justice, January 1996 to present.

Member, Task Force on Future Directions for the National Archive of Criminal Justice, Bureau of Justice Statistics, Department of Justice, 1995

Member, Advisory Board, Trends Report, National Center for the Study of State Courts, 1995

Chair, American Statistical Association, Committee on Law and Justice Statistics, 1995-1997

Advisory Board, Congressional Mandated Study of Conditions of Confinement in Juvenile Institutions, Abt Associates, 1991 to 1992.

Chair, Committee on the Comparative Criminology Book Award, Division of International Criminology, American Society of Criminology, 1992-93

Chair, Student Awards Committee, American Society of Criminology, 1991

Executive Board, Division of International Criminology, American Society of Criminology, 1991-1993

Advisory Board, Criminal Justice Archive and Information Network, Inter-university Consortium for Social and Political Research, University of Michigan

Member, Central Office Review Panel, Federal Bureau of Prisons, October, 1990 to 2005.

Member, Committee on Law and Justice Statistics, American Statistical Association, November, 1990 to 1995

National Council on Crime and Delinquency. Role: Advisory Committee, Juveniles in Custody Project, November, 1989

Bureau of Justice Statistics. Role. Advisor to the Director on Future Initiatives on International Crime and Justice Statistics, August 21, 1989

University of Maryland, Institute of Criminology and Criminal Justice. Role: Member, Advisory Committee to the Workshop on the Design and Use of the National Crime Survey. June, 1986-1987

Abt Associates, Inc., I was a member of the Uniform Crime Reports Study Steering Committee. October, 1983-June, 1985.

I have refereed papers for the *American Journal of Sociology*, *Social Forces*, *Social Problems*, *Criminology*, *Journal of the American Statistical Association*, *Journal of Criminal Justice*, *Journal of Research in Crime and Delinquency*, *Journal of Criminal Law and Criminology*, *Journal of Quantitative Criminology and Justice Quarterly*, *Law and Society Review*, *Public Opinion Quarterly*, *Victimology and Violence and Victims*, *Journal of the History of Behavioral Sciences*..

I have reviewed proposals for the National Science Foundation's Sociology, Law and Society and Measurement programs, the National Institute of Justice, the Bureau of Justice Statistics, the American Statistical Association, the Center for Disease Control, National Institute Occupational Safety and Health and the Office of Juvenile Justice Delinquency Prevention.

## **Publications:**

### **Books:**

*Understanding Crime Incidence Statistics: Why the UCR diverges from the NCS.* (with Albert Biderman) New York, Springer Verlag, 1991

*Immigration the World Over: Statutes, Policies and Practices.* (with Rita Simon) Boulder, CO, Rowman and Littlefield, 2003

*Understanding Crime Incidence Statistics: Revisiting the Divergence of the UCR and the NCVS.* (with Lynn A. Addington). New York, Cambridge University Press (2007)

*Surveying Victims: Options for Conducting the National Crime Victimization Survey.* (Robert Groves and Daniel Cork eds.) Panel to Review the Programs of the Bureau of Justice Statistics, National Research Council, National Academy of Science, Washington, DC, National Academy Press, 2008

*Ensuring the Quality, Credibility and Relevance of U.S. Justice Statistics.* (Robert Groves and Daniel Cork eds.) Panel to Review the Programs of the Bureau of Justice Statistics, National Research Council, National Academy of Science, Washington, DC, National Academy Press, 2009

*Criminologists on Terrorism and Homeland Security.* (with Brian Forst and Jack Greene) New York, Cambridge University Press (2011)

### **Monographs:**

*Juvenile Justice Statistics: An Agenda for Action, Volume I,* (with Barbara Allen-Hagen and Sue Lindgren) Washington, D.C., Government Printing Office, 1989

### **Refereed Articles:**

“The Second Major Redesign of the National Crime Victimization Survey (NCVS). (With Michael Planty and Lynn Langton) *Crime and Public Policy*, (forthcoming)

“Why is the Victimization of Young Latino Adults Higher in Areas of New Settlement?” (with Min Xie, Karen Heimer and Michael Planty) *Journal of Quantitative Criminology*, (forthcoming)

"The Effects of Arrest, Reporting to the Police, and Victim Services on Intimate Partner Violence"(With Min Xie in *The Journal of Research in Crime and Delinquency* (forthcoming)

“Police Stressors, Job Satisfaction, Burnout, and Turnover Intention Among South Korean Police Officers” *Asian Journal of Criminology* (with Ilhong Yun, EuiGab Hwang) (DOI)10.1007/s11417-015-9203-4

“Crime Trends and the Elasticity of Evil: Has a Broadening View of Violence Affected Our Statistical Indicators?” (With Lynn Addington) *Crime and Justice: An annual review of research*. Vol.44, pp.297-331. (2015)

”The Evolving Role of Self-report Surveys of Criminal Victimization in a System of Statistics on Crime and the Administration of Justice.” *Statistical Journal of the International Association of Official Statistics.*, Vol.1,pp.1-5 (2014)

“American terrorism and extremist crime data sources and selectivity bias: An investigation focusing on homicide events committed by far-right extremists.” (with Steven M., Chermak, Joshua D. Freilich, William S. Parkin) *Journal of Quantitative Criminology* 28:1, pp.191-218 (2012 )

“From War to Prison: Examining the Relationship between Military Service and Criminal Activity.” (with Richard Culp, Tasha J. Youstin and Kristin Englander) *Justice Quarterly* published on October 3, 2011 as DOI:10.1080/07418825.2011.615755

“Calling the Police in Instances of Family Violence: Effects of Victim-Offender Relationship and Life Stages.” (with Ji Hyon Kang) *Crime and Delinquency* Online First, published on January 27, 2010 as DOI:10.1177/0011128709359655 .

“Trends in the Gender Gap in Violent Offending: New Evidence from the National Crime Victimization Survey.” (with Janet L. Lauritsen and Karen Heimer) *Criminology* 47:2, pp.361-399 (2009)

“The National Crime Victimization Survey and the Gender Gap in Offending: Redux” (with Karen Heimer and Janet L. Lauritsen) *Criminology* 47:2, pp.427-438 (2009).

“Assessing the Magnitude of Missing Data in the Uniform Crime Reports and the Effects of Missing Data and Imputation on National Estimates.” (with John Jarvis) *Journal Contemporary Criminal Justice*, Vol. 24, pp. 69-85 (2008)

“Prisoner Re-entry: Beyond Program Evaluation.” *Criminology and Public Policy*. Vol. 5 (2) (2006) pp. 402-412

“Prior Police Service and the Decision to Call the Police.” (with Min Xie, Greg Pegarsky, and David McDowall) *Justice Quarterly*, Vol. 23, No. 4, pp.481-501 (2006)

“Exploring the Effects of Changes in Design on the Analytical uses of the NCVS Data.” (with David Cantor) *Journal of Quantitative Criminology*. Vol.30, No23 2005

“Reporting to the Police in Western Nations: The Effects of Country Characteristics.” (with Heike Goundriaan and Paul Niewbeerta.). *Justice Quarterly*, December 2004.

“Assessing the Effects of Mass Incarceration on Informal Social Control in Communities.” *Criminology and Public Policy*. Vol.3, No.2, March 2004 (with William J. Sabol)

“The Seriousness of Crime: A Cross-national Comparison.” (with Melissa Schaefer) *International Journal of Comparative Criminology*. Spring 2003

“Using Citizen Surveys to Produce Information on the Police: The Present and Potential Uses of the National Crime Victimization Survey.” *Justice Research and Policy*: Vol. 4, No. 1 Summer 2002, pp.1-10.

“A Comparative Assessment of Criminal Involvement Among Immigrants and Natives Across Seven Nations.” (With Rita J. Simon) *International Criminal Justice Review*, Summer 1999.

“A Comparative Assessment of Public Attitudes toward Immigration and Immigration Polices.” (With Rita J. Simon) *International Immigration Review*. Vol.33, No.2 Summer 1999

"Status Inequality and Property Crime: The Effects of Design, Scope and Specification." (with Richard R. Bennett) *International Criminal Justice Review*, Summer, 1997, pp.1-30.

"The Decomposition and Graphical Analysis of Crime and Sanctions Data." (with Brian Forst) *The Journal of Quantitative Criminology*. Vol.13, No.2, June 1997, pp.97-120.

“Towards a Caribbean Criminology: Problems and Prospects.” (With Richard R. Bennett) *Caribbean Journal of Criminology and Social Psychology*, Vol.1, No.1, January, 1996, pp.8-37. Reprinted in *Crime, Delinquency and Justice: A Caribbean Reader*. Edited by Ramesh Deosaran. Miami FL. Ian Randle Publishers, 2007

“Clarifying Divergent Estimates of the Incidence of Rape from Three National Surveys” *Public Opinion Quarterly* Vol. 60, No. 3, Fall 1996, pp.410-430.

"Should Sentencing Policy Rely Upon Public Assessments of Seriousness?" (with Deirdre Golash) *American Journal of Criminal Law*, Vol. 22, No. 3, 1995

"A Cross-national Comparison of the Length of Custodial Sentences for Serious Crimes." *Justice Quarterly*. Vol.10, No. 4, 1993

"Offense Seriousness Scaling: The Limits of the Scenario Method." (With Mona J. E. Danner) *Journal of Quantitative Criminology*. Vol. 9, No. 3, 1993, pp.309-322.

“Ecological and Behavioral Influences on Property Victimization at Home: Implications for Opportunity Theory.” (With David Cantor) *Journal of Research in Crime and Delinquency*, vol.29, August, 1992, pp.335-362.

"Does a Difference Make a Difference? Comparison of Cross-national Crime Indicators." (with Richard R. Bennett) *Criminology*, Vol. 28, No. 1. February 1990, pp.153-181. (Reprinted in *Issues in Comparative Criminology*, Piers Beirne and David Nelken (eds.) (1997)

"Response to Von Benda Beckmann." (with Rita J. Simon) *Law and Society Review*. Vol. 23, No. 5, 1989, pp.855-856

“The Sociology of Law: Where We Have We Been and Where Might We Be Going.”(with Rita J. Simon) *Law and Society Review*. Vol. 23, No. 5, pp. 825-847.

"A Comparison of Imprisonment in the United States, Canada, England, and West Germany: A Limited Test of the Punitiveness Hypothesis." *Journal of Criminal Law and Criminology*, Spring 1988

"Routine Activity and Victimization at Work." *Journal of Quantitative Criminology*, Vol.3, No.4 December 1987 pp.283-300.

"Response of Organization and Community to a Deinstitutionalization Strategy". (with Irving A. Spergel, Fredric Reamer, and John Korbelik), *Crime and Delinquency*, July 1982.

"Deinstitutionalization of Status Offenders: Individual Outcomes and Systems Effects." (with Irving A. Spergel and Fredric Reamer), *Journal of Research in Crime and Delinquency*, January 1981.

#### **Book Chapters and Other Articles:**

“ Response to Comment on Modernizing Crime Incidence Statistics” *The Criminologists*, American Society of Criminology, July/August 2015

“Published Articles that Have Influenced Public Policy.” *Statistics and Public Policy* (forthcoming)

“Modernization of the Nations Crime Statistics.” *The Criminologists*, American Society of Criminology, March/April 2015

“A Strategic Vision for the Bureau of Justice Statistics.” *The Criminologist*. Vol. 36, No. 3, 2011

“Crime in International Perspective” (with William A. Pridemore) In James Q. Wilson and Joan Petersilia (eds.) *Crime*. Oxford University Press, New York, (2010).

“Identifying and Addressing Response Errors in Self-report Surveys.” (with Lynn Addington) In Alex Piquero and David Weisbord (eds.) *Handbook of Quantitative Criminology*. Springer. New York (2010)

“Implications of Opportunity Theory for Combating Terrorism.” In Brian Forst, Jack Greene and James Lynch (eds.) *Criminologists on Terrorism and Homeland Security*. Cambridge University Press, New York (2011)

“Crime, Fear and the Demand for Punishment in the United States” (with Ashley Nellis) In Helmut Kury and Theodore Ferdinand (eds.) *International Perspectives on Punitivity*. Bochum, German, Brockmeyer University Press, (2008)

Panel Member and Contributor to *Surveying Crime: Options for Conducting the National Crime Victimization Survey*. Edited by Robert Groves and Daniel Cork. Washington, DC National Academy of Sciences (2008)

“Addressing the Challenge of Costs and Error in Victimization Surveys: The Potential of New Technologies and Methods.”(with David Cantor) *Surveying Crime in the 21st Century, Crime Prevention Studies vol. 22*. Edited by Michael Hough and Michael G. Maxfield, Monsey, New York, Criminal Justice Press, 2007)

“Introduction.” (with Lynn A. Addington) In *Understanding Crime Incidence Statistics: Revisiting the Divergence of the UCR and the NCVS*. Edited by James P. Lynch and Lynn A. Addington. New York, Cambridge University Press. (2007)

“Conclusion.” (with Lynn A. Addington) In *Understanding Crime Incidence Statistics: Revisiting the Divergence of the UCR and the NCVS*. Edited by James P. Lynch and Lynn A. Addington. New York, Cambridge University Press. (2007)

“Exploring Differences in Estimates of Visits to Emergency Rooms for Injuries from Assaults Using the NCVS and NHAMCS.” (with Jacqueline Cohen) In *Understanding Crime Incidence Statistics: Revisiting the Divergence of the UCR and the NCVS*. Edited by James P. Lynch and Lynn A. Addington. New York, Cambridge University Press. (2007)

“Problems and Promise of Victimization Surveys for Cross-national Research.” In *Crime and Justice: An Annual Review*. Edited by Michael Tonry and David Farrington Vol. 34 (2006)

“Impacts of Crime and Coercion on Communities” (with William J. Sabol) in *Impact of Incarceration on Families and Communities*, Edited by Bruce Western and Mary Portillo, New York, Russell Sage (2004)

“Assessing the Longer-run Consequences of Incarceration.” (with William J. Sabol) in Darnell Hawkins, Samuel Myers and Randolph Stone (eds.) *Crime Control and Social Justice: The Delicate Balance*. Westport, CT Greenwood Press, 2003.

*Trends in Juvenile Offending: The Victim’s Perspective*. Washington, D.C. Office of Juvenile Justice Delinquency Prevention, October, 2002

“The Effects of Non-uniformities in Design on Comparisons of Aggregate Estimates of Victimization in the ICVS.” In Paul Nieuwbeerta (ed.) *Crime Victimization in Comparative*

*Perspective: Results from the International Crime Victims Survey, 1989 - 2000*  
BOOK II. Amsterdam, BOOM, 2002

"Prisoner Re-entry in Perspective." (With William J. Sabol) *Crime Policy Report*, Justice Policy Center, The Urban Institute. September 2001.

"Crime in International Perspective." in *Crime*. James Q. Wilson and Joan Petersilia (eds.) San Francisco, ICS Press, 2001

The Role of Individual, Household and Areal Characteristics in Domestic Violence. (with Brian Wiersema) *Proceedings of the American Statistical Association, Social Statistics Section*, 2000

"Self-report Surveys as Measures of Crime and Victimization." (With David Cantor) *Criminal Justice 2000: Measurement and Analysis of Crime and Justice, Vol. IV* Washington, D. C. National Institute of Justice. 2000

"Prison Use and Social Control." (With William J. Sabol) *Criminal Justice 2000: Policies Processes and Decision s of the Criminal Justice System, Volume III*. Washington, D.C. National Institute of Justice. 2000

*Gangs and Crime in Schools: A report from the school crime supplement.* (with James Howell) Washington, D.C. Office of Juvenile Justice Delinquency Prevention. 2000

"Should Public Opinion Guide Sentencing Policy"." (with Deirdre Golash ) *Federal Sentencing Reporter*. 1999

"Who are the Victims?" in *A Report of the Victim Needs Strategic Planning Meeting*. National Institute of Justice and Office of Victims of Crime, Washington, D.C.

"Getting Tough on Crime: Impacts of Sentencing Reforms." (With William J. Sabol) *Crime Policy Report*, Program on Law and Behavior, The Urban Institute. June, 1997.

*Long Term Trends in Crime Victimization*. (With Michael Rand and David Cantor) Washington, D,C. Bureau of Justice Statistics, April, 1997

*The Effects of the Redesign on Victimization Estimates: Data Brief*. (With Charles Kindermann and David Cantor) Washington, D,C. Bureau of Justice Statistics, April 1997

"Understanding Differences in Estimates of the Incidence and Prevalence of Rape and Sexual Assault Using Self-report Survey Data." In Rita J. Simon (ed.) *From Data to Public Policy: Affirmative Action, Sexual Harrassment, Domestic Violence and Social Welfare*. Lanham, MD. University Press of America 1996

"Criminology." *Collier's Encyclopedia*, New York, Colliers, 1996

"Statistics in an International Human Rights Treaty Report." (with Thomas Jabine and Herbert Spierer) *Proceedings of the American Statistical Association: Section on Government Statistics*, 1995. Alexandria, Va. American Statistical Association, pp.77-87. 1996

"Building Data Systems for Cross-national Comparisons of Crime and Criminal Justice Practices: A Retrospective." *ICPSR Bulletin XV*, No.3, 1995

"Crime in International Perspective." in *Crime*. James Q. Wilson and Joan Petersilia (eds.) San Francisco, ICS Press, 1994 (Reprinted in *Examining the Justice Process*. James Inciardi (ed.) New York, Harcourt Brace, 1996)

"Secondary Analysis of International Crime Survey Data." in Anna del Frate, Ugljesa Zvekić and Jan van Dijk (eds.) *Understanding Crime: Experiences of Crime and Crime Control*. Rome, Italy. United Nations Inter-regional Crime and Justice Research Institute. 1993, pp.175-192.

"The Effects of Design on Reporting in Victimization Surveys: The United States' Experience." In W.Bilsky, C.Pfeiffer and P.Wetzels (eds.) *Criminal Victimization and Fear of Crime Among the Elderly*. Stuttgart. Enke Verlag, 1993, pp.139-163.

"Victim Behavior and Risk of Victimization: The Implications of Activity-Specific Victimization Rates." in *International Research in Victimology*, Vol. 3, Gunther Kaiser, Helmut Kury and Hans Jorg Albrecht (eds.) Frieberg, Germany, Max Planck Institute, 1991

*Profile of Inmates in the United States and in England and Wales, 1991*. Washington, D.C., Bureau of Justice Statistics Special Report, U.S. Department of Justice, 1994

"What Have We Learned from Research on Crime Control?" *The Public Perspective* June/July 1991 p.10

"The Current and Future National Crime Survey." in *Measuring Crime: Long Range, Large Scale Efforts*. Doris L. Mackenzie (ed.), Albany, New York, State University of New York Press 1990

*Imprisonment in Four Countries*. Washington, D.C., Bureau of Justice Statistics Special Report, U.S. Department of Justice, February 1987

"Recency Bias in Data on Self-Reported Victimization." (with Albert D.Biderman), *American Statistical Association, Proceedings of the Social Statistical Section, 1981*. Washington, D.C.: The American Statistical Association, 1981

"A Network Based Research Consortium." (with Richard Roistacher) *American Statistical Association, Proceedings of the American Statistical Association, 1981.*, Washington, D.C.: The American Statistical Association, 1981.

### **Other Publications:**

*Exploring the Effects of Incarceration on the Safety and Well-being of Families of Inmates Using the National Crime Victimization Survey.* (with Leona Lee) Final Report Grant #2006-IJ-CX-0007 from the National Institute of Justice. June 2008

*Crime, Coercion and Community: The Effects of Arrest and Incarceration Polices on Informal Social Control in Neighborhoods.* (With William J. Sabol) Project Report, Washington, D.C. Urban Institute. October 2001

*Sentencing and Time Served in the District of Columbia Prior to Truth in Sentencing.* (with William J. Sabol) Washington, D. C. Urban Institute, August 2000

*Investigating Repeated Victimization with the NCVS.* (with Michael Berbaum and Michael Planty) Final Report for National Institute of Justice Grant 97-IJ-CX-0027.

*An Empirical Test of Ecological and Routine Activity Theories of Victimization.* (with David Cantor) Submitted to the National Institute of Justice, Department of Justice 1988

### **Book Reviews:**

*Time Out: A National Study of Juvenile Correctional Programs.* Robert D. Vinter (ed.) Ann Arbor, MI. University of Michigan, 1976, Social Service Review 52:2:1978, pp.331-332

Presentation at the Second International Conference on Crime, Governance and Justice Statistics, Mexico City, May 18, 2014.

1979, Social Forces, Spring, 1982.

*Lifetime Likelihood of Victimization.* Herbert Koppel, Technical Report, Bureau of Justice Statistics, United States Department of Justice, March 1987. *Public Opinion Quarterly*, Summer, 1989

### **Presentations and Working Papers:**

"Confidence in the Outcomes of Traditional Federal Statistical Surveys: The need for principles." Presentation at the Federal Joint Statistical Meetings, Washington, DC December 7, 2016

“Crime Statistical Systems: The Role of NSOs.” Chair. Panel in the Third International Conference on Governance, Crime and Justice Statistics. Merida, Mexico, June 10, 2016

“Measuring Rape and Sexual Assault Using Self-report Surveys.” Panel in the Third International Conference on Governance, Crime and Justice Statistics. Merida, Mexico, June 8, 2016

“The Use of Big Data in the Criminal Justice System” Chair, Panel in the Third International Conference on Governance, Crime and Justice Statistics. Merida, Mexico, June 7, 2016

“Measuring Sexual Violence with Self-report Surveys” Chair. Panel at the American Society of Criminology Meetings, San Francisco, CA November 18, 2015

“Health, healthcare, Life Expectancy and Aging of Inmates and Incarcerated Veterans.” Discussant. Panel at the American Society of Criminology Meetings, San Francisco, CA November 18, 2015

“Strategies for Building Data Centers for Criminological and Criminal Justice Research.” Chair, Roundtable at the American Society of Criminology Meetings, San Francisco, CA November 19, 2015

“Responses Affecting Repeat Domestic Violence in the NCVS.” (with Min Xie) Paper presented at the American Society of Criminology Meetings, San Francisco, CA November 19, 2015

“Finding Data for the Study of Urban Crime: Exploring Changes in Statistical Infra-structure.” 1<sup>st</sup> International Seminar of the Latin American Urban Crime Network, Bela Horizonte, Brazil, October 8, 2015

Testimony before the Department of Defense Judicial Proceedings Panel on Comparisons of Military and Civilian Processing of Rape and Sexual Assault Complaints. Arlington, VA, September 18, 2015.

“The Changing Role of the Statistical Agency: Serving the Department and Associated Challenges” Panel discussion at the *Federal Committee on Statistical Methodology Policy* Seminar, Washington, DC December 15, 2014

“Using advances in International Crime Statistics to Promote Research.” *American Society of Criminology Meetings*, San Francisco, CA November 21, 2014

“Integrating Crime Statistics on Governance, Crime and Policy Making: Lessons from the United States.” *American Society of Criminology Meetings*, San Francisco, CA November 21, 2014

“Using the NCVS to Understand the Changes in the Prison Population Overtime.”(with Lynn Addington), *American Society of Criminology Meetings*, San Francisco, CA November 19, 2014

“Big Data, Big Problems? Policy Challenges for Researchers and the Police” Roundtable Presentation. *American Society of Criminology Meetings*, San Francisco, CA November 19, 2014

“Crime Trends and the Elasticity of Evil” *American Society of Criminology Meetings*, San Francisco, CA November 19, 2014

“Challenges and Opportunities in Developing Integrated Crime and Criminal Justice Statistical Systems.” Presentation at the Second International Conference on Crime, Governance and Justice Statistics, Mexico City, May 20, 2014.

“Integrating Statistics on Crime, Governance and Justice into Decision-making. Presentation at the Second International Conference on Crime, Governance and Justice Statistics, Mexico City, May 18, 2014.

Discussant, “Collaboration with the Bureau of Justice Statistics”, Annual Meetings of the American Society of Criminology Meetings, Atlanta, Georgia, November 20<sup>th</sup>, 2013

“American’s Use of Time and the Crime Decline: Have changes in our daily activity made us safer?(with Lynn Addington and Mariel Alpert), Annual Meetings of the American Society of Criminology Meetings, Atlanta, Georgia, November 21<sup>th</sup>, 2013

Chair, “Incorporating Empirical Evidence into the Policy and Grant-making Process.” Annual Meetings of the American Society of Criminology Meetings, Atlanta, Georgia, November 21<sup>th</sup>, 2013

“The ASC and Public Policy: Go for form not substance.” Presentation at the Annual Meetings of the American Society of Criminology Meetings, Atlanta, Georgia, November 22<sup>th</sup>, 2013

“The Evolving Role of Self-report Surveys of Criminal Victimization in a System of Statistics on Crime and the Administration of Justice.” Presentation at the World Statistics Congress, Hong Kong, August 26, 2013.

Discussant, Professional Development: Academic versus Non-academic Careers, Meetings of the Annual Meetings of the American Society of Criminology, Chicago, IL, November 16, 2012

Discussant, Causes of Crime and Criminal Behavior Neighborhood effects and Urban Change, Annual Meetings of the American Society of Criminology, Chicago, IL, November 14, 2012

Chair. “As Simple as Possible but No Simpler: Jurisdictional Rankings with Administrative Record Statistics.” Workshop, Annual Meetings of the American Society of Criminology, Washington, DC, November 17, 2011

Discussant. "Coercive Mobility and the Effects of Incarceration on Crime." Thematic Panel, Annual Meetings of the American Society of Criminology, Washington, DC, November 17, 2011

"Evidence, Statistics and Emerging Information Technology: Preparing the Infra-Structure." Presentation at the Annual Meetings of the American Society of Criminology, San Francisco, CA. November 12, 2010

"Military Service, Combat Service, and Criminal Behavior among Veterans: Comparing Volunteers and Conscripts". (with Richard Culp, Tasha Youstin, Kristin Englander) Presentation at the Annual Meetings of the American Society of Criminology, Philadelphia, PA, November 4, 2009

"Victimization in the Workplace: Occupations, Tasks and Safety Measures." (with Seokhee Yoon) Presentation at the Annual Meetings of the American Society of Criminology, Philadelphia, PA November 4, 2009

"Exploring the Effects of Incarceration on Families with the NCVS and PSID" (with Julie Viollaz) Presentation at the Annual Meetings of the American Society of Criminology, November 6, 2009

"The Correctional System and the Integration of Marginal Populations: 1979-2004." (with William J. Sabol) Presentation at the Annual Meetings of the American Society of Criminology, St. Louis, MO, November 14, 2008

"The Changing Face of Workplace Safety, 1983 to 2004." (with Bonnie Fisher) Presentation at the Annual Meetings of the American Society of Criminology, St. Louis, MO, November 13, 2008

"The Criminal Involvement of Military Veterans: Estimating the extent and exploring explanations" (with Kristin Englander, Tasha Youstin and Richard Culp) Presentation at the Annual Meetings of the American Society of Criminology, St. Louis, MO, November 12, 2008

"Review of the Programs of the Bureau of Justice Statistics." Presentation at the Annual Meetings of the American Society of Criminology, St. Louis, MO, November 12, 2008

"Cross-national Research and the Declining Significance of the Nation State." Presentation at the Annual Meetings of the American Society of Criminology, St. Louis, MO, November 12, 2008

"Evaluating the Index Crime Classification and Searching for Alternatives" (with Jane Grabias). Paper presented at the Annual Meetings of the American Society of Criminology, Atlanta, Georgia, November 12, 2007

“Crime, Coercion and Community: Life after an NIJ grant.” (with William J. Sabol and Avinish Bhati). Presentation at the National Institute of Justice. Washington, DC, September 14, 2007.

“Assessing the Impact of Social Research on Criminal Justice Policy.” Presentation at the Annual Meeting of the Society for the Study of Social Problems. New York. August 11, 2007

Discussant, Understanding Crime Trends. Panel at the American Academy for the Advancement of Sciences, San Francisco, February 16, 2007.

“Addressing the Challenge of Costs and Error in Victimization Surveys: The Potential of New Technologies and Methods.”(with David Cantor) Paper presented at The Meeting on the Twenty-fifth Anniversary of the British Crime Survey. London, October 18, 2006

“Corruption and the Decision to Report Crimes to the Police.” (with Richard R. Bennett) Paper presented at the Annual Meetings of the American Society of Criminology, Los Angeles CA, November 4, 2006

“Testing the Applicability of Ecological Theories of Crime Cross-nationally.” Paper presented at the Annual Meetings of the American Society of Criminology, Los Angeles CA, November 3, 2006

“The Effects of Incarceration on Crime in Urban Neighborhoods: Punishing Peter to Protect Paul.” (with Avinash Bhati and William J. Sabol) Paper presented at the Annual Meetings of the American Society of Criminology, Los Angeles CA, November 3, 2006

“Implications of Opportunity Theory for Understanding and Controlling Terrorism.” Paper presented at the Annual Meetings of the American Society of Criminology, Toronto, Canada, November 17, 2005

“Incarceration and Crime in Urban Neighborhoods:” (with William J. Sabol and Avinish Bhati) Paper presented at the Annual Meetings of the American Society of Criminology, Toronto, Canada, November 19, 2005

Discussant, Using Criminological Theory to Support Program and Policy Development. Committee on Law and Justice, National Academy of Sciences, August 24, 2005

“Victimization Surveys and the Police Response to Crime: The United States Experience.” Presentation at the Conference on Crime Data, Victimization Surveys and Police Responses: Experiences from the UK, US and Brazil. Centre for Brazilian Studies, University of Oxford, Oxford, England, January 28, 2005.

“Exploring the Effects of Changes in Design on the Analytical uses of the NCVS Data.” (with David Cantor) American Society of Criminology, Nashville, TN November 20, 2004.

“Incarceration and the Well-being of Communities.” (with Seri Palla) Annual Meetings of the American Society of Criminology, Nashville, TN November 19, 2004

"Governmental Legitimacy, Corruption and Citizen's Willingness to Report Crimes to the Police: A Cross-national Study." (with Richard R. Bennett) European Society of Criminology, Amsterdam, NL at Friday, August 27, 2004.

“Exploring the Sources of Non-response in the Uniform Crime Reports.” Paper presented at the Annual Meetings of the American Society of Criminology, Denver, CO, November 19, 2003

“You Must Remember This: A Change Is Not A Difference As Time Goes By.” Paper presented at the Annual Meetings of the American Society of Criminology, Denver, CO, November 20, 2003

“Exploring the Precipitants and Consequences of Bullying in School: Lessons from the 1999 School Crime Supplement.” Paper presented at the Annual Meetings of the American Society of Criminology, Chicago, IL, November 7, 2002

“Bullying in School.” Paper Presented at the National Institute’s Annual Justice Research and Evaluation Conference, Washington, DC, July 21, 2002

“Reporting to the Police in Western Nations: The Effects of Country Characteristics.” (with Heike Goudriaan and Paul Nieuwebeerta.) Paper Presented at the .Meetings of the International Society of Criminology. Toledo, Spain September 7, 2002

“The Influence of Crime Characteristics and Prevailing Standards in a Country on the Decision to Report to the Police.” (with Heike Goudriaan and Paul Nieuwebeerta) Paper presented at the 10e Sociaal Wetenschappelijke Studiedagen, Amsterdam, The Netherlands, May 30, 2002

“Using Citizen Surveys to Produce Information on the Police: The Present and Potential Uses of the National Crime Victimization Survey.” Paper Presented at the National Research Council’s Committee to Review Research on Police Policy and Practices Data Collection Workshop. Washington, DC April 11, 2002.

“Trends in Juvenile Offending: The Victims Perspective.” Paper presented at the Annual Meeting of the American Society of Criminology, Atlanta November 8, 2001

“Methodological Issues in Cross-national Comparisons of Crime and Punishment.” Paper presented at the Cross-national Comparison of Crime Trends Conference. Cambridge University, Cambridge England, June 30, 2001.

“The Effects of Non-uniformities in Design on Comparisons of Aggregate Estimates of Victimization in the ICVS.” Paper presented at the International Crime Victimization Workshop, Netherlands Institute for the study of Criminology and Law Enforcement, Leiden University, Leiden, The Netherlands, June 21, 2001

“Qualitative Differences Among Repeat Victims.” (with Mike Planty) Paper presented at the Annual Meeting of the American Society of Criminology, San Francisco November 15-16, 2000

“How Well Does NIBRS Reflect the National Crime Experience.” (with Cynthia Barnett and Christopher Dunn) Paper presented at the Annual Meeting of the American Society of Criminology, San Francisco November 15-16, 2000

Chair, Panel on Methodological Approaches to International Research in Criminology. Annual Meeting of the American Society of Criminology, San Francisco November 15-16, 2000

“The Role of Individual, Household and Areal Characteristics in Domestic Violence.” (with Brian Wiersema) Paper Presented at the Annual Meetings of the American Statistical Association Meetings, Indianapolis, IN August 13, 2000.

Participant, Meeting of the American Statistical Association Committee on Law and Justice Statistics Sub-committee on Imputation in the Uniform Crime Reports, August 9, 2000

Discussant, Meeting of the National Research Council’s Committee on Social Statistics and the Committee on Law and Justice on the Measurement of Crime , Woodshole, MA July 24, 2000

“Prison Use and Social Control.” (with Bill Sabol) Presentation at the Plenary Session of the National Institute of Justice’s Annual Research and Evaluation Conference July 17, 2000

“Longitudinal Studies of What Happened with the “Get Tough” Policy.” Paper Presented at the Annual Meeting of the National Council on Family Relations, Irvine California, November 13, 1999

“Crime, Coercion and Community: The Effects of Arrest Policies on the Social Organization of Community.” (with Bill Sabol) Paper presented at the National Institute of Justice’s Annual Research and Evaluation Conference, July 21, 1999

“Partner Abuse: Crime Against Women and Self Report Victimization Surveys.” Presentation at the NIJ Conference on Crime Against Women. Ann Arbor, Michigan, June 21, 1999.

“A Comparative Assessment of the Criminal Involvement Among Immigrants and Natives Across Seven Nations.”(With Rita J. Simon) Paper presented at the 50<sup>th</sup> Annual Meeting of the American Society of Criminology, Washington, D.C. November 13, 1998.

“Housing Unit and Areal Effects on Residential Burglary Victimization.” (With Brian Wiersema and Richard Titus.) Paper presented at the 50<sup>th</sup> Annual Meeting of the American Society of Criminology, Washington, D.C. November 12, 1998.

“Spatial Patterns of Drug Enforcement Policies in Metropolitan Areas: Trends in the Prevalence and Consequences of Incarceration. (With William J. Sabol and Mary K. Shelley.) Paper presented at the 50<sup>th</sup> Annual Meeting of the American Society of Criminology, Washington, D.C. November 11, 1998.

“Assessing the Longer-run Consequences of Incarceration.” (With William J. Sabol) Paper presented at the Twentieth Annual Research Conference of the Association of Public Policy Analysis and Management, New York, NY October 30, 1998.

“Unintended Consequences of Incarceration: More Female Headed Households and Higher Unemployment.” Paper presented at the Midwest Regional Seminar of the Council of State Legislators, Chicago, IL, March 8, 1998.(With Bill Sabol)

“Review of Forecasters’ Methods and Forecaster’s Needs.” Paper Presented at the National Workshop on Prison Populations Forecasting and Projection: Managing Capacity, Washington, D.C. December 11, 1997

“Creating the National Institutes of Justice: A New Structure for Building and Using Knowledge About Crime and Its Effective Prevention.” (with Barbara Allen-Hagan) Annual Meetings of the American Society of Criminology. San Diego CA November 20, 1997.

“Modeling Repeat Burglary Victimization with the NCVS: Giving Content to Heterogeneity and State Dependence.” (With Michael Berbaum) Annual Meetings of the American Society of Criminology. San Diego CA November 18, 1997.

“Getting Tough on Crime: Impacts of Sentencing Reforms.” (With William J. Sabol) Paper presented at the First Tuesday Luncheon at the Urban Institute, November 6, 1997.

“Assessing Alternative Estimators of Length of Stay for Juvenile Offenders.” Paper presented at the National Council on Crime and Delinquency, Annual Meeting of Participants in the Juveniles Taken Into Custody Program, San Francisco CA October 20, 1997

"Using the NCVS micro-data Longitudinally to Explore Issues Pertinent to Victimization and Its Consequences." (with Michael Berbaum) Paper presented at the National Institute of Justice Workshop on Uses of Longitudinal Data, Ann Arbor, MI June 23, 1997

“Who are the Victims?” Presentation at the Victim Needs Strategic Planning Meeting. National Institute of Justice and Office of Victims of Crime, Washington, D.C. April 9, 1997

“Repeat Burglary Victimization.” (With Richard Titus) Annual Meetings of the American Society of Criminology, Chicago, IL, November 21, 1996

“Exploring the Effects of Changes in Design on the Analytical Uses of the NCVS Data.”(with David Cantor)Annual Meetings of the American Society of Criminology, Chicago, IL, November 20, 1996

“ The Implications of Measurement Error in Crime Statistics for Understanding Violence Across Settings.” Presentation at the National Institute of Justice Workshop on Violence Across Settings, ICPSR, Ann Arbor, Michigan. June 24, 1996

"An Examination of the Effects of Survey Design on Estimates of Rape and Sexual Assault from Self-Report Surveys." Annual Meetings of the American Society of Criminology. Boston MA, November 17, 1995.

Discussant. Panel on Unemployment, Social Welfare, Inequality and Crime. Annual Meetings of the American Society of Criminology. Boston MA, November 17, 1995.

Co-convener. Roundtable on Repeat Victimization: Theoretical Importance, Policy Relevance and Research Priorities and Methods. Annual Meetings of the American Society of Criminology, Boston MA, November 15, 1995

"Understanding Differences in Estimates of the Incidence and Prevalence of Rape and Sexual Assault Using Self-report Survey Data." Presentation at the National Conference of the Woman's Freedom Network. Washington, D.C. October 15, 1995.

"Statistics in an International Human Rights Treaty Report." (with Thomas Jabine and Herbert Spierer) Paper presented at the Annual Meetings of the American Statistical Association, Orlando, Florida, August 14, 1995

"The Decomposition and Graphical Analysis of Crime and Sanctions Data." (with Brian Forst) Paper presented at the Annual Meetings of the American Society of Criminology, Miami, Florida. November 11, 1994.

"Testing Opportunity Theories of Robbery Using a Case-control Design." (with David Cantor and Michael Maxfield) Paper presented at the Annual Meetings of the American Society of Criminology, Miami, Florida. November 10, 1994.

"Economic Marginality, Race and Imprisonment: A Comparison of Alternative Measures of Marginality." (with William J. Sabol) Paper presented at the Annual Meetings of the American Society of Criminology, Miami, Florida. November 9, 1994.

"Routine Activities and Victimization Risk: The Importance of Theory Building in a Practical World." Paper delivered at the Conference of The Council on Architectural Research, Secure and Livable Communities: Crime Prevention Through Environmental Design, Washington, D.C. December 10, 1993

"Opportunity Theory and Commercial Crime: Implications from Models of Non-commercial Crime." Paper presented at the Annual Meetings of the American Society of Criminology, Phoenix, Arizona. October 27, 1993.

"The Prevalence of Incarceration Revisited." Paper presented at the Annual Meetings of the American Society of Criminology, Phoenix, Arizona. October 28, 1993.

"Changes in the Underclass/Imprisonment Policy and Drug Offenses." (with William J. Sabol) Paper presented at the Annual Meetings of the American Society of Criminology, Phoenix, Arizona. October 29, 1993.

Discussant, Panel on Exploring Incidence and Etiological Issues of Crime-- NCVS Survey, The Annual Meetings of the American Society of Criminology, Phoenix, Arizona. October 29, 1993.

"Social Class and the Effects of Criminal Opportunities on Non-commercial Robbery Victimization." (with David Cantor) Paper presented at the Annual Meetings of the American Society of Criminology, Phoenix, Arizona. October 30, 1993.

"Secondary Analysis of International Crime Survey Data." International Conference on Understanding Crime: Experiences of Crime and Crime Control. United Nations Inter-regional Crime and Justice Research Institute. Rome, ITALY, November 18, 1992.

"Macro-social Changes and Their Implications for Prison Reform: The Underclass and the Composition of Prison Populations." (with William J. Sabol) Annual Meetings of the American Society of Criminology, New Orleans, November 6, 1992.

"Routine Activity and Victimization Risk: The Implications of Activity-specific Risk Rates Using Duration in the Denominator." Presented at the Annual Meetings of the American Society of Criminology, New Orleans, November 4, 1992.

"Should Sentencing Policy Rely Upon Public Assessments of Seriousness." (with Deirdre Golash) Paper Presented at the Annual Meetings of The Law and Society Association, Philadelphia, PA May 30, 1992

"Punishment Policy and Social Control: Incarceration and the Growth of the Underclass 1970-1990." (with William J. Sabol) Paper presented at the meetings of the Academe of Criminal Justice Sciences, Pittsburgh, PA, March 14, 1992.

Discussant, Panel on Measurement Issues in Policy Studies of Victimization and Fear of Crime. Annual Meetings of the American Society of Criminology, San Francisco, November 21, 1991

"Toward an Explanation of Cross-national Differences in Punishment Practices." Paper Presented at the Annual Meetings of the American Society of Criminology, San Francisco, November 23, 1991

"Responses to Violence: A Cross-national Perspective." Paper Presented at the Colloquium on Violence, Northern Illinois University, October 26, 1991

"Status Inequality and Property Crime: A Cross-national Time-series Analysis." Paper Presented at the Annual Meetings of the Law and Society Association, Amsterdam, Netherlands, June 27, 1991

"Measuring Change with the National Crime Survey." (with David Cantor) Paper Presented at the Annual Meetings of the American Society of Criminology Meetings, Baltimore Maryland, November 9, 1990

"Models of Property Victimization: Contrasting Findings from Different Methods." Paper Presented at the Annual Meetings of the American Society of Criminology Meetings, Baltimore Maryland, November 8, 1990

"Current Research on Victims Using Self Report Surveys." Presentation at the CJAIN Workshop, University of Michigan, Ann Arbor, MI, July 24, 1990.

"Using Supplements to the National Crime Survey: The VRS Experience." Presentation at the Workshop on the Design and Use of the National Crime Survey, University of Maryland, College Park, Md., July 23, 1990

"A Cross national Comparison of the Length of Sentences for Serious crimes." Paper Presented at the Annual Meeting of the Academe of Criminal Justice Sciences, Denver, Colorado, March 14, 1990.

"Why Annual Change Estimates in the National Crime Survey and the Uniform Crime Reports Are Occasionally Divergent." Invited presentation at the Federal Bureau of Investigation, February 7, 1990.

"Multi-level Models of Property Victimization at Home: Implications for Opportunity Theory." (with David Cantor) Paper Presented at the American Society of Criminology Meetings, Reno, Nevada, November 9, 1989

"Using the NCS and UCR in Trend Analyses" Presentation at the CJAIN Workshop, University of Michigan, Ann Arbor, MI, August 11, 1989

"Offense Seriousness Scaling: The Limitations of Surveys and Scenarios." (with Mona J. E. Danner) Paper Presented at the Annual Meetings of the Academe of Criminal Justice Sciences , Washington, D. C., March 30, 1989

"Enlightenment or Engineering: The Appropriate Role of Quantitative Sociology", Presentation at the Annual Meetings of the Eastern Sociological Association, Baltimore, March 17, 1989

"Alternative Strategies for Testing Routine Activity Theory: An Evaluation of Domain-Specific Models", Paper Presented at the American Society of Criminology Meetings, Chicago, IL. November 11, 1988.

"Empirical Tests of Opportunity Theories of Victimization Risk" Presentation at the National Institute of Justice Cluster Conference on Victimization, Charleston, South Carolina October 6, 1988.

"The Victim Risk Supplement to the National Crime Survey." Presentation at the CJAIN Workshop, University of Michigan, Ann Arbor, MI, August 4, 1988

"Recommendations for Improvements in National Statistics on Delinquency, Drug Use and Child Victimization", Presentation at the Interagency Conference on Child and Family Statistics, National Institutes of Health, Bethesda, Md. April 29, 1988.

"Contextual and Individual Determinants of Victim Risk". (with David Cantor) Paper presented at the American Society of Criminology Meetings. Montreal, November 12, 1987

"Does a Difference Make a Difference? Comparing Cross-national Crime Indicators". (with Richard R. Bennett) Paper presented at the International Sociological Association Meetings, Montreal, November 10, 1987

"Cross-national Comparisons of Prison Use and Their Implications for Sentencing Policy". Presentation at the National Conference on Punishment for Criminal Offenses. University of Michigan, November 9, 1987.

"Crime Classifications and Victimization Surveys: The Need for Alternatives to the Uniform Crime Report's Index Crimes". Paper presented at the Workshop on the Design and Use of the National Crime Survey, University of Maryland, College Park, Md., July 17, 1987

Discussant, "The National Crime Survey Redesign: A Summary Report", Paper presented by Bruce Taylor at the Washington Statistical Association Meetings, April 27, 1987

"The Hazards of Doing Cross-National Research", Paper Presented at the Meetings of the American Society of Criminology, Atlanta, Georgia, October 29, 1986

"Routine Activity and Victimization at Work", Paper presented at the Meetings of the American Society of Criminology, Atlanta, Georgia, October 29, 1986

"Should Magistrates Eat at Brennan's", Paper presented at The Southern Sociological Association Meetings, New Orleans, Louisiana, April 10, 1986

"The Current and Future National Crime Survey", Paper Presented at The Workshop on the Use of Large Data sets in Criminal Justice, Louisiana State University, Baton Rouge, Louisiana, October 8, 1985.

"Why the UCR Diverges from the NCS: The Contribution of Non-Uniformities in Measurement." Paper presented at the Meetings of the American Society of Criminologists, Cincinnati, Ohio, November 8, 1984.

"Cars, Crimes and Crime Statistics: What the UCR Does Not Tell Us But Should." (with Albert D. Biderman), Paper presented at the meetings of the American Society of Criminologists, Cincinnati, Ohio, November 7, 1984

"Serious Score Dimensions and Other Attributes Affecting Reactions to Victimization." (with Albert D. Biderman), Paper presented at the meetings of the American Society of Criminology, Cincinnati, Ohio, November 8, 1984.

"Changes in Police Organization and Their Effects on the Divergence of UCR and NCS Trends." Paper presented at the meetings of the American Society of Criminology, Denver, Colorado, November 9, 1983.

"Recency Bias in the NCS and the Analysis of Outcomes of Victimization Events," Paper presented at the meetings of the American Society of Criminology, Denver, Colorado, November 13, 1983.

"Understanding the Role of Community in Delinquency Prevention." (with Irving A. Spergel and John Korbelik), Paper presented at the meetings of the American Psychological Association, Los Angeles, August 21, 1981.

"Interactions Between Juvenile Justice System and Community Structure in the Deinstitutionalization of Status Offenders" (with Irving A. Spergel and John Korbelik), Paper presented at the International Symposium on Sociological Perspectives on Delinquency Prevention, University of Wuppertal, April 9, 1981.

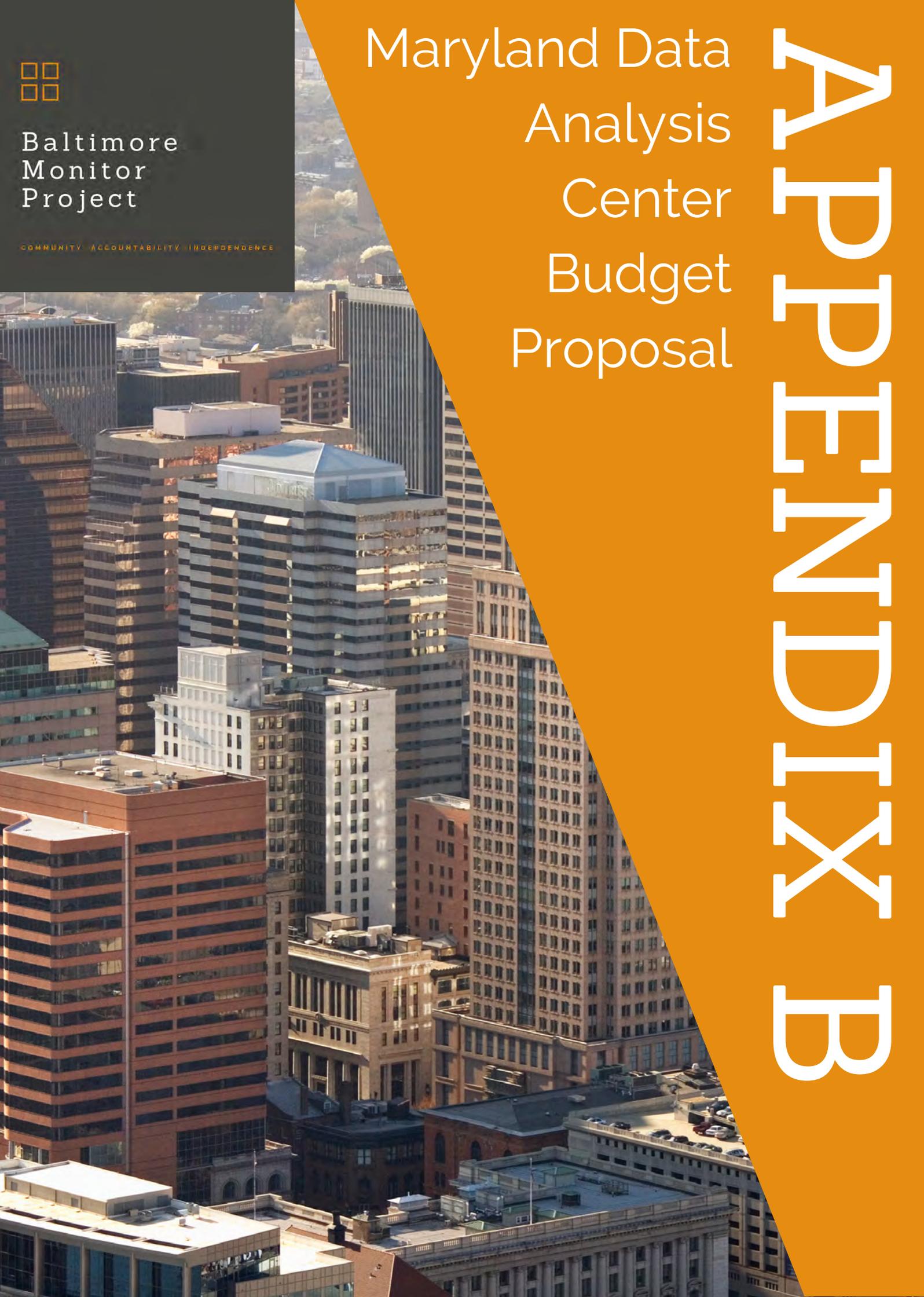
"Deinstitutionalization in Illinois: The Case for Removing Status Offenders from Court Processing." (with Irving A. Spergel and John Korbelik), Paper presented at the meetings of the American Society of Criminology, San Francisco, November 7, 1980.

**Service:**

Treasurer, Norwood School Parent's Association, 1997

Soccer Coach, Montgomery Soccer Incorporated, 1993 to 1998

Member of the Board of Directors, For Love of Children, Outdoor Education Center. FLOC is an extremely successful, grassroots organization that provides services to needy children in the District of Columbia. The Outdoor Education Center gives special attention to homeless children. 1990-1992.



Baltimore  
Monitor  
Project

COMMUNITY ACCOUNTABILITY INDEPENDENCE

Maryland Data  
Analysis  
Center  
Budget  
Proposal

APPENDIX B

# MARYLAND DATA ANALYSIS CENTER

DEPARTMENT OF CRIMINOLOGY AND CRIMINAL JUSTICE ♦ UNIVERSITY OF MARYLAND, COLLEGE PARK

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To: Jamar Brown and Adam Ruther, Rosenberg Martin Greenberg, LLP  
From: Jinney Smith, Associate Director ([jinneys@umd.edu](mailto:jinneys@umd.edu))  
Re: Baltimore City Consent Decree Monitor Application – Statistical Analysis  
Date: June 6, 2017

## *Scope of Work*

The Maryland Data Analysis Center, founded in 2015, works with Maryland state and local criminal justice agencies to inform policy and programmatic changes through the statistical analysis of existing data housed in agencies' administrative and operational database systems. As part of the Monitoring Team, and in collaboration with the Baltimore City Police Department, the deliverables to be accomplished to support the tracking and assessment of Consent Decree compliance and progress are as follows:

- Establish performance measures within 90 days of the appointment of the Monitor by the Court, for the recommended policy changes specified in the Consent Decree;
- Assess the data currently housed in the Baltimore City Police Department's databases, and make recommendations for additional routine data collection, if necessary, to satisfy reporting requirements for performance measures;
- Collect, validate, and, when practicable, clean data currently housed in administrative and operational databases maintained by the Baltimore City Police Department which are relevant to assessing performance measures under the Consent Decree;
- Analyze and report data (tabular and graphical), using appropriate statistical methods, to contribute necessary content for both recurring and special reports on behalf of the Monitor;
- The specific Consent Decree reforms requiring data analysis to measure compliance and progress fall into two broad policy categories: law enforcement practices and management/training/community outreach practices. "Law enforcement practices" include the following: Measuring stops, searches, arrests, and voluntary police interactions; impartial policing and data collection about those members of the public subject to enforcement action; enforcement activities involving those with health disabilities or in crisis; transportation of those in custody; handling and enforcement of reports of sexual assault; handling of events involving First Amendment-protected activities; and interactions with youth. "Management/training/community outreach practices" include the following: Community policing & engagement; improved

coordination and analysis of concurrent jurisdiction with the Baltimore City School Police Force; use of force training and tracking events involving use of force; reforms in technology deployment; reforms in training and supervision; reforms in investigating misconduct, including the development of an Early Intervention System for officers at-risk for misconduct; and reforms in recruitment, hiring, and retention.

***Budget Request – Baseline Year 1***

*Personnel—Salary & Benefits (incl. standard 33% benefits rate)*

1) Data Analyst (Ph.D.) TBD (Annual Salary 1.0 FTE = 1800 hrs/yr) ...	\$90,000
2) Data Analyst (Ph.D.) TBD (Fringe Benefits 33%).....	29,700
3) Project Management (James Lynch) (100 hrs/yr x \$230/hr) .....	\$23,000
4) Project Management (James Lynch) (Fringe Benefits 33%).....	<u>\$7,590</u>
Subtotal .....	\$150,290

*Indirect Cost (University Overhead)*

10% of Total Personnel Costs (University’s standard rate applied for Maryland public entities).....	<u>\$15,029</u>
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***TOTAL***..... \$165,319

Combined total average hourly total rate = \$165,319/1900 hrs = **\$87.01/hr for Year 1.**

***Total Annual Budget Request -- Years 1 - 5***

After applying an inflation adjustment of 3.0% for subsequent years, the annual budget request would be as follows:

Year 1:.....	1900 hrs x \$87.01/hr = \$165,319
Year 2:.....	1900 hrs x \$89.62/hr = \$170,278
Year 3:.....	1900 hrs x \$92.31/hr = \$175,389
Year 4:.....	1900 hrs x \$95.08/hr = \$180,652
Year 5:.....	1900 hrs x \$97.93/hr = \$186,067

**Five Year Total:** .....\$877,705

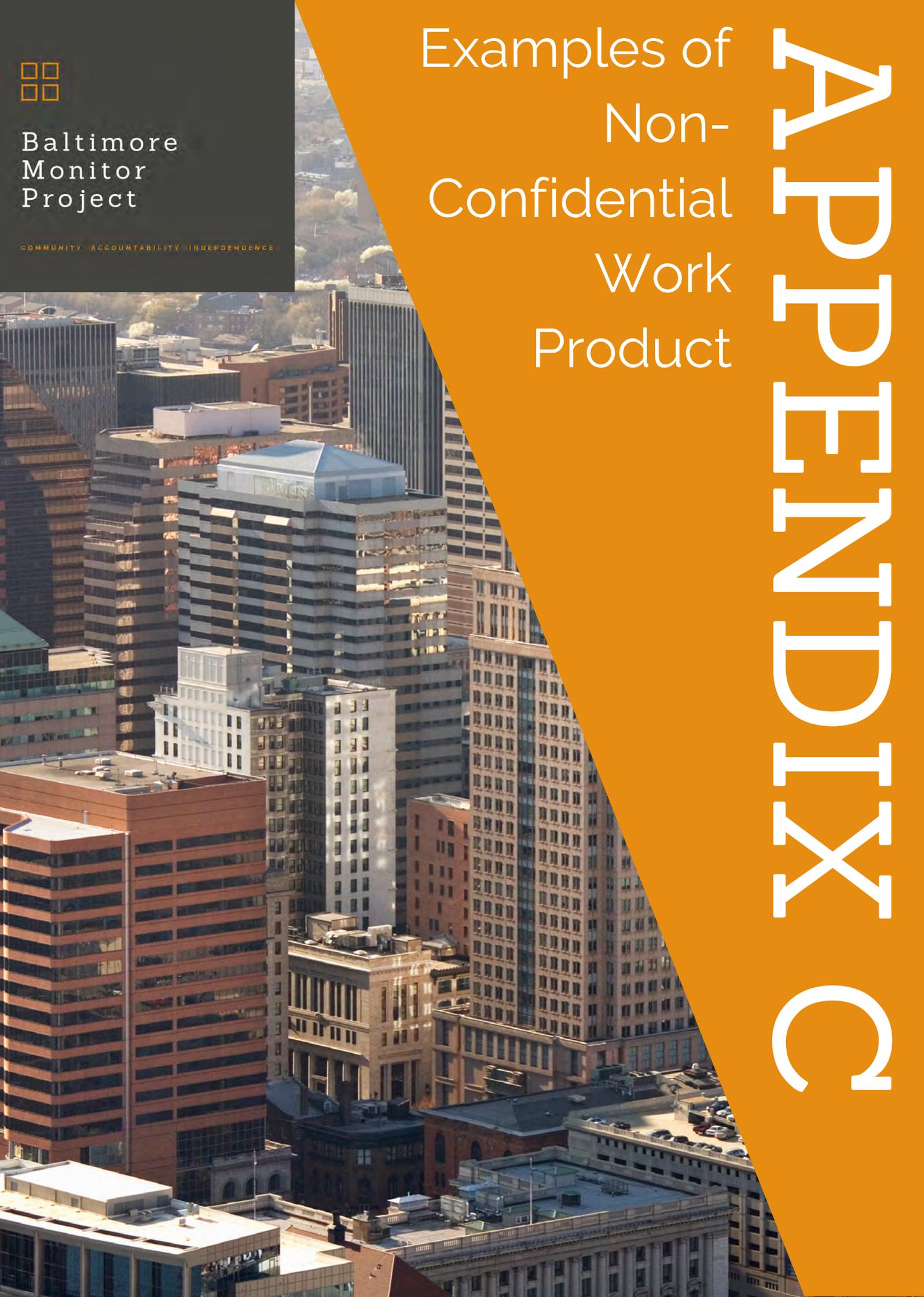


Baltimore  
Monitor  
Project

COMMUNITY ACCOUNTABILITY INDEPENDENCE

Examples of  
Non-  
Confidential  
Work  
Product

APPENDIX C



REPORT OF  
THE INDEPENDENT MONITOR  
FOR THE  
DETROIT POLICE DEPARTMENT



REPORT FOR THE QUARTER ENDING  
AUGUST 31, 2008  
ISSUED OCTOBER 15, 2008

**Sheryl Robinson Wood**  
Independent Monitor of the  
Detroit Police Department

Assisted by: **KROLL**

## **EXECUTIVE SUMMARY**

On June 12, 2003, the United States Department of Justice (DOJ) and the City of Detroit (City) (collectively, the parties) filed two Consent Judgments with the United States District Court for the Eastern District of Michigan (Court).<sup>1</sup> The Consent Judgments were negotiated and agreed to by the parties. On the same date, the parties filed a motion indicating the joint selection of an Independent Monitor, subject to the Court's approval, to "review and report on the City and the DPD's [Detroit Police Department's] implementation"<sup>2</sup> of the Consent Judgments. On July 18, 2003,<sup>3</sup> the Court entered both Consent Judgments. On July 23, 2003, after hearing testimony concerning qualifications, the Honorable Julian A. Cook, Jr., U.S. District Court Judge, appointed Sheryl Robinson Wood as the Independent Monitor in this matter, with the assistance of Kroll, Inc. This is the twentieth quarterly report of the Independent Monitor.<sup>4</sup>

The two Consent Judgments contain a total of 205 substantive paragraphs and subparagraphs with which the City and the DPD must substantially comply, 131 from the UOF CJ and 74 from the COC CJ.<sup>5</sup> The City and the DPD have achieved compliance with the policy components of the applicable paragraphs in both Consent Judgments, a significant accomplishment.<sup>6</sup> There are a number of paragraphs that are "policy only" paragraphs with which the City and the DPD will remain in compliance unless a revision is made that does not meet the terms of the Consent Judgments.<sup>7</sup> These 15 compliant "policy only" paragraphs are: U14-17, U19, U20, U42, U44, U46-47, U52, U54, U56, C28, and C29. There are also several paragraphs that require the City and the DPD to take a specific action and, once compliant, these paragraphs will generally remain in compliance; the DPD has complied with 11 such paragraphs or subparagraphs: U82-85; U88a, b, d, and e; C22; C44; and C46. Significantly, the DPD is currently in overall

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<sup>1</sup> The two judgments are the Use of Force and Arrest and Witness Detention Consent Judgment (UOF CJ) and the Conditions of Confinement Consent Judgment (COC CJ).

<sup>2</sup> UOF CJ at paragraph U124 (hereinafter UOF CJ paragraphs will be referenced by "U"). COC CJ at paragraph C79 (hereinafter COC CJ paragraphs will be referenced by "C").

<sup>3</sup> The "effective date" of the Consent Judgments.

<sup>4</sup> The Monitor's quarterly reports may be found on the Internet at [www.kroll.com/detroit](http://www.kroll.com/detroit).

<sup>5</sup> There were originally 177 numbered paragraphs from the UOF CJ and COC CJ that were considered to be subject to monitoring. After adjusting for those paragraphs that are no longer being monitored on a regularly scheduled basis (for example, the monitoring of paragraphs U139 and C94) and paragraphs that the Monitor has separated out into subparagraphs for ease of analysis and/or reporting (paragraphs U62 and U67, for example), the total number of paragraphs and subparagraphs being monitored currently stands at 205. These paragraphs and subparagraphs are identified in the Report Card attached as Appendix B to this report.

<sup>6</sup> These paragraphs are identified in the comments column of the attached Report Card. Pursuant to paragraphs U133 and C88 and various other paragraphs, these paragraphs also require implementation, which must also be accomplished for the DPD to achieve overall substantial compliance.

<sup>7</sup> For these "policy only" paragraphs, implementation is separately evaluated under another substantive paragraph.

substantial compliance for two consecutive review periods with 34 paragraphs or subparagraphs of the Consent Judgments.<sup>8</sup>

Each quarter, the Monitor examines a certain number of substantive paragraphs and subparagraphs. During the twentieth quarter, which ended on August 31, 2008, the Monitor examined a total of 92 paragraphs or subparagraphs (53 paragraphs or subparagraphs of the UOF CJ and 39 paragraphs or subparagraphs of the COC CJ). Of these, the City and the DPD are in compliance with 12, in partial compliance with two, and not yet in compliance with 53; the Monitor did not complete its evaluation<sup>9</sup> of 19 paragraphs or subparagraphs, and has withheld a determination of compliance with six paragraphs or subparagraphs.<sup>10</sup> The Monitor also determined that the DPD made notable progress towards complying with the requirements of eight paragraphs during the current quarter.<sup>11</sup>

As described above, overall, the Monitor is assessing the City and DPD's compliance with 205 paragraphs and subparagraphs, 131 from the UOF CJ and 74 from the COC CJ. The City and the DPD are currently in compliance with 70 of these paragraphs and subparagraphs (42 from the UOF CJ and 28 from the COC CJ)<sup>12</sup> and in partial compliance with three (all from the UOF CJ).

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<sup>8</sup> These are substantive paragraphs and subparagraphs that are on a regular and periodic review schedule; this list does not include "policy only" paragraphs and other paragraphs and subparagraphs with which the DPD will generally remain in compliance once compliance is achieved. Of these 34 paragraphs and subparagraphs, the Monitor found three paragraphs in substantial compliance for two consecutive review quarters for the first time during the current review period (subparagraph U78e, paragraph C54, and subparagraph C63e). Also included are three paragraphs that were previously in compliance for two consecutive quarters but for which a compliance determination was withheld or not yet completed during the current quarter (U22, C65c, and C71).

<sup>9</sup> The paragraphs for which the Monitor has not yet completed its evaluation are generally "implementation" paragraphs, for which the DPD has now complied with the related policy requirements. In these instances, the Monitor's testing of implementation is currently taking place and has not yet been completed. There are varying reasons why the assessments have not yet been completed, including the dates documents were requested and/or submitted and the availability of information relevant to making the assessment. In addition, the Monitor generally times its reviews of certain topics to coincide with its review of DPD audits that cover those topics; the Monitor will generally defer its assessment of compliance if its review of the related audit has not been completed.

<sup>10</sup> For each of these paragraphs, the Monitor's review and findings as of the end of the quarter are included in this report. The Monitor is mindful that this report is issued some 45 days after the end of the quarter. Therefore, for paragraphs assessed during the current quarter, the Monitor will make every effort to mention significant developments that occurred after the end of the quarter in footnotes throughout the report. For those paragraphs that were not assessed during the current quarter, developments that occurred during the current quarter or after the quarter's end will generally be fully reported on in the next quarter in which the applicable paragraph is under review.

<sup>11</sup> The Monitor continued to implement the finding of "partial compliance" and the terms "notable progress" and "significant progress" for quantitative paragraphs, and began implementing the terms for qualitative paragraphs this quarter after the DPD and the Monitor agreed to the methodology for assessing qualitative paragraphs. The eight paragraphs with which the DPD made notable progress during the current quarter were paragraphs U115-122.

<sup>12</sup> Included in these 69 paragraphs and subparagraphs are eight paragraphs and subparagraphs that were in compliance prior to the current quarter but for which a compliance determination was withheld or not yet completed during the current quarter. Three of these are from the UOF CJ and five are from the COC CJ.

### *Use of Force Paragraphs*

The Monitor assessed the Department's compliance with UOF CJ requirements regarding use of force policies, use of firearms, and chemical spray. The DPD is commended for complying with the requirements of its revised Use of Force Policy with regard to the uses of force reviewed this quarter. However, the Monitor has withheld a determination of compliance in order to review more serious uses of force in conjunction with the revised policy.

Based on the documentation received by the Monitor, the DPD has successfully implemented the first half of their bi-annual firearms qualification program; however the Monitor is withholding a determination of compliance and intends to follow up on the status of the officers who missed or were unavailable to qualify during the first six months of 2008.

Although the DPD's policy prohibits shooting at or from moving vehicles and the DPD has issued a teletype regarding this requirement, there were four reported occurrences that allegedly violated this prohibition between January and July 2008. As reported during the quarter ending February 29, 2008, the Monitor expects that once training takes place, the number of prohibited incidents will decrease.

The Monitor evaluated the DPD's implementation of its Monthly Equipment Inspection Reports (DPD 709s) for the period January 1 through March 31, 2008. The DPD 709 was developed to document, among other things, the inspection of ammunition carried by officers. The Monitor reviewed the forms and determined that for the forms that documented violations of one or more of the thirteen categories inspected, there is no way to know to which category the violation relates. Furthermore, although there were 98 commands identified to be inspected each month, there were no more than 70 identifiable forms submitted for any of the three months tested.

With regard to the use of chemical spray, there were five pertinent incidents identified by the DPD within a three-month time period. The documentation received by the Monitor indicates that the DPD did not fully evaluate two of the five incidents. Therefore, the DPD is no longer in compliance with the Consent Judgment requirements related to the use of chemical spray.

### *Arrest and Detention Paragraphs*

The Monitor assessed the Department's compliance with several UOF CJ requirements regarding documentation of prompt judicial review, holds, restrictions and material witnesses. With regard to implementation, significantly, the DPD achieved compliance with requirements for documenting late requests for arraignment warrants and late arraignments. The DPD achieved partial compliance with the requirements related to arraignments occurring within 48 hours. Both of these assessments represent improvements from the last time these requirements were under review by the Monitor, and the DPD is commended for these achievements. However, the DPD is no longer in compliance with the requirements to obtain a court order prior to taking a material witness into custody and to document each material witness on an auditable form. This is due to the fact that the documentation provided by the DPD pertaining to material witnesses was incomplete. Furthermore, the recurring issues related to failure to document holds and

restrictions caused continued non-compliance with those requirements. Also, as reported in prior quarters, the Commanding Officers' reviews of all violations of DPD policies in the area of holds and restrictions are essentially not yet taking place or, in the instances when they are completed most are not done within the 24-hour deadline.

### *General Policies Paragraphs*

The DPD has just started training on the requirements contained in the UOF CJ general policies paragraphs that were assessed by the Monitor during this quarter. The subject matter of some of the requirements in these paragraphs include off-duty officers taking police action, duty to report misconduct, prisoner policies, and foot pursuits. With regard to the requirement to develop a plan for adequate deployment of supervisors in the field, the DPD achieved partial compliance with the implementation of the plan; however, supervisory training on this requirement began recently on August 4, 2008.

### *Risk Management Paragraphs*

During the current quarter, on August 11, 2008, the DPD's Management Awareness System (MAS) became operational department-wide. The DPD is commended for this significant achievement. The Monitor will assess the implementation of the MAS during upcoming quarters. In regards to requirements to develop a comprehensive risk management plan, the Monitor found the DPD in continued compliance with provisions regarding regular and periodic reviews of all DPD policies and regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.

The Monitor also assessed compliance with Consent Judgment requirements regarding scout car video recording equipment, prisoner processing video cameras and incident videotapes.

The Monitor conducted inspections of six DPD districts to assess the DPD's use of scout car video recording equipment and found the following:

- Only two of the six districts were actively ensuring that patrol cars have working cameras.
- None of the districts demonstrated that microphones are being tested prior to the beginning of a shift.
- Pre-2007 model patrol cars do not have fans installed to cool the digital recording equipment stored in the trunks of the cars resulting in widespread and systematic failures of the recording equipment.
- There is no reliable system to ensure the proper uploading of the digital data from the patrol cars to the central repository at Communications Systems.

With regard to the prisoner processing areas, the Monitor's inspections in five districts found that the cameras were functioning in each district.

The Monitor found that the DPD continues to ensure that adequate resources are provided to eliminate the backlog of disciplinary cases and that all disciplinary matters are resolved as soon as reasonably possible. The Monitor has not yet re-evaluated compliance with the paragraph that requires the DPD to implement timelines related to the disciplinary process. The Monitor has received a population of 100 disciplinary matters that were closed in June 2008 which will be assessed in connection with this requirement.

### *Audit Paragraphs*

During the current quarter, the Monitor completed its review of the UOF CJ *Prisoner Injury Investigations Audit* that was submitted on February 29, 2008, finding it in non-compliance due to several deficiencies identified, such as the inclusion of investigations that were not prisoner injuries but were instead injuries that were sustained prior to arrest, incorrect findings related to the investigator's conclusions, and the inappropriate exclusion of certain UOF CJ requirements regarding prisoner injury investigations. The Monitor also completed its review of two additional UOF CJ audits that were submitted on May 31, 2008, the *Arrests Audit* and the *Custodial Detention Audit*, finding the *Arrests Audit* in partial compliance and the *Custodial Detention Audit* in compliance. The *Arrests Audit* was a quality audit for the most part but contained a number of qualitative performance-related deficiencies that impacted its quality, including erroneous information in connection with specifically required comparisons between the number of arrests, warrants, and judicial findings of probable cause. The *Custodial Detention Audit* included appropriate recommendations to correct systemic problems and operational deficiencies identified during the audit and, overall, was considered a quality audit.

On July 31, 2008, the Audit Team submitted seven of the nine audits required by the COC CJ. The Monitor completed its review of two of these audits: the *Emergency Preparedness Program Audit* and the *Environmental Health and Safety Audit*. The Monitor determined that the *Emergency Preparedness Program Audit* was not in compliance, mainly because the audit had inappropriately excluded the Detroit Receiving Hospital from two audits tests, one of which is specifically required by the audit paragraph and the other that is critical to supervisory oversight during an emergency. The *Environmental Health and Safety Audit* was found to be in compliance, in part because the audit contained appropriate audit objectives and met those objectives through suitable testing procedures. The Monitor is continuing its review of the remaining five COC CJ audits: the *Use of Force in Holding Cells Investigations Audit*, the *Prisoner Injury in Holding Cells Investigations Audit*, the *Allegations of Misconduct in Holding Cells Investigations Audit*, the *Detainee Safety Programs Audit*, and the *Food Service Programs Audit*. The Monitor expects to complete its review of these five audits and report its findings during the quarter ending November 30, 2008. The AT did not submit the *Fire Safety Policies Audit* or the *Medical and Mental Health Programs Audit*, both of which were required to be submitted by July 31, 2008. Accordingly, the Monitor found that the DPD was not in compliance with the paragraphs requiring their submission.

On August 31, 2008, the AT submitted four audits required by the UOF CJ: the *Use of Force Investigations Audit*, the *Allegations of Misconduct Investigations Audit*, the *Stops and Frisks Audit* and the *Witness Identification and Questioning Audit*. The Monitor expects to complete its

review of these four audits and report its findings during the quarter ending November 30, 2008. The AT did not submit the *External Complaint and Complaint Investigation Audit*, which was required to be submitted by August 31, 2008; accordingly, the Monitor finds that the DPD is not in compliance with the paragraph requiring this submission. Also on August 31, 2008, the AT submitted its 2008/2009 Audit Protocol in response to paragraph U92. The Monitor determined that the content of the Audit Protocol was adequate, and expects to complete its review of the dissemination and training processes related to the protocol during the quarter ending November 30, 2008.

### *Training Paragraphs*

The DPD's Office of Training and Professional Development began its in-service training program on August 4, 2008. According to the DPD, it is a mandatory 40-hour block of training for all officers, recruits and supervisors scheduled throughout the next 12-month period. The block of instruction is scheduled to include the delivery of Consent Judgment approved lesson plans in the following areas: Use of Force (paragraphs U112 and U115-117), PR-24 Intermediate Weapon (paragraph U112), Law of Arrest and Search and Seizure (paragraph U114), and Supervisory Leadership and Accountability (paragraphs U118-22). The commencement of the in-service training program is another significant achievement for which the DPD is to be commended. This is in addition to the *Firearms Qualification Lesson Plan*, which was implemented by the DPD Firearms Training Unit into their current bi-annual in-service qualification period during the quarter ending May 31, 2008. During this quarter, the DPD also selected and trained nine Field Training Officers. The Monitor is in the process of assessing the DPD's recently instituted training courses for compliance with the relevant paragraphs of the Consent Judgments.

### *COC CJ Holding Cell Paragraphs*

During the current quarter, the Monitor assessed the DPD's compliance with COC CJ requirements regarding fire safety policies and Life Safety Code (LSC) requirements, as well as requirements regarding emergency preparedness plans for all facilities that maintain holding cells.

The DPD is currently in the process of retrofitting its district buildings that contain holding cells in order to comply with the LSC requirements and fully implement the fire safety policies. The DPD is required by Court Order to complete the retrofitting by December 31, 2008. Therefore, the Monitor limited its assessment to requirements with which the DPD has previously complied. During inspections conducted, the Monitor found that the DPD remains in compliance with requirements regarding the enforcement of the no-smoking policy within holding cells and the proper storage of flammable liquids.

In assessing compliance with the requirements regarding emergency preparedness plans for all facilities that maintain holding cells, the Monitor relied upon the DPD's *Emergency Preparedness Program Audit* submitted on July 31, 2008. The Monitor tested the audit's findings and concurred with them. The audit found that although each building had an

Emergency Response Plan placed in a clearly marked red binder at each operations front desk, and that 92% of the detention area staff who were interviewed demonstrated knowledge of their responsibilities under the emergency preparedness plans, the DPD did not perform and maintain documentation of fire drills for all buildings containing holding cells, on all shifts, every six months as required.

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APPENDICES:

- A. Acronyms Frequently Utilized in Quarterly Reports Issued by the Independent Monitor
- B. “Report Card” Summarizing the Monitor’s Evaluation of Compliance with the Consent Judgments as of the Quarter Ending August 31, 2008

## SECTION ONE: INTRODUCTION

### I. BACKGROUND

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On June 12, 2003, the United States Department of Justice (DOJ) and the City of Detroit (City) (collectively, the parties) filed two Consent Judgments with the United States District Court for the Eastern District of Michigan (Court). The Consent Judgments were negotiated and agreed to by the parties. On the same date, the parties filed a motion indicating the joint selection of an Independent Monitor, subject to the Court's approval, to "review and report on the City and the DPD's implementation" of the Consent Judgments. On July 18, 2003, the Court entered both Consent Judgments. On July 23, 2003, after hearing testimony concerning qualifications, the Honorable Julian A. Cook, Jr., U.S. District Court Judge, appointed Sheryl Robinson Wood as the Independent Monitor in this matter, with the assistance of Kroll, Inc.<sup>13</sup> This is the twentieth report of the Independent Monitor.

In the first quarterly report, for the quarter ending November 30, 2003, the Monitor<sup>14</sup> outlined the history of the DOJ investigation, the Technical Assistance (TA) letters and the DPD's reform efforts. The Monitor also summarized the complaint filed against the City and the DPD and the overall content of the Consent Judgments.<sup>15</sup> The Monitor's duties and reporting requirements were also described.

As the Consent Judgments require that the DPD achieve and maintain substantial compliance for a specified period of time,<sup>16</sup> the Monitor will review the paragraphs on a periodic schedule over the life of the Consent Judgments. The paragraphs that were scheduled for review during the twentieth quarter, which ended on August 31, 2008, are assessed in this report.<sup>17</sup>

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<sup>13</sup> The primary members of the Monitoring Team are Joseph Buczek, Jerry Clayton, Penny Cookson, Charles Curlett, Hazel de Burgh, Ronald Filak, Thomas Frazier, Marshall Johnson, Denise Lewis, Jane McFarlane, Terry Penney, and Sherry Woods.

<sup>14</sup> The word "Monitor" will be used to describe both the Monitor and the Monitoring Team throughout this report.

<sup>15</sup> Complaint, Case no. 03-72258. The complaint, Consent Judgments and TA letters are publicly available at [http://www.usdoj.gov/crt/split/documents/dpd/detroit\\_cover\\_2.html](http://www.usdoj.gov/crt/split/documents/dpd/detroit_cover_2.html).

<sup>16</sup> Non-compliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, shall not constitute failure to maintain substantial compliance. At the same time, temporary compliance during a period of otherwise sustained noncompliance shall not constitute substantial compliance. Paragraphs U149 and C106.

<sup>17</sup> For the paragraphs under review for this quarter, the Monitor makes every effort to report on significant matters that have taken place after the end of the quarter, although this is not possible in every instance. These occurrences appear in footnotes throughout the report.

## II. MONITOR'S ROLE

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The Monitor's role is to conduct compliance assessments,<sup>18</sup> make recommendations, provide TA and report on the DPD's progress toward substantial compliance with the Consent Judgments on a quarterly basis. The Monitor carries out this role with a healthy respect for the critical role the Department plays in enforcing the law and the significant risks taken by DPD officers each day. The Consent Judgments, which are orders of the Court, are meant to improve the overall policing in the City of Detroit by taking measures to prevent the unconstitutional conduct alleged by the DOJ in its complaint filed against the City and the DPD. The Consent Judgments can only be modified by court order.

## III. FINDINGS FROM COMPLIANCE ASSESSMENTS

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During the twentieth quarter, the City and the DPD had several significant achievements and underwent some dramatic changes. The DPD also continued to face challenges with compliance mostly due to the lack of automated systems and resulting failure to provide adequate and complete documentation of the implementation of Consent Judgment requirements.

The most significant achievements this quarter were the DPD's department-wide roll out of the Management Awareness System (MAS) on August 11, 2008 and the commencement of in-service training on August 4, 2008. The implementation of the MAS and the provision of training on the various Consent Judgment requirements will greatly increase the DPD's compliance levels over time. The DPD also achieved compliance or partial compliance for the first time in several areas, including documenting late requests for arraignment warrants and late arraignments; timely arraignments occurring within 48 hours; supervisor deployment; and the *Arrest Practices Audit*. The Department also remained in compliance with requirements in several areas, including the no smoking policy; storage of flammable materials; no lengthy handcuffing to benches; regular meetings of DPD management to evaluate conduct that could potentially increase liability; adequate resources to eliminate backlogs for disciplinary cases; and the *Environmental Health and Safety Audit*. However, the DPD also had several areas where compliance had previously been achieved but was not reached during this quarter. Those areas include the use of chemical spray; court orders for material witnesses; the *Fire Safety Program and Policies Audit* (skipped); and the *Emergency Preparedness Program Audit*. With the exception of the audits, the DPD's lack of compliance in these areas is due to the submission of incomplete documentation in response to the Monitor's document requests.

Of the 92 paragraphs or subparagraphs that the Monitor assessed during the current quarter, the Monitor found that the DPD achieved compliance with 12 paragraphs and subparagraphs and

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<sup>18</sup> Paragraphs U138 and C93 require that the Monitor regularly conduct compliance reviews to ensure that the City and the DPD implement and continue to implement all measures required by the Consent Judgments. The Monitor shall, where appropriate, employ sampling techniques to measure compliance.

partial compliance with two paragraphs or subparagraphs. The Monitor determined that the DPD made notable progress towards complying with the requirements of eight paragraphs during the current quarter.<sup>19</sup> Overall, the DPD is currently in compliance with 70 of the 205 paragraphs and subparagraphs that are assessed in the combined Consent Judgments (42 of 131 paragraphs and subparagraphs from the UOF CJ and 28 of 74 paragraphs and subparagraphs from the COC CJ).<sup>20</sup>

The DPD has been in overall substantial compliance for two or more quarters with 34 paragraphs or subparagraphs of both Consent Judgments.<sup>21</sup> Of these 34 paragraphs and subparagraphs, the Monitor found three paragraphs in substantial compliance for two consecutive review quarters for the first time during the current review period.<sup>22</sup>

Right after the end of the quarter, the City and the DPD underwent several changes in leadership of the departments that directly deal with compliance with the Consent Judgments. The Monitor appreciates the hard work of former Mayor Kwame M. Kilpatrick and former Police Chief Ella Bully-Cummings and looks forward to working with the new administration, including Mayor Kenneth V. Cockrel, Jr., Deputy Mayor Saul A. Green, and Chief of Police James R. Barren, Ph.D.

#### IV. METHODOLOGIES

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The *Methodologies to Aid in Determination of Compliance with the Consent Judgments* (the *Methodologies*) generally outline the methods that will be employed by the Monitor to determine compliance by the City and the DPD with each substantive provision of the Consent Judgments. The Monitor has submitted final copies of the *Methodologies* for both Consent Judgments to the parties. Any future modifications to the *Methodologies* will generally be made on a paragraph-by-paragraph basis.

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<sup>19</sup> The Monitor continued to implement the finding of “partial compliance” and the terms “notable progress” and “significant progress” for quantitative paragraphs, and began implementing the terms for qualitative paragraphs this quarter after the DPD and the Monitor agreed to the methodology for assessing qualitative paragraphs. Refer to the Methodologies section, below, for further information. The eight paragraphs with which the DPD made notable progress during the current quarter were paragraphs U115-122.

<sup>20</sup> Included in these 69 paragraphs and subparagraphs are eight paragraphs and subparagraphs that were in compliance prior to the current quarter but for which a compliance determination was withheld or not yet completed during the current quarter. Three of these are from the UOF CJ and five are from the COC CJ.

<sup>21</sup> These are substantive paragraphs and subparagraphs that are on a regular and periodic review schedule; these do not include “policy only” paragraphs and other paragraphs and subparagraphs with which the DPD will generally remain in compliance once compliance is achieved. Also included are three paragraphs that were previously in compliance for two consecutive quarters but for which a compliance determination was withheld or not yet completed during the current quarter (U22, C65c, and C71).

<sup>22</sup> Subparagraph U78e, paragraph C54, and subparagraph C63e.

Under the *Methodologies*, the DPD will generally be assessed as compliant with a Consent Judgment requirement when either a reliable audit has been submitted that concludes compliance or greater than 94% compliance is achieved for a statistically valid random sample<sup>23</sup> of incidents from as recent a period as is practicable. For quantitative paragraphs, the Monitor will generally find that the DPD has achieved partial compliance where the overall compliance rate is greater than 80% to less than or equal to 94%. For quantitative paragraphs that are not yet in compliance, the Monitor now reports when the DPD has made significant progress by achieving an overall compliance rate greater than 66% to 80% for the implementation component of a paragraph or notable progress by achieving an overall compliance rate greater than 50% to 66% for the implementation component of a paragraph.

For paragraphs that have a qualitative aspect and cannot be assessed by using quantitative measures alone, in addition to assessing any quantitative items described above, the Monitor will also assess “performance-related qualitative criteria” that can affect the compliance assessment for the paragraph. The Monitor will report whether any such deficiencies had “substantial” or “some” affect on the quality of the item being assessed. When possible, the Monitor will also report whether or not significant or notable progress was made as compared to the prior assessment of these types of paragraphs.

In the course of conducting compliance assessments, among various other activities, the Monitor conducts interviews of various City and DPD personnel and other individuals. It is the Monitor’s general practice, unless otherwise noted, to use matrices to ensure that the same general questions and subject matter are covered in interviews and document reviews.

In the course of evaluating the DPD’s audits, the Monitor reviews the audit report, work plan, matrices, and supporting documentation. The Monitor will then generally perform detailed fieldwork as part of its review, but may abridge its assessment of the detailed fieldwork and adopt the audit’s findings as reliable if all of the following conditions are present: at a minimum, two consecutive audits of the same subject areas were found to be in compliance with applicable Consent Judgment requirements; the methodology for the audit under review has not been significantly altered from the prior audits that were found to be compliant; and, the audit’s findings regarding the DPD’s compliance with the underlying substantive Consent Judgment provisions have not changed from the prior audit. If all of these conditions are present, the Monitor will also confirm the audit’s conclusions through non-audit sources of information, such as the Monitor’s independent assessments of the underlying paragraphs and the City’s Status Report. If the Monitor has specific concerns regarding any particular audit conclusions, the Monitor will conduct its usual detailed review of the audit fieldwork in that particular area.

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<sup>23</sup> If the total population of incidents is so small that the process of selecting a statistically valid random sample would take longer to perform than to evaluate 100% of the incidents in the population, 100% testing will be performed.

Under certain circumstances, the Monitor may elect to rely on audits submitted by the DPD in assessing compliance with substantive paragraphs of the Consent Judgments. In doing so, the Monitor evaluates each audit to determine if it is compliant with the applicable audit paragraph requirements of the Consent Judgments. Even if the Monitor determines that an audit is not compliant with the applicable audit paragraph requirements of the Consent Judgments, the Monitor may still rely on some or all of the audit's findings if it is determined that the specific findings are reliable.<sup>24</sup> In addition, the Monitor reserves the right to adopt certain audit findings of non-compliance even in instances in which the Monitor has not determined whether the audit's findings are reliable, as long as the audit's assessment has been supplemented with additional testing by the Monitor.

Lastly, the organization of the UOF CJ and COC CJ paragraphs vary in that some paragraphs have separate but related "training" paragraphs within the Consent Judgments,<sup>25</sup> while others do not.<sup>26</sup> These varying formats impact the way in which the Monitor assesses compliance with each paragraph. Specifically, the Monitor's compliance assessments of paragraphs that do not have a separate training-related paragraph include reviews for annual and/or regular and periodic training and/or instruction to ensure appropriate DPD members have not only received the necessary policies, but have adequate information and direction to carry out the requirements of the Consent Judgments.<sup>27</sup>

## V. REPORT CARD

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As a tool to assist the reader of this report, the Monitor is attaching as Appendix B a "Report Card," which provides a "snapshot" of the DPD's compliance with each of the substantive provisions of the Consent Judgments. It also serves as a tool to summarize the DPD's progress in complying with those provisions. Specifically, the Report Card summarizes the *overall* grade of compliance with each paragraph and subparagraph<sup>28</sup> of the Consent Judgments for the five

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<sup>24</sup> As an example, if the audit report and fieldwork were considered reliable related to the substantive paragraphs under review but the audit was considered non-compliant because it failed to address a specific issue unrelated to the substantive paragraph or was submitted late, the Monitor may use all of the audit's findings regarding the substantive provisions of the paragraph(s) even though the audit was considered non-compliant.

<sup>25</sup> See, for example, paragraph U43 – Arrest Policies and paragraph U45 – Stop and Frisk Policies and related training paragraph U114.

<sup>26</sup> See, for example, paragraphs U73 -- Supervisory Deployment and paragraph U77 -- Foot Pursuit Policies.

<sup>27</sup> As described in the Introduction to the Methodologies, this is the Training Component of compliance.

<sup>28</sup> Although subparagraphs are often specifically identified in the Consent Judgments, the Monitor has split certain paragraphs that include more than one topic. The purpose of this is to facilitate the future evaluation of and reporting on each sub-topic.

most recent quarters, including the current quarter, in which compliance has been assessed.<sup>29</sup> The quarter in which the most recent evaluation was made is also indicated, as is the quarter in which the Monitor anticipates conducting the next evaluation of compliance for each paragraph. The next evaluation is estimated based on available information at the date of issuance of this Quarterly Report and accompanying Report Card. These estimated dates are subject to change as information develops and circumstances change.

The findings on the report card are: compliant, partial compliance, not yet evaluated, determination withheld or non-compliant. Also in the comments section of the report card, the Monitor will add a notation for each paragraph where the DPD has made notable or significant progress under the circumstances described above.

## VI. FOCUS ISSUE

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### A. DPD'S AUDIT ANALYSES AND REPORTING

As described in previous quarterly reports issued by the Monitor, the DPD's Audit Team (AT) has made significant progress in complying with the audit-related requirements during the term of the Consent Judgments. For example, the Monitor concluded that seven of the eight COC CJ audits submitted on January 31, 2008 were in compliance with Consent Judgment requirements. The Monitor considers that many of the AT's audits are thorough and reliable, and serve as valuable tools to assist the DPD in developing strategies to further its compliance with both Consent Judgments.

However, the DPD's audit function plays a crucial role in department oversight, and there remains much work to do to ensure that effective oversight is taking place. The Monitor has found that the audits submitted by the AT often lack the meaningful and insightful analysis of audit findings that is crucial to DPD management oversight. While the audits contain detailed information, few, if any, of the audits contain perceptive summaries of the overall findings nor do they attempt to uncover the potential causes of non-compliance from an operational perspective. To compound the problem, the Major Findings and Recommendations sections of the audits' Executive Summaries often contain excessive technical detail and present the findings in tabular, numeric format without any key insights, leaving the DPD executives to attempt to identify issues that should be addressed on their own. Rather than repeating the audit detail, the Executive Summaries should emphasize issues that the AT wants to bring to the attention of DPD management. The following are examples from two audits evaluated by the Monitor this quarter that are illustrative of the need for further analysis of audit findings by the AT.

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<sup>29</sup> The Monitor emphasizes that the Report Card provides summary information and should be read in conjunction with this report so that the reader may obtain a thorough understanding of the level and nature of the DPD's compliance with the provisions of the Consent Judgments.

In the *Prisoner Injury (PI) Investigations Audit* submitted by the DPD's AT on February 29, 2008, little analysis of the overall audit findings was provided in the Executive Summary or in the detail of the report.<sup>30</sup> For example, the AT did not summarize or analyze the fact that Force Investigations (FI) neglected to evaluate the use of force in four of the five incidents reviewed in the audit, or that three of the force incidents were connected to vehicle pursuit investigations, even though this information was detailed in the body of the report. In this same audit, the AT tested and reported compliance with the UOF CJ requirement to complete an auditable form for all prisoner injuries (PI) based solely on the presence of the auditable forms, but did not evaluate the accuracy or correctness of the forms. Since these forms serve as a tool for ensuring supervisory review and corrective action, their proper completion is an important part of the oversight function, and the deficiencies should have been highlighted in the Executive Summary.

The *Arrests Audit* submitted by the DPD's AT on May 31, 2008 is another example of the lack of insightful analysis and reporting. In this audit, the AT conducted comparisons required by the UOF CJ but the calculations made in connection with the comparisons were incorrect and/or improperly presented, rendering them meaningless.<sup>31</sup> While not specifically required by the UOF CJ, it is standard audit practice to analyze the results of comparisons made during an audit – this was not done. Had the AT questioned/analyzed the findings, the AT might have discovered the errors and corrected them prior to the submission of the audit report,<sup>32</sup> and the DPD's executive staff could have been provided with insightful information to determine if a pattern or problem exists. The Monitor notes that the DPD's Audit Protocol appropriately emphasizes the importance of performing such analyses within an audit.<sup>33</sup>

The Monitor has made the AT aware of the specific deficiencies described above, and has initiated discussions with the AT in an effort to improve the AT's overall analysis and the Executive Summaries included in all audit reports.

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<sup>30</sup> Refer to the *Current Assessment of Compliance* for subparagraph U94b for a description of the specific deficiencies identified in this audit.

<sup>31</sup> Refer to the *Current Assessment of Compliance* for subparagraph U95a for a description of the specific deficiencies identified in this audit.

<sup>32</sup> As suggested by the Monitor's staff, the AT submitted an "Audit Correction" notice on August 13, 2008 to address this.

<sup>33</sup> Page 20 of the DPD's Audit Protocol states "The analysis of the data and information obtained during the audit is one of the most critical components of the audit process and must be conducted by an audit team member with a high degree of DPD experience. Analysis of the data is more than simply counting and reporting on the number of deficiencies in each area of evaluation."

## VII. MONITOR'S PLEDGE

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The Monitor continues to be dedicated to making this process a transparent one, and continues to share the interest of all parties in having the City and DPD achieve substantial compliance with the Consent Judgments in a timely manner.

To that end, we have provided the parties with interim assessments of compliance throughout each quarter, including the quarter ending August 31, 2008. A draft copy of this report was made available to the parties at least ten days prior to final publication in order to provide the parties with an opportunity to identify any factual errors,<sup>34</sup> and to provide the parties with an opportunity to seek clarification on any aspect of compliance articulated in this report.

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<sup>34</sup> As required by paragraphs U142 and C97.

## **SECTION TWO: COMPLIANCE ASSESSMENTS - THE USE OF FORCE AND ARREST AND WITNESS DETENTION CONSENT JUDGMENT**

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This section contains the Monitor's compliance assessments of the UOF CJ paragraphs scheduled for review during the quarter ending August 31, 2008.

### **I. USE OF FORCE POLICY**

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#### **A. GENERAL USE OF FORCE POLICIES**

This section comprises paragraphs U14-19. The Monitor has found the DPD in compliance with paragraphs U14-17 and U19, which are "policy only" paragraphs. The DPD will remain in compliance with these paragraphs until such time as the policies directly responsive to the paragraphs are revised. The Monitor last assessed the DPD's compliance with paragraph U18, which contains the related implementation requirements, during the quarter ending May 31, 2007, and again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

#### **Paragraph U18 – Revision / Implementation of UOF Policy**

Paragraph U18 requires the DPD to develop a revised UOF policy within three months of the effective date of the UOF CJ. The policy must be submitted for review and approval of the DOJ. The DPD must implement the revised UOF policy within three months of the review and approval of the DOJ.

#### ***Background***

The Monitor last assessed the DPD's compliance with paragraph U18, which contains the implementation requirements for DPD policy issued pursuant to paragraphs U14-17 and U19, during the quarter ending May 31, 2008. The Monitor requested that all investigations of force conducted by the DPD that were closed during the period March 1-31, 2008 be made available for the Monitor's inspection. When the Monitor team members arrived at the DPD's Office of Civil Rights (OCR), they were only provided with access to six investigations and, after the end of that quarter, submitted a follow-up document request to verify that there were only six responsive investigations. The DPD provided a list of 28 investigations that were closed during the relevant time period. Since the Monitor was not provided with timely access to these

investigations and was unable to complete its review of the additional files, the Monitor withheld a determination of compliance with paragraph U18.<sup>35</sup>

### *Current Assessment of Compliance*

In order to assess the DPD's implementation of its UOF policies and its compliance with paragraph U18 during the current quarter, the Monitor reviewed the *PI Audit*<sup>36</sup> and the *Use of Force in Holding Cells (UOFHC) Audit*,<sup>37</sup> both of which included incidents involving a use of force.<sup>38</sup> A total of 15 investigations were reviewed in these two audits; of these, 11 were conducted at the command level, and four were conducted by FI.<sup>39</sup>

The types of force used by officers in these 15 incidents included hard-hands (compliance controls and physical controls) and, in one instance, the use of chemical spray. Based on the information reported in the officers' reports and supervisory investigations, the Monitor found that in all 15 incidents officers used an appropriate level and type of force in response to and commensurate with the subjects' resistance. The officers gave verbal warnings when possible and de-escalated the level of force once the situations were under control. This is an improvement from the previous assessment, during which the Monitor identified two instances in which inappropriate force techniques were employed (a carotid hold and a head strike, both of which were serious uses of force).

The Monitor noted that in at least two of the 15 incidents, officers were dealing with recalcitrant detainees and did not summon additional officers or engage in other tactics articulated in subparagraphs U15c and U76b, and in the DPD's Use of Force policy, *Directive 304.2-4*, nor did the officers indicate that additional officers or other tactics were not needed. Furthermore, in these incidents, based on the officers' explanations of the sequence of events, which may or may not be complete, it appeared that no exigent circumstances were present that would have

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<sup>35</sup> In its 20<sup>th</sup> Quarter Status Report, the DPD challenged the Monitor's decision to withhold a determination of compliance with respect to paragraph U18 for the quarter ending May 31, 2008. The DPD stated that the Monitor had requested access to the closed UOF files for that time period, which request was honored and facilitated by the OCR. The DPD then alleged that the Monitor "revised" the request on June 3, 2008, asking for a list of and copies of those UOF Reports, and that the list was furnished to the Monitor on June 27, 2008. As illustrated by the Monitor's account of that quarter's inspection, the DPD's account is misleading.

<sup>36</sup> The *PI Audit*, which was submitted by the DPD on February 29, 2008, is separately evaluated under subparagraph U94b. Refer to the *Current Assessment of Compliance* for subparagraph U94b, below.

<sup>37</sup> The *UOFHC Audit*, which was submitted by the DPD on May 31, 2008, is separately evaluated under subparagraph C65a. Refer to the *Current Assessment of Compliance* for subparagraph C65a, below.

<sup>38</sup> The DPD AT is not required to audit the force incident, only the "investigation" of the force. As such, the Monitor conducted an independent assessment of the force using the 15 incidents included in these two audits.

<sup>39</sup> Seven investigations were reviewed in the *PI Audit* and eight investigations were reviewed in the *UOFHC Audit*.

prevented the officers from requesting assistance.<sup>40</sup> Consequently, it is important that DPD members include in their reports sufficient information regarding the circumstances and decision-making leading up to the force incident. The DPD investigators of UOF incidents must also specifically include an evaluation of the officers' tactics as part of the investigation (as required by subparagraph U32f). The Monitor further suggests that officers be reminded that they should request assistance whenever possible as required by subparagraphs C53b and U76b.

Overall, it appears that DPD officers used appropriate levels of force based on the 15 incidents contained in the two audits; however, all of these incidents involved relatively low levels of force. Given that the Monitor's prior assessment, which included a review of more serious uses of force, found that officers violated the force policies, the Monitor will complete its review of the investigations contained in the DPD AT's next *Use of Force Investigations Audit (UOF Audit)* before concluding on paragraph U18. The *UOF Audit*, submitted on August 31, 2008, includes department-wide force incidents, including some serious uses of force. The Monitor anticipates completing its assessment of the audit and reporting its findings during the quarter ending November 30, 2008.

Based on the foregoing, the Monitor has not yet completed its evaluation of the DPD's compliance with paragraph U18.

## B. USE OF FIREARMS POLICY

This section comprises paragraphs U20-23. The Monitor found the DPD in compliance with paragraph U20, which is a "policy-only" paragraph, during the quarter ending August 31, 2006. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised. The Monitor last assessed the DPD's compliance with paragraphs U21 and U22 during the quarter ending February 29, 2008 and with paragraph U23 during the quarter ending May 31, 2008. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### *Paragraphs U21-23 –Firearms Re-qualification; Firearms Policy Regarding Moving Vehicles; Firearms and Ammunition*

Paragraph U21 states that officers who fail to re-qualify shall be relieved of police powers and relinquish immediately all Department-issued firearms. Those officers who fail to re-qualify after remedial training within a reasonable time shall be subject to disciplinary action, up to and including a recommendation for termination of employment.

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<sup>40</sup> In these two incidents, the force occurred in the processing area; the subjects were intoxicated and had already been passively and verbally resisting the officers just prior to the need to use force. In one incident, the detainee was verbally threatening to harm the detention officer just prior to the officer removing handcuffs.

Paragraph U22 requires the firearms policy to prohibit firing at or from a moving vehicle. The policy must also prohibit officers from intentionally placing themselves in the path of a moving vehicle.

Paragraph U23 requires the DPD to identify a limited selection of authorized ammunition and prohibit officers from possessing or using unauthorized firearms or ammunition. The DPD must specify the number of rounds DPD officers shall carry.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraphs U21 and U22 during the quarter ending February 29, 2008, finding that the DPD remained in compliance with the policy requirements of both paragraphs U21 and U23 and in compliance with the implementation requirements of paragraph U22; the Monitor did not complete its assessment of compliance with the implementation requirements of paragraph U21. The Monitor last assessed the DPD's compliance with paragraph U23 during the quarter ending May 31, 2008, finding that the DPD remained in compliance with the policy requirements but was not yet in compliance with the implementation requirements of the paragraph. The Monitor requested legible copies of all completed monthly DPD 709 reports for the months of January, February and March 2008. The DPD noted in its *19th Quarter Status Report* that it was in the process of obtaining the reports from each of the commands to provide for the Monitor's review; however, the Monitor had not received the report as of the end of that quarter.

### ***Current Assessment of Compliance***

#### ***Paragraph U21***

The DPD has met the policy requirements of paragraph U21 through the issuance of Directive 304.1, *Firearms*. The Monitor previously noted that to implement this paragraph, DPD would have to implement its qualification program under paragraph U113, which requires the development of a protocol regarding firearms training. To that end, on February 21, 2008 the DPD provided the Monitor with the its revised *In-Service Bi-Annual Firearms Qualification Lesson Plan*, which the Monitor approved on March 17, 2008. The DPD commenced firearms training in February 2008. In response to a document request this quarter, the DPD provided the Monitor with a 65-page list containing 2,654 members of the DPD who have undergone the firearms training in 2008. The DPD indicated that none of these members failed to qualify during the training. The DPD separately provided a list of 98 DPD members who missed firearms training between January 2008 and July 2008. The DPD reports that as of August 2008, the DPD is comprised of 3,002 officers. All officers who undertook firearms training met the passing score of 185. The DPD further reports that the approximately 343 officers (11% of the Department) who were not scheduled to take firearms training were on an extended sick, disabled, restricted duty (no-gun), or suspended status during the qualification period.

According to the August 15, 2008 DPD Administrative Message (Teletype #08-03897) relating to Firearms Training and Qualification Program in the second half of 2008, all DPD members who fail to meet their obligations will be placed on a “no-gun” status and off duty pending the next remedial training program. However, the DPD has informed the Monitor that the 98 officers who failed to attend the firearms training will not be placed on no-gun status, but will instead be required to attend the firearms training in the second half of 2008. The DPD’s current policy holds that only those who attend and fail to meet the passing score have “failed to meet their obligations” such that they are placed on no-gun status. The Monitor finds that this is not an unreasonable requirement as long as members are monitored to ensure that they do not continue to miss their firearms qualifications. The DPD also informed the Monitor that the 343 officers who were not scheduled for various reasons will be assigned to qualify when their restricted status ends.

In order to complete the assessment of the DPD's implementation of this paragraph, the Monitor will follow up on the status of the 98 officers who missed their qualification and the 343 who were "unavailable" for qualification during the first six months of 2008.

***Paragraph U22***

In response to a document request for reported incidents from January to July 2008 involving officers shooting at or from a moving vehicle or placing themselves in front of a moving vehicle, the DPD provided, after the close of the current quarter, a list of four such incidents, three involving an officer firing at a vehicle, and one involving an officer firing from a vehicle. All four investigations are still open. The Monitor will follow up on the disposition of these investigations during the next reporting period.

***Paragraph U23***

Along with Directives 304.1, *Firearms*, and 304.2, *Use of Force*, that define the policies and procedures relative to the requirements of paragraph U23, the DPD has implemented the *Monthly Equipment Inspection Report* (DPD 709), which is to be completed by all commands on a monthly basis. The monthly inspection and completion of DPD 709 is designed to ensure, among other things, that DPD members are carrying only authorized firearms and the correct number of rounds and authorized ammunition and to identify violations of the related policies.

In response to a request to identify the total number of commands required to complete the DPD 709 reports, the DPD provided a list of 98 commands. In order to assess the DPD’s implementation of its monthly inspection process, the Monitor requested all DPD 709 reports completed between January 1, 2008 and March 31, 2008. The DPD submitted a total of 66

identifiable reports for the month of January, 70 identifiable reports for the month of February, and 66 identifiable reports for the month of March.<sup>41</sup>

The DPD 709 report identifies 13 categories for inspection, some of which are related to Consent Judgment requirements other than those contained in paragraph U23.<sup>42</sup> Of the reports provided, for the 13 categories across all commands submitting forms, the DPD identified 587 violations in January, 542 violations in February, and 516 violations in March. The overwhelming majority of reports, however, do not identify the corresponding category of the violations cited. As a result, there is simply no way to determine from the reports whether the violations relate to an unauthorized weapon, unauthorized ammunition, an officer carrying an unauthorized number of rounds, or something else entirely. The Monitor therefore recommends that the DPD amend the 709 form to require those responsible for completing the form to state with particularity the reason for any violations.

Based on the foregoing, the Monitor finds the DPD in compliance with the policy requirements of paragraphs U21-23, but withholds a determination of the DPD's compliance with the implementation requirements of paragraphs U21 and U22 and finds that the DPD is not yet in compliance with the implementation requirements of paragraph U23.

### C. INTERMEDIATE FORCE DEVICE POLICY

This section comprises paragraph U24. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending February 29, 2008. The Monitor again assessed compliance with this paragraph during the current quarter. The results of our current assessment follow.

#### *Paragraph U24 – Intermediate Force Device Policy*

Paragraph U24 requires the DPD to select an intermediate force device, which is between chemical spray and firearms on the force continuum, that can be carried by officers at all times while on-duty. The DPD must develop a policy regarding the intermediate force device, incorporate the intermediate force device into the force continuum and train all officers in its use on an annual basis.

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<sup>41</sup> Some additional reports were provided in each month, but the Monitor was not able to ascertain from the documents which command(s) had completed them. Nevertheless, the addition of the unidentifiable reports to those identified above would not bring the total number to 98 commands, nor close enough to come into compliance in any given month.

<sup>42</sup> These are: M.I.T.N. Number, Firearm Serial Number, F + P Canister Serial Number, 800 MHZ Serial Number, PR-24 Serial Number, Driver License Expiration Date, Gas Mask Expiration Date, Vest Expiration Date, 90 Day Inspection Date, Last Qualification Date, Authorized Ammo, Number of Rounds Carried, and Contact Brochure.

## ***Background***

The Monitor last assessed the DPD's compliance with paragraph U24 during the quarter ending February 29, 2008, finding that the DPD was not yet in compliance with the training or implementation requirements. According to the DPD, as of the end of that quarter, 944 out of approximately 3,000 members (31.5%) had received the initial training on the PR-24. Although still insufficient for compliance, this was up from 678 at the end of the quarter ending August 31, 2007.

## ***Current Assessment of Compliance***

Directive 304.2, *Use of Force*, requires police officers to be trained to use the PR-24 prior to its issuance to the officers. Training and re-training of all DPD members on the PR-24 continues using the approved *Monadnock PR 24 Collapsible Baton Lesson Plan*. In its 20th Quarter Status Report, the DPD reported that on August 4, 2008, the DPD commenced annual in-service use of force/PR-24 training to its members. Also on August 4, 2008, the Monitor requested attendance rosters for all officers trained on the PR-24 between January 1, 2008 and July 1, 2008, as well as the total number of officers who have received PR-24 training (since the DPD has previously indicated that PR-24 training had started some time ago). The DPD had not provided this information as of the end of the current quarter.

Based on the foregoing, the Monitor finds that the DPD is in compliance with the policy requirements but not yet in compliance with the implementation requirements of paragraph U24.

## **D. CHEMICAL SPRAY POLICY**

This section comprises paragraphs U25-26. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending February 29, 2008. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### ***Paragraphs U25 and U26 – Chemical Spray Policy; Chemical Spray Prohibition***

Paragraph U25 states that the DPD shall revise its chemical spray policy to require officers to: provide a verbal warning and time to allow the subject to comply prior to the use of chemical spray, unless such warnings would present a danger to the officer or others; provide an opportunity for decontamination to a sprayed subject within twenty minutes of the application of the spray or apprehension of the subject; obtain appropriate medical assistance for sprayed subjects when they complain of continued effects after having been de-contaminated or they indicate that they have a pre-existing medical condition that may be aggravated by chemical spray, and if such signs are observed the subject shall be immediately conveyed to a local hospital for professional medical treatment; and obtain the approval of a supervisor any time chemical spray is used against a crowd.

Paragraph U26 requires the DPD to prohibit officers from using chemical spray on a handcuffed individual in a police vehicle. The DPD must also prohibit officers from keeping any sprayed subject in a face down position, in order to avoid positional asphyxia.

### *Background*

The Monitor last assessed the DPD's compliance with paragraphs U25 and U26 during the quarter ending February 29, 2008, finding the DPD in compliance with the paragraphs. The Monitor's review of auditable forms revealed that the DPD adequately implemented Directive 304.2, *Use of Force*, with regard to the use of chemical spray for these incidents. Specifically, when possible, the officers gave a verbal warning and provided time to allow the subject to comply prior to using chemical spray, and they decontaminated within 20 minutes of the application of spray. In all incidents reviewed, officers obtained appropriate medical assistance for sprayed subjects when necessary.

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with paragraphs U25-26 during the current quarter, the Monitor requested copies of all UF-002 and UF-002A forms related to a use of chemical spray between January 1, 2008 and March 31, 2008.<sup>43</sup> On September 5, 2008, the DPD produced the UF-002 forms related to five uses of chemical spray during the relevant time period.<sup>44</sup> The UF-002A was only provided for three of the five incidents. The Monitor evaluated the three incidents for which both forms were provided. A warning was provided prior to the use of the chemical spray in one incident; a warning would have jeopardized officer safety in a second incident; and a warning does not appear to have been given in a third. In all three incidents, the subject was given an opportunity to wash his eyes with cold water, although there is no reference as to whether this was accomplished within 20 minutes, as required by paragraph U25. In one instance, the subject was treated at the hospital; hospital treatment was not warranted in the other two incidents.

In response to a request for a listing of all external complaints relating to the use of chemical spray during the relevant time period, the DPD provided copies of two citizen complaint reports which contained allegations about incidents that occurred in March 2008. One report was

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<sup>43</sup> The UF-002 form is used to report all uses of force by officers. The UF-002A is used for supervisory investigations and is required for all uses of force.

<sup>44</sup> The five incidents during this reporting period stand in contrast to 22 reported incidents between May 1 and July 31, 2007. Also in 2006, the DPD provided reports of ten incidents of the use of chemical spray within a one-month time period. The Monitor is concerned that the five incidents may not represent the entire population of uses of chemical spray for this time period, but has not conducted any completeness testing.

illegible.<sup>45</sup> The other report involved a citizen complaint that alleged that police officers used chemical spray to subdue a woman while inside her home. Based on the allegations of the complaint, it appears that the officers may have failed to provide adequate verbal warning prior to using the chemical spray. It is also not clear without additional documentation relating to the incident whether the officers followed proper procedures after the use of the chemical spray, including removing her from a face-down position and providing an opportunity for decontamination within twenty minutes of the incident. The forms provided to the Monitor for chemical spray incidents that were discussed above did not include forms for these two external complaints. This is either due to the fact that the officer did not use chemical spray or the DPD failed to include these incidents in the population of five that were submitted.

Since adequate documentation of the chemical spray investigations was provided for only three of the five incidents, the Monitor finds that the DPD remains in compliance with the policy requirements but is no longer in compliance with the implementation requirements of paragraphs U25-26.

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<sup>45</sup> The Monitor contacted the Office of the Chief Investigator (OCI) and learned that this matter has been closed and the disposition was that the allegations were unfounded.

## **II. INCIDENT DOCUMENTATION, INVESTIGATION, AND REVIEW**

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This section of the UOF CJ (paragraphs U27-41) requires the DPD to make significant changes to its policies related to general investigations of police action and to investigations of uses of force (UOF), PIs, critical firearms discharges (CFDs) and in-custody deaths. In addition to various changes in general investigatory procedures, reports and evaluations, the UOF CJ requires that the DPD develop a protocol for compelled statements and develop an auditable form<sup>46</sup> to document any PI, UOF, allegation of UOF, and instance where an officer draws a firearm and acquires a target.

The DPD Shooting Team must respond to and investigate all CFDs and in-custody deaths, and the DPD must develop a protocol for conducting investigations of CFDs. The DPD's Internal Controls Division (ICD) must investigate a variety of incidents, pursuant to the requirements of the UOF CJ, including all serious UOF (which includes all CFDs), UOF that cause serious bodily injury, and all in-custody deaths. Finally, the UOF CJ requires the DPD to create a command level force review team that is charged with critically evaluating and reporting on CFDs and in-custody deaths.

### **A. GENERAL INVESTIGATIONS OF POLICE ACTION**

This section comprises paragraphs U27-33. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2008, and is scheduled to again assess compliance with these paragraphs during the quarter ending November 30, 2008.

### **B. UOF AND PRISONER INJURY INVESTIGATIONS**

This section comprises paragraphs U34-36. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2008, and is scheduled to again assess compliance with these paragraphs during the quarter ending November 30, 2008.

### **C. REVIEW OF CRITICAL FIREARMS DISCHARGES AND IN-CUSTODY DEATHS**

This section comprises paragraphs U37-41. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2008, and is scheduled to again assess compliance with these paragraphs during the quarter ending November 30, 2008.

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<sup>46</sup> The UOF CJ defines an auditable form as a discrete record of the relevant information maintained separate and independent of blotters or other forms maintained by the DPD.

### **III. ARREST AND DETENTION POLICIES AND PRACTICES**

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This section of the UOF CJ (paragraphs U42-60) requires the DPD to make significant changes to its policies, practices and procedures related to arrests, investigatory stops and frisks, witness identification and questioning, the detention of material witnesses, arrestee restrictions, custodial detention, prompt judicial review, holds and command notification regarding arrests and witness detention issues. For many of these areas, the DPD must develop auditable forms to document officer violations of the UOF CJ requirements or to capture certain events.

This section also requires DPD supervisors to conduct reviews of all reported violations and take corrective or non-disciplinary action. Precinct commanders and, if applicable, specialized unit commanders, are required to review within seven days all reported violations of DPD arrest, investigatory stop and frisk, witness identification and questioning policies and all reports of arrests in which an arraignment warrant was not sought, and to review on a daily basis all reported violations of DPD prompt judicial review, holds, restrictions and material witness policies. The Commanders' reviews must include an evaluation of the actions taken to correct the violation and whether any corrective or non-disciplinary action was taken.

#### **A. ARREST POLICIES**

This section comprises paragraphs U42-43. The Monitor has found the DPD in compliance with paragraph U42, which is a "policy only" paragraph. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised.<sup>47</sup> The Monitor last assessed the DPD's compliance with paragraph U43 during the quarter ending May 31, 2008, and is scheduled to again assess compliance with this paragraph during the quarter ending November 30, 2008.

#### **B. INVESTIGATORY STOP POLICIES**

This section comprises paragraphs U44-45. The Monitor has found the DPD in compliance with paragraph U44, which is a "policy only" paragraph. The DPD will remain in compliance with the paragraph until such time as the policy directly responsive to the paragraph is revised.<sup>48</sup> The Monitor last assessed the DPD's compliance with paragraph U45 during the quarter ending May 31, 2008, and is scheduled to again assess compliance with this paragraph during the quarter ending November 30, 2008.

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<sup>47</sup> As with all "policy-only" paragraphs with which the DPD has achieved compliance, any revisions to the policy will trigger an additional assessment by the Monitor. Implementation of the policy is tested under paragraph U43.

<sup>48</sup> Implementation of the policy is tested under paragraph U45.

### C. WITNESS IDENTIFICATION AND QUESTIONING POLICIES

This section comprises paragraphs U46-48. The Monitor has found the DPD in compliance with paragraphs U46 and U47, which are “policy-only” paragraphs. The DPD will remain in compliance with paragraphs U46 and U47 until such time as the policy directly responsive to these paragraphs is revised. The Monitor last assessed the DPD’s compliance with paragraph U48 during the quarter ending May 31, 2008, and is scheduled to again assess compliance with this paragraph during the quarter ending November 30, 2008.

### D. PROMPT JUDICIAL REVIEW POLICIES

This section comprises paragraphs U49-51. The Monitor last assessed the DPD’s compliance with these paragraphs during the quarter ending May 31, 2008. The Monitor again assessed the DPD’s compliance with these paragraphs during the current quarter. The results of our current assessments follow.

#### **Paragraph U49 – Revision of Policies and Requirements of Arraignment within 48 Hours**

Paragraph U49 requires the DPD to revise its policies to require prompt judicial review, as defined in the UOF CJ, for every person arrested by the DPD. The DPD must develop a timely and systematic process for all arrestees to be presented for prompt judicial review or to be released.

#### ***Background***

The Monitor last assessed the DPD’s compliance with paragraph U49 during the quarter ending May 31, 2008, finding the DPD in compliance with the policy requirements of the paragraph and not yet in compliance with the implementation requirements of the paragraph. During the prior quarter, the parties and the Monitor reached a consensus that paragraph U49 was intended to apply to warrantless arrests.

The Monitor reviewed a sample of 89 arrests, noting that 45 detainees were released prior to arraignment. Of the remaining 44 detainees, 13 were presented for arraignment after the 48-hour period elapsed. For one detainee, the Monitor could not assess compliance as the DPD was not responsive to repeated requests for additional information. For another arrest the Monitor could not ascertain whether the detainee was released within 48 hours from the documentation that was submitted. This translated into a compliance rate of 65.9% (29/44).

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with paragraph U49, among others, during the current quarter, the Monitor selected a sample<sup>49</sup> of 87 arrests and requested and received from the DPD access to the applicable warrant requests and arraignments, including Case Reports and related auditable forms.

The Monitor reviewed documentation for all 87 arrests selected for review. Of the 87 arrests, 42 detainees were released prior to arraignment, released to another law enforcement agency, or arrested pursuant to an existing felony arrest warrant. The remaining 45 detainees were presented for arraignment. For eight of these 45 arrests, the detainees were presented for arraignment after 48 hours had elapsed with no exigent circumstances documented.<sup>50</sup> This translates into a compliance rate of 82.2% (37 of 45).

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements and is in partial compliance with the implementation requirements of paragraph U49.

### *Paragraph U50 – Requirement of Warrant Request*

For each arrestee, paragraph U50 requires the DPD to submit to the prosecutor's office, within 24 hours of the arrest, a warrant request for arraignment on the charges underlying the arrest.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph U50 during the quarter ending May 31, 2008, finding that the DPD was not yet in compliance. The Monitor reviewed a sample of 89 arrests noting that the 24-hour rule of paragraph U50 was not applicable to 37 arrests. For the remaining 52 arrests to which the requirements of paragraph U50 were applicable, the Monitor determined that warrant requests were not submitted within 24 hours for 19 arrests. For one arrest, the Monitor was unable to make a determination whether the warrant request was submitted within 24 hours from the documentation that was provided. This translated into a compliance rate of 61.5% (32 of 52).

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<sup>49</sup> As required, a random, statistical sample of 87 arrests was selected out of a population of approximately 914 arrests that occurred during the period March 1 through March 8, 2008, utilizing a confidence level of 95% with an acceptable error rate of +/- 4.

<sup>50</sup> For the eight detainees, the amount of time that elapsed before arraignment ranged from approximately 54 hours to approximately 73 hours.

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with paragraph U50 during the current quarter, the Monitor reviewed the sample of 87 arrests selected to assess compliance with paragraph U49, among others. The Monitor determined that the 24-hour rule of paragraph U50 was not applicable to 39 of the 87 arrests selected for review, as either the DPD effected the arrest pursuant to an existing warrant or the DPD released the detainee without seeking a warrant request.<sup>51</sup> For the remaining 48 arrests to which the requirements of paragraph U50 were applicable, the Monitor determined that warrant requests were not submitted within 24 hours for 22 arrests. This translates into a compliance rate of 54.2% (26 of 48).

The Monitor also noted that for one arrest reviewed, although the DPD did not seek a warrant request, the detainee was nonetheless held in custody in excess of 48 hours pending the results of a drug test. Once the decision was made not to seek a warrant, the DPD was obligated under the requirements and the spirit of the Consent Judgment to release the detainee.

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with paragraph U50.

### *Paragraph U51 – Documentation of Late Request for Arraignment Warrants and Late Arraignments*

Paragraph U51 requires the DPD to document on an auditable form all instances in which an arraignment warrant is submitted more than 24 hours after the arrest, all instances in which it is not in compliance with the prompt judicial review policy, and all instances in which extraordinary circumstances delayed the arraignment. The documentation must occur by the end of the shift in which there was:

- A failure to request an arraignment warrant within 24 hours;
- A failure to comply with the prompt judicial review policy; or
- An arraignment delayed because of extraordinary circumstances.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph U51 during the quarter ending May 31, 2008, finding that the DPD was in partial compliance with the paragraph. The Monitor reviewed a sample of 89 arrests noting that 25 arrests required an auditable form because either a warrant request was not submitted within 24 hours or the detainee was not presented for arraignment within 48 hours, or both. The Monitor determined that the required auditable form

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<sup>51</sup> In some instances, the underlying charges were minor, not requiring the warrant request.

was not completed in three instances when a warrant request was not submitted within 24 hours. This translated into a compliance rate of 88% (22 of 25).

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with paragraph U51 during the current quarter, the Monitor reviewed the sample of 87 arrests selected to assess compliance with paragraphs U49 and U50, among others. Of the 87 arrests selected for review, 24 arrests required an auditable form because either a warrant request was not submitted within 24 hours or the detainee were not presented for arraignment within 48 hours, or both. The Monitor determined that the required auditable form was not completed when required in one instance when a warrant request was not submitted within 24 hours. This translates into an overall compliance rate of 95.8% (23 of 24).

Based on the foregoing, the Monitor finds that the DPD is in compliance with paragraph U51.

## **E. HOLD POLICIES**

This section comprises paragraphs U52-53. The Monitor found the DPD in compliance with paragraph U52, which is a "policy-only" paragraph, during the quarter ending February 28, 2006. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised.<sup>52</sup> The Monitor last assessed the DPD's compliance with paragraph U53 during the quarter ending February 29, 2008. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

### *Paragraph U53 – Documentation of All Holds*

Paragraph U53 requires the DPD to document all holds, including the time each hold was identified and the time each hold was cleared. On a daily basis, the DPD must document on an auditable form each instance in which a hold is not processed within twenty-four hours.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph U53 during the quarter ending February 29, 2008, finding that the DPD was not yet in compliance with the paragraph. The Monitor reviewed 19 holds and determined that the DIS did not capture the times and or dates the holds were cleared.

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<sup>52</sup> Implementation of the policy is tested under paragraph U53.

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with paragraph U53 during the current quarter, the Monitor requested and received a listing of holds for the period March 24 through March 31, 2008. The Monitor reviewed 22 holds, noting that, as with prior periods assessed, 21 DISs did not capture the times and or dates the holds were cleared. For one DIS, the individual completing the form appropriately identified the hold and documented the date and time cleared. The Monitor noted that this hold was documented as cleared within the mandated twenty-four hour period.<sup>53</sup>

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with paragraph U53.

## F. RESTRICTION POLICIES

This section comprises paragraphs U54-55. The Monitor found the DPD in compliance with paragraph U54, which is a "policy-only" paragraph, during the quarter ending February 28, 2006. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised.<sup>54</sup> The Monitor last assessed the DPD's compliance with paragraph U55 during the quarter ending February 29, 2008. The Monitor again assessed the DPD's compliance with paragraph U55 during the current quarter. The results of our current assessment follow.

### *Paragraph U55 – Documentation of Restrictions*

Paragraph U55 requires that whenever a detainee is restricted from either using the telephone or receiving visitors, such restriction must be documented, reviewed at the time the restriction is placed and re-evaluated, at a minimum, each day in which the restriction remains in effect. All violations of the DPD's restriction policy must be documented on an auditable form by the end of the shift in which the violation occurred.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph U55 during the quarter ending February 29, 2008, at which time the Monitor found that the DPD was not yet in compliance. The Monitor reviewed documentation for 20 detainees with restrictions. For 17 of the first 20

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<sup>53</sup> In response to the Monitor's request to provide a listing of holds, the DPD provided approximately 119 DIS forms. In many instances, the intake sheets were not responsive to the Monitor's request in that the underlying arrest was also identified as a hold.

<sup>54</sup> Revisions to policy will trigger an additional assessment by the Monitor. Implementation of policy is tested under paragraph U55.

restrictions reviewed, the DPD did not document the date and time the restrictions were lifted; as a result, the Monitor was unable to determine whether the restrictions exceeded the 24-hour period and required reevaluation.<sup>55</sup> For one additional restriction out of the first 20 reviewed, although the restriction was lifted in excess of 24 hours, the required auditable form was not generated and completed.

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with paragraph U55 during the current quarter, the Monitor requested a listing of all detainees with restrictions for the period January 1 through May 31, 2008. In response, the DPD indicated that it had identified 138 detainees with restrictions and provided legible photocopies of related *Privileged Restriction Logs* and *Detainee Telephone and/or Visitor Restriction Exceptions Forms*.<sup>56</sup> For 120 of the 138 (87%) logs and forms reviewed, the dates and times that the restrictions were lifted were not documented; as a result, the Monitor was unable to determine whether the restrictions exceeded the 24-hour period requiring reevaluation. For 13 logs and forms reviewed, the DPD documented all required information and the restrictions were in place for one 24-hour period not requiring re-evaluation. For five logs reviewed, although the dates and times the restrictions were lifted were documented on the requisite auditable form, they exceeded the 24-hour re-evaluation period.<sup>57</sup>

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with paragraph U55.

## G. MATERIAL WITNESS POLICIES

This section comprises paragraphs U56-57. The Monitor found the DPD in compliance with paragraph U56, which is a "policy-only" paragraph, during the quarter ending February 28, 2006. The DPD will remain in compliance with this paragraph until such time as the policy directly responsive to the paragraph is revised.<sup>58</sup> The Monitor last assessed the DPD's compliance with paragraph U57 during the quarter ending February 29, 2008. The Monitor again assessed the DPD's compliance with paragraph U57 during the current quarter. The results of our current assessment follow.

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<sup>55</sup> Based on the results of reviewing the first 20 restrictions, the Monitor determined that the DPD was not in compliance with paragraph U55. As a result, the Monitor elected not to review the entire population of 91 restrictions.

<sup>56</sup> The Privilege Restriction Log was effective April of 2006. The Detainee Telephone and/or Visitor Restriction Exceptions Form was effective February 2007.

<sup>57</sup> The time in excess of 24 hours ranged from 30 minutes to 17 hours 50 minutes.

<sup>58</sup> Revisions to policy will trigger an additional assessment by the Monitor. Implementation of policy is tested under paragraph U55.

**Paragraph U57 – Requirement to Obtain a Court Order Prior to Taking a Material Witness into custody**

Paragraph U57 requires the DPD to obtain a court order prior to taking a material witness into DPD custody. Each material witness must also be documented on an auditable form with a copy of the court order attached thereto.

***Background***

The Monitor last assessed the DPD's compliance with paragraph U57 during the quarter ending February 29, 2008, at which time the Monitor found the DPD in compliance. The Monitor reviewed supporting documentation for two material witnesses identified by the DPD for the period June 1, 2007 through December 31, 2007. For both material witnesses, the DPD obtained the required court order prior to detaining the witness and completed the requisite auditable form.

***Current Assessment of Compliance***

In order to assess the DPD's compliance with paragraph U57 during the current quarter, the Monitor requested a listing of all material witnesses for the period January 1, 2008 through May 31, 2008. The DPD identified three material witnesses for the period under review. For all three material witnesses, the DPD provided evidence that court orders were obtained prior to taking the material witnesses into DPD custody. Also, for all three material witnesses, all required information responsive to paragraph U57 was documented on auditable forms and attached to the court orders.<sup>59</sup>

During the current quarter, the Monitor also received the DPD AT's *Witness Identification and Questioning Audit Report*, dated August 31, 2008.<sup>60</sup> The audit, among other things, assessed the DPD's compliance with paragraph U57. The AT reviewed files at the OCR for the period November 1, 2007 through April 30, 2008. The AT also contacted the Wayne County Prosecutor's Office and requested a listing of all material witnesses entered by court order for this time period. According to the DPD, a prosecutor sent an email to all prosecutors requesting

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<sup>59</sup> As done in prior reporting periods, the Monitor requested access to review Homicide Detective Daily Activity Logs for the period January 1, 2008 through May 31, 2008.

<sup>60</sup> The *Witness Identification and Questioning Audit* is separately evaluated under subparagraph U95c. Refer to the *Current Assessment of Compliance* for subparagraph U95c, below.

that information; the AT included the responses in its audit report.<sup>61</sup> In total the AT identified a population of 14 material witnesses.<sup>62</sup> The following summarizes the AT's findings:

- For one material witness, the AT was unable to determine whether the court order was obtained prior to detaining the material witness.
- For seven material witnesses, the detention of the material witness was not documented on the requisite auditable form thereby not allowing for the matching of the court order with the auditable form.

In summary, in response to a document response, the Monitor received information supporting compliance for three material witnesses; however, AT's *Witness Identification and Questioning Audit Report* identified at least seven additional witnesses, for substantially the same period, for whom there were court orders but the DPD failed to comply with the paragraph U57 requirement that auditable forms be completed. The Monitor requested and is awaiting an explanation and reconciliation of this discrepancy.

Based on the foregoing, the Monitor finds that the DPD is no longer in compliance with paragraph U57.

## H. DOCUMENTATION OF CUSTODIAL DETENTION

This section comprises paragraph U58. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending May 31, 2008. The Monitor is scheduled to again assess the DPD's compliance with this paragraph during the quarter ending November 30, 2008.

## I. COMMAND NOTIFICATION

This section comprises paragraphs U59-60. The Monitor last assessed the DPD's compliance with paragraph U59 during the quarter ending May 31, 2008, and is scheduled to again assess compliance with the paragraph during the quarter ending November 30, 2008. The Monitor last assessed the DPD's compliance with paragraph U60 during the quarter ending February 29, 2008 and again assessed the DPD's compliance with the paragraph during the current quarter. The results of our current assessment follow.

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<sup>61</sup> During quarterly meetings with the prosecutor's office, the DPD has asked if this information could be made available in a database; the prosecutor's IT section indicated that this was not possible.

<sup>62</sup> During its assessment of material witnesses, the Monitor requested and received documentation for three material witnesses.

### **Paragraph U60 – Daily Reporting Requirements**

Paragraph U60 requires the Commander of each precinct or, if applicable, a specialized unit to review in writing all reported violations of the DPD's Prompt Judicial Review, Holds, Restrictions, and Material Witness Detention policies. Such review must be completed on the day the violation occurs.<sup>63</sup> The Commander must evaluate actions taken to correct the violation and determine whether any corrective or non-disciplinary action was indeed taken.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraph U60 during the quarter ending February 29, 2008, finding the DPD in compliance with the policy requirements but not yet in compliance with the implementation requirements of the paragraph. The DPD did not provide the requisite auditable forms for detainees with restrictions.

### ***Current Assessment of Compliance***

In order to assess the DPD's compliance with paragraph U60 during the current quarter, the Monitor requested auditable forms for reported violations of prompt judicial review. The Monitor also requested auditable forms for material witnesses.<sup>64</sup>

Although the DPD provided the requisite auditable forms for the three material witnesses identified, as described in the *Current Assessment of Compliance* for paragraph U57, above, the Monitor noted that seven additional material witnesses were identified in the DPD AT's *Witness Identification and Questioning Audit* for whom the required auditable forms were not completed. The Monitor also noted that for three of the 13 required Commander reviews for violation of prompt judicial review, there was no evidence that the Commander review occurred, as the Commander failed to complete the applicable section on the forms. For four of the 13 required Commander reviews, although the reviews occurred, they were completed in excess of 24 hours of receipt.<sup>65</sup>

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but is not yet in compliance with the implementation requirements of paragraph U60.

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<sup>63</sup> The Monitor has interpreted this paragraph to require Commanding Officer review within 24 hours of receipt of the violation.

<sup>64</sup> Refer to the *Current Assessments of Compliance* for paragraphs U49-51, U53, U55 and U57 for information regarding the populations and samples tested.

<sup>65</sup> Documentation of the reviews ranged from 24.5 hours after receipt to in excess of two months of receipt.

## **IV. EXTERNAL COMPLAINTS**

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This section of the UOF CJ (paragraphs U61-69) requires the DPD to revise its policies and procedures regarding the intake, tracking, investigation and review of external complaints. There are specific requirements relative to the roles and responsibilities of the OCI and the DPD, including the development and implementation of an informational campaign and the review and evaluation of each allegation in an external complaint investigation.<sup>66</sup>

Section IV's introductory section comprises paragraphs U61-63. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2008, and is scheduled to again assess compliance with these paragraphs during the quarter ending November 30, 2008.

### **A. INTAKE AND TRACKING**

This section comprises paragraphs U64-66. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2008, and is scheduled to again assess compliance with these paragraphs during the quarter ending November 30, 2008.

### **B. EXTERNAL COMPLAINT INVESTIGATIONS**

This section comprises paragraphs U67-69. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2008, and is scheduled to again assess compliance with these paragraphs during the quarter ending November 30, 2008.

## **V. GENERAL POLICIES**

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This section of the UOF CJ (paragraphs U70-77) requires the DPD to develop, revise, and/or enforce a variety of general policies. The DPD is required to ensure that all terms are clearly defined in policies that it develops, revises, and augments, and to make proposed policy revisions available to the community. This section also requires the DPD to advise its personnel that taking police action in violation of DPD policy will subject them to discipline, possible criminal prosecution, and/or civil liability. In addition, the DPD must enforce its policies requiring all DPD officers to report misconduct committed by another DPD officer. The DPD must also revise its policies regarding off-duty officers taking police action, revise its policies regarding

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<sup>66</sup> The OCI reports to the Board of Police Commissioners (BOPC) and is responsible for conducting external complaint investigations.

prisoners and develop a foot pursuit policy. Finally, the DPD and the City are required to develop a plan for adequate deployment of supervisors in the field.

The Monitor last assessed the DPD's compliance with paragraphs U70 and U71 during the quarter ending May 31, 2008, and is scheduled to again assess compliance with paragraphs U70 during the quarter ending November 30, 2008.

The Monitor last assessed the DPD's compliance with paragraphs U72-74 and U76-77 during the quarter ending February 29, 2008 and with U75 during the quarter ending May 31, 2008. The Monitor again assessed compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### **Paragraphs U72 and U74 – Police Action in Violation of DPD Policy; Officers to Report Misconduct**

Paragraph U72 requires the DPD to advise all officers, including supervisors, that taking police action in violation of DPD policy shall subject officers to discipline, possible criminal prosecution, and/or civil liability.

Paragraph U74 requires the DPD to enforce its policies requiring all DPD officers to report any misconduct committed by another officer, whether committed on- or off-duty.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraphs U72 and U74 during the quarter ending February 29, 2008, finding that the DPD was in compliance with the policy requirements but not yet in compliance with the training and implementation requirements of these paragraphs.

### ***Current Assessment of Compliance***

During the current quarter the Monitor requested the DPD produce any and all training conducted in relation to paragraphs U72 and U74. The DPD provided an Administrative Message, *Roll Call Training [08-24]-Compliance with DPD Policies and Responsibilities for Reporting Misconduct*, dated June 12, 2008, to be read at all roll calls for all platoons for the period June 14, 2008 through June 20, 2008. The content of the Administrative Message addressed the requirements of paragraphs U72 and U74. On August 4, 2008, the DPD commenced its weeklong training of officers that includes *Use of Force* training, utilizing the lesson plan previously reviewed and approved by the Monitor. This training is also responsive to the requirements of paragraphs U72 and U74. Training sessions are expected to continue for approximately 43 weeks, at which time the DPD will have trained substantially all officers.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but is not yet in compliance with the training and implementation requirements of paragraphs U72 and U74.

### **Paragraph U73 – Sergeants in the Field**

Paragraph 73 requires the DPD and the City to develop a plan to ensure regular field deployment of an adequate number of supervisors<sup>67</sup> of patrol units and specialized units that deploy in the field to implement the provisions of this agreement.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraph U73 during the quarter ending February 29, 2008, finding that the DPD was in compliance with the policy requirements, not yet in compliance with the training requirements and in partial compliance with the implementation requirements of the paragraph. The Monitor reviewed 65 daily attendance records for all district station and specialized unit platoons for December 28, 2007 and calculated an overall compliance rate of 87.7%.

The parties and the Monitor agreed that an acceptable field deployment of supervisors to officers in patrol units and specialized units is one to ten. Prior to this reporting period, the acceptable field deployment ratio utilized in assessing compliance with this requirement was one to eight.

### ***Current Assessment of Compliance***

In order to assess the DPD's compliance with paragraph U73 during the current quarter, the Monitor requested daily attendance records for all district station and specialized unit platoons for May 30, 2008. In response, the DPD provided 72 daily attendance records.

The Monitor reviewed all 72 daily attendance records, noting that for 61 of them, the DPD deployed in the field an adequate number of supervisors of patrol units and specialized units.<sup>68</sup> This equates to a compliance rate of 84.7%.<sup>69</sup>

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<sup>67</sup> Paragraph "pp" of the UOF CJ defines a supervisor as a sworn DPD employee at the rank of sergeant or above and non-sworn employees with oversight responsibility for DPD employees.

<sup>68</sup> For the eight instances of non-compliance the ratios ranged from 10.3 to 28 field officers for every field supervisor. The Southwestern and Northwestern districts exceeded the ratio for one platoon each and the Eastern District exceeded the ratio for all three platoons.

<sup>69</sup> For five attendance records, deployment exceeded the acceptable ratio of one field supervisor for every ten field officers. For six attendance records, either no supervisor was on duty or a supervisor was on duty for a portion of the officers' platoon.

The Monitor also requested any and all training conducted responsive to paragraph U73. On August 4, 2008, the DPD commenced its weeklong training of officers that includes *Supervisory and Leadership* training, utilizing the lesson plan previously reviewed and approved by the Monitor. This training is also responsive to the requirements of paragraph U73. Training sessions are expected to continue for approximately 43 weeks, at which time the DPD will have trained substantially all officers.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements and in partial compliance with the implementation requirements, but is not yet in compliance with the training requirements of paragraph U73.

### **Paragraph U75 – Off-Duty Police Action**

Paragraph U75 requires the DPD to revise existing policy regarding off-duty officer police actions. Specifically, off-duty officers are:

- a. required to notify on-duty DPD or local law enforcement officers before taking police action, absent exigent circumstances, so that they may respond with appropriate personnel and resources to handle the problem;
- b. prohibited from carrying or using firearms or taking police action in situations where the officer's performance may be impaired or the officer's ability to take objective action may be compromised; and
- c. required to submit to field sobriety, breathalyzer, and/or blood tests if it appears that the officer has consumed alcohol or is otherwise impaired.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraph U75 during the quarter ending May 31, 2008, finding the DPD in compliance with the policy requirements but not yet in compliance with the training and implementation requirements of the paragraph. The DPD provided a training matrix identifying the training module responsive to the requirements of paragraph U75. According to the matrix, the DPD's *Use of Force Lesson Plan* includes training that addresses the requirements of the paragraph. After the end of that quarter, the Monitor was informed that training was scheduled to commence in August 2008.

### ***Current Assessment of Compliance***

In our Report for the Quarter May 31, 2008, the Monitor noted that the parties were in discussions regarding the intent of paragraph U75. The parties issued a joint communication, dated April 24, 2008, discussing the interpretation of paragraph U75. The letter concluded that the DPD had effectively developed policy to comply with the paragraph and that the Monitor should assess the DPD's implementation of the paragraph by reviewing an annual letter issued

by the Chief of Police and reviewing investigative files. Nevertheless, the City and the DPD maintained that they have complied with the requirements of the paragraph by revising their policy, and although they intend to train and implement it, they are not required to do so under this paragraph. In any event, the Monitor intends to assess training and implementation of this paragraph.

During the current quarter, the Monitor requested documentation in connection with the DPD's training on the requirements of paragraph U75 and the implementation of relevant policy. The DPD indicated that it had commenced *Use of Force* training for officers and supervisors, which includes the requirements of paragraph U75 among others, on August 4, 2008. The DPD anticipates that substantially all officers will have completed this training within 43 weeks.

The DPD also provided an Administrative Message dated July 2, 2008 entitled *Roll Call Training: [08-27] – Off Duty Police Action* to be read at all roll calls for the period July 5 through July 11, 2008. The Administrative Message addressed the following:

- Law Enforcement Jurisdictional Authority
- Off Duty Police Action

The Administrative Message was clear and concise and sufficiently addressed the requirements of paragraph U75.<sup>70</sup>

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but is not yet in compliance with the training and implementation requirements of paragraph U75.

### **Paragraph U76 – Handling of Prisoners**

Paragraph U76 requires the DPD to revise policies regarding prisoners to:

- a. require officers to summon emergency medical services to transport prisoners when the restraints employed indicate the need for medical monitoring;
- b. require officers to utilize appropriate precautions when interacting with a prisoner who demonstrates he or she is recalcitrant or resistant, including summoning additional officers, summoning a supervisor and using appropriate restraints; and
- c. prohibit arresting and transporting officers from accompanying prisoners into the holding cell area.

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<sup>70</sup> The DPD confirmed that the roll call training is not intended to fulfill or partially fulfill Consent Judgment requirements; however, "it is a supplement to training and reinforces the DPD's policies and procedures to its members for the purpose of ensuring compliance with the Consent Judgment requirements, as well as any other training, legal or other high risk issues that exist."

## ***Background***

The Monitor last assessed the DPD's compliance with paragraph U76 during the quarter ending February 28, 2008, finding the DPD in compliance with the policy requirements but not yet in compliance with the training and implementation requirements of the paragraph. The Monitor requested documentation in connection with the DPD's training on the requirements of paragraph U76 and the implementation of relevant policy. The DPD provided a training matrix indicating that the DPD's *Use of Force Lesson Plan* includes training that addresses the requirements of paragraph U76.<sup>71</sup> In its Eighteenth Quarter Status Report, the DPD indicated that this training would begin in 2008; however, the Monitor was not informed that training had commenced.

## ***Current Assessment of Compliance***

During the current quarter, the Monitor again requested documentation in connection with the DPD's training on the requirements of paragraph U76 and the implementation of relevant policy. According to the DPD, the *Use of Force Lesson Plan* training commenced on August 4, 2008 and will continue for approximately 43 weeks, after which time substantially all officers will be trained.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but is not yet in compliance with the training and implementation requirements of paragraph U76.

## **Paragraph U77 – Foot Pursuit Policy**

Paragraph U77 requires the DPD to develop a foot pursuit policy that, at a minimum:

- a. Requires officers to consider particular factors in determining whether a foot pursuit is appropriate, including the offense committed by the subject, whether the subject is armed, the location, whether more than one officer is available to engage in the pursuit, the proximity of reinforcements, and the ability to apprehend the subject at a later date;
- b. Emphasizes alternatives to foot pursuits, including area containment, surveillance, and obtaining reinforcements;
- c. Emphasizes the danger of pursuing and engaging a subject with a firearm in hand; and
- d. Requires officers to document all foot pursuits that involve a UOF on a separate, auditable form, such as the UOF report.

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<sup>71</sup> As described above, the Monitor approved a revised *Use of Force Lesson Plan* on November 9, 2007.

## *Background*

The Monitor last assessed the DPD's compliance with paragraph U77 during the quarter ending March 31, 2008, finding the DPD in compliance with the policy requirements but not yet in compliance with the training and implementation requirements of the paragraph. The Monitor requested a listing of any and all training conducted in relation to paragraph U77. In response, the DPD provided an Administrative Message dated November 2, 2007 entitled *Roll Call Training: [07-06] – Foot Pursuits* to be read at all roll calls for the period November 3, 2007 through November 9, 2007. The Administrative Message was clear and concise and sufficiently addressed the requirements of paragraph U77. The DPD also provided a training matrix indicating that the DPD's *Use of Force Lesson Plan* includes training that addresses the requirements of paragraph U77. In its Eighteenth Quarter Status Report, the City indicated that this training would begin in 2008; however, the Monitor was not informed that training had commenced. Lastly, the Monitor reviewed 25 Use of Force and/or Detainee Injury Reports for the period December 1, 2007 through December 31, 2007 and noted that eight referenced a foot pursuit. For four of these eight foot pursuits, the DPD provided a Foot Pursuit Evaluation form. For four pursuits, the involved officers initiated and acted alone in the foot pursuit. Although not a compliance issue, initiating a foot pursuit alone is a violation of DPD policy; however, the officers' actions were adequately addressed by their supervisors in only one incident.

## *Current Assessment of Compliance*

During the current quarter, the Monitor requested a listing of any and all training conducted in relation to paragraph U77. In response, the DPD provided an Administrative Message dated July 10, 2008 entitled *Roll Call Training: [08-28] – Foot Pursuits* to be read at all roll calls for the period July 12 through July 18, 2008. The Administrative Message addressed the following:

- when it was permissible to engage in a foot pursuit;
- alternatives to foot pursuits;
- carrying a weapon while in a foot pursuit; and
- required reporting.

The Administrative Message was clear and concise and sufficiently addressed the requirements of paragraph U77.<sup>72</sup> According to the DPD, the *Use of Force Lesson Plan* training commenced on August 4, 2008 and will continue for approximately 43 weeks after which time substantially all officers will be trained.

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<sup>72</sup> As noted above, the DPD has confirmed that the roll call training is not intended to fulfill or partially fulfill Consent Judgment requirements.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but is not yet in compliance with the training and implementation requirements of paragraph U77.

## **VI. MANAGEMENT AND SUPERVISION**

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This section of the UOF CJ (paragraphs U78-105) requires the DPD to devise a comprehensive risk management plan that will consist of a Risk Management Database, a performance evaluation system and an auditing protocol. The plan must also provide a mechanism for the regular and periodic review of all DPD policies, and for the regular occurrence of meetings of DPD management to share information and evaluate patterns of conduct that could potentially increase the DPD's liability. This section of the UOF CJ also includes requirements in connection with the DPD's use of video cameras, as well as the DPD's policy and practices regarding discipline.

The Monitor last assessed the DPD's compliance with paragraph U78, the introductory paragraph to section VI, during the quarter ending February 29, 2008. The Monitor again assessed compliance with this paragraph during the current quarter. The results of our current assessment follow.

### **Paragraph U78 – Development of Risk Management Plan**

Paragraph U78 requires the DPD to devise a comprehensive risk management plan, including:

- a. Risk Management Database (discussed in paragraphs 79-90);
- b. a performance evaluation system (discussed in paragraph 91);
- c. an auditing protocol (discussed in paragraphs 92-99);
- d. regular and periodic review of all DPD policies; and
- e. regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraph U78 during the quarter ending February 29, 2008. The Monitor found that the DPD was not yet in compliance with subparagraphs U78a and U78c, but was in compliance with subparagraphs U78d and e; the Monitor had not yet re-evaluated the DPD's compliance with subparagraph U78b pending it

assessment of compliance with the requirements of paragraph U91. Regarding subparagraphs a and c, the MAS database was not yet fully developed or operational and the DPD was not yet in compliance with the majority of the paragraphs relating to the auditing protocol. Regarding subparagraph d, while the DPD's Policy Focus Committee had not held a meeting to review DPD policies pursuant to the subparagraph since August 15, 2007, the prior meetings of DPD were sufficient to fulfill the requirements of this paragraph. Regarding subparagraph e, the DPD had provided the Monitor with "recaps" of Senior Management Team regular meetings to address issues of liability as required by the subparagraph. While the DPD had stated that there is no written procedure requiring that meetings pursuant to subparagraph U78e take place or outlining the general purpose of the meeting, the Monitor recommended that the DPD create such written procedures.

### *Current Assessment of Compliance*

Regarding subparagraph U78a, the MAS database has not yet been tested to verify that it is fully developed or operational.<sup>73</sup>

Regarding subparagraph U78b, the Monitor has not yet re-evaluated the requirements of paragraph U91. The Monitor notes that the City is required by Directive 401.1, *Performance Evaluation Ratings*, to conduct performance evaluations of all personnel. All members of the rank of police officer through lieutenant are to be evaluated twice a year, and the rank of inspector and commander are to be evaluated yearly. Civilian personnel are to be evaluated yearly as well. The Monitor will evaluate after the next cycle of performance evaluations are complete.

Regarding subparagraph U78c, the DPD is not yet in compliance with the majority of the paragraphs relating to the auditing protocol.

Regarding subparagraph U78d, the DPD's Policy Focus Committee did not meet during this quarter. The Committee last met on April 7, 2008. In keeping with the requirements of this subparagraph, the meeting focused on the plan to update the DPD manual, and identified 123 directives to be reviewed for updates. A plan was outlined to accomplish the goals. The Monitor is awaiting confirmation of the next scheduled meeting.

Regarding subparagraph U78e, the DPD provided the Monitor with the minutes and agendas of the latest Senior Management Team meetings held on June 9, 16, 30; July 28; and August 11, 18 and 25, 2008. The DPD is continuing to meet to address issues of liability as required by subparagraph U78e.

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<sup>73</sup> Refer to the *Current Assessment of Compliance* for subparagraph U88g for further information regarding the MAS database.

Based on the foregoing, the Monitor finds that the DPD is in compliance with subparagraphs U78d and e, but not yet in compliance with subparagraph U78c. The Monitor has not yet evaluated the DPD's compliance with subparagraph U78a and withholds a determination of compliance with subparagraph U78b.

## A. RISK MANAGEMENT DATABASE

This section comprises paragraphs U79-U90. It provides specific requirements relative to the Risk Management Database, including the development and implementation of a new computerized relational database for maintaining, integrating and retrieving data necessary for the supervision and management of the DPD. While the Risk Management Database is being developed, paragraph U89 requires an interim system to be developed and implemented.

The Monitor has previously concluded that the DPD is in compliance with paragraphs U82-85 and subparagraphs U88a, b d, and e, as the DOJ provided the DPD with verbal conditional approval of the Data Input Plan and approved the Review Protocol and the Report Protocol. The DPD will remain in compliance with these provisions unless these documents are revised. In addition, the Monitor has discontinued monitoring compliance with subparagraph U88c, which requires the issuance of a Request for Proposal (RFP), as a result of the DOJ's agreement to allow the DPD to convert the Interim Management Awareness System (IMAS) into the MAS without the use of an outside vendor, thereby obviating the need for a RFP.

The Monitor last assessed the DPD's compliance with paragraphs U79-81 and U86-87 during the quarter ending May 31, 2008, and is scheduled to again assess compliance during the quarter ending November 30, 2008.

The Monitor last assessed the DPD's compliance with paragraph subparagraphs U88f and g and paragraph U89 during the quarter ending February 29, 2008. The Monitor again assessed compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### *Subparagraph U88f – Beta Version of Risk Management Database*

Subparagraph U88f requires the DPD to have ready for testing a beta version of the risk management database by June 30, 2005. The DOJ and the Monitor shall have the opportunity to participate in testing the beta version using new and historical data and test data created specifically for purposes of checking the risk management database.

### *Background*

The Monitor last assessed the DPD's compliance with subparagraph U88f during the quarter ending February 29, 2008. The Monitor withheld a determination of compliance at that time, as the DOJ and the Monitor viewed a demonstration of the current version of the MAS on February

27, 2008 but had not participated in testing of the beta version. The testing was scheduled to take place during the current quarter.

### *Current Assessment of Compliance*

During this quarter, the deadlines that were previously affirmed by the Court in a Stipulated Order dated November 9, 2007 were extended by Order of the Court on July 22, 2008 to August 11, 2008. The DOJ and the Monitor viewed demonstrations of the MAS on February 27 and May 29, 2008. A DOJ expert engaged by DOJ attended the second demonstration. As noted by the DOJ in its July 17, 2008 letter to the City, the expert determined that the MAS was not a true “beta” version because it was not suitable for rollout to a subset of end users to operate live for purposes of evaluation.

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with subparagraph U88f. Given that the DPD has now implemented the MAS system, which will be tested in connection with subparagraph U88g, the beta version of MAS is now obsolete and testing is moot. Accordingly, the Monitor will not be assessing compliance with this subparagraph going forward.

### *Subparagraph U88g –Risk Management Database Operational*

Subparagraph U88g requires the risk management database to be operational and fully implemented by December 31, 2005.<sup>74</sup>

### *Background*

The Monitor last assessed the DPD’s compliance with subparagraph U88g during the quarter ending February 29, 2008. During that quarter, the deadlines that were previously agreed upon by the parties and set forth in a letter to the Court on February 23, 2007, were affirmed by the Court in a Stipulated Order dated November 9, 2007. The Monitor stated that it would evaluate this paragraph after the court-ordered deadline for the MAS to be operational and fully implemented. The DPD indicated that it was currently on schedule to meet this court-ordered deadline. The Monitor had therefore not yet evaluated the DPD’s compliance with subparagraph U88g.

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<sup>74</sup> As described above, the Court’s July 22, 2008 Order requires the City to comply with subparagraph U88g, relating to the implementation of the MAS, by August 11, 2008. This Court-ordered deadline supersedes the deadline originally provided in the UOF CJ.

### *Current Assessment of Compliance*

On November 9, 2007, the Court entered an Order in which it directed the City to have the MAS operational and fully implemented on or before July 24, 2008. In an emergency motion filed on July 17, 2008, the City asked the Court to amend its Order and set a new deadline of August 11, 2008. The City based its request on the recent rupture of a water pipe in, and a severe lightening strike upon, the Coleman A. Young Municipal Building in Detroit which adversely affected the work of its team members who are charged with implementation of the MAS project. The Court granted the City's motion subject to the following conditions: (1) The City must dedicate an appropriate number of personnel whose exclusive responsibility is to finalize the implementation of the MAS on or before August 11, 2008; (2) The City shall provide the Court, the Government, and the Monitor with a detailed plan of its implementation of the MAS within a period of four days from the date of the entry of this order; (3) Within a period of not greater than seven days from the entry of this order, the City must provide the Government and the Monitor with a sampling of the reports and data from its user experiences with the MAS that have been captured by the system since it was initially implemented at selected units within the Detroit Police Department on July 8, 2008; and (4) Within a period of two days of this order, the City shall provide the Government and the Monitor with a listing of all MAS training events that are scheduled to take place between July 24, 2008 and August 11, 2008 so that they will be able to attend and observe these critical implementations of the consent judgment.

The City complied with all of the above conditions of the Court. In a letter to the Court on July 28, 2008, the City represented that on July 24, 2008, MAS was implemented in the OCR. Implementation was planned in the Northwestern and Western Districts during the week of July 28, 2008, and in the Northeastern, Eastern and Southwestern Districts and the Criminal Investigations Bureau during the week of August 4, 2008. The City intended to complete implementation in all remaining commands (mainly administrative) on August 11, 2008. On August 12, 2008, in an email to DOJ, DPD reported that the roll-out of the MAS department-wide was "proceeding smoothly."

The Monitor commends the DPD for having arrived at the stage of implementation of the MAS. The Monitor will assess the DPD's implementation of the MAS in the upcoming quarters. Based on the foregoing, the Monitor has not yet completed its evaluation of the DPD's compliance with subparagraph U88g.

### **Paragraph U89 – Interim Risk Management System**

Paragraph U89 states that prior to the implementation of the new Risk Management Database, the DPD must develop an interim system to identify patterns of conduct by DPD officers or groups of officers.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph U89 during the quarter ending February 29, 2008, finding that although the DPD was not yet in compliance with the paragraph, it had made significant progress towards complying with its requirements. According to the DPD, a total of 621 of 776 (80%) DPD supervisory members had been trained on IMAS. In its Eighteenth Quarter Status Report, the DPD also reported that it continues to utilize IMAS in its current state; however, since the MAS is nearly fully developed, any additional IMAS training has been suspended.

### *Current Assessment of Compliance*

For the reasons set forth in the *Current Assessments of Compliance* for subparagraphs U88f and g, the IMAS is now obsolete. As a result, the Monitor did not conduct further testing of this paragraph during the current quarter, and the paragraph will no longer be Monitored.

## **B. PERFORMANCE EVALUATION SYSTEM**

This section comprises one paragraph, paragraph U91.

### *Paragraph U91 – Performance Evaluation System*

Paragraph U91 requires the DPD to ensure that performance evaluations for all DPD employees occur at least annually and include consideration of the following: civil rights integrity; adherence to law, including performing duties in a manner consistent with the requirements of the Fourth and Fifth Amendments to the Constitution and the Civil Rights laws of the United States; and supervisor's performance in identifying and addressing at-risk behavior in subordinates, including their supervision and review of use of force, arrests, care of prisoners, prisoner processing, and performance bearing upon honesty and integrity. The Monitor last assessed the DPD's compliance with paragraph U91 during the quarter ending August 31, 2007. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph U91 during the quarter ending February 29, 2008. The Monitor found that the DPD was in compliance with the policy requirements of this paragraph, but the Monitor had not yet re-evaluated the implementation requirements of the paragraph. The Monitor and the DPD agreed to engage in discussions to discuss the intent and the assessment of the implementation requirements of this paragraph going forward.

### *Current Assessment of Compliance*

Performance evaluation ratings are supposed to be completed twice per year on all DPD members from the rank of police officer to lieutenant. The current ratings period began on May 1, 2008 and ends on October 31, 2008. According to Directive 401.1, *Performance Evaluation Ratings*, ratings are to be completed during the month of November and finalized by December 20, 2008. After discussions with the DPD, the Monitor has agreed to assess the implementation requirements of this paragraph after the assessment period.

Based on the foregoing, the DPD remains in compliance with the policy requirements of paragraph U91; the Monitor has not yet re-evaluated the training or implementation requirements of the paragraph.

### C. OVERSIGHT

This subsection of the UOF CJ (paragraphs U92-99) requires the DPD to establish an internal audit process, to perform annual audits of all commands, including specialized units on eight areas of policing,<sup>75</sup> to perform periodic random reviews of scout car camera videotapes and video recording equipment, and to meet regularly with local prosecutors to identify any issues in officer, shift or unit performance. Each of these oversight provisions requires the DPD to examine a number of issues, but a common theme among them all is the requirement to assess and report on the appropriateness of the police activity being examined.

The Monitor last assessed the DPD's compliance with subparagraph U94b during the quarter ending May 31, 2007; with subparagraph U95a and paragraph U96 during the quarter ending August 31, 2007; with paragraphs U92, U93, U94 (subparagraphs a and c), U95 (subparagraph b), and U97 during the quarter ending November 30, 2007; with subparagraph U95c and paragraph U98 during the quarter ending February 29, 2008; and with paragraph U99 during the quarter ending May 31, 2008.

The Monitor again assessed the DPD's compliance with subparagraphs U94b and U95a and paragraphs U92, U96, U97 and U98 during the current quarter. The results of our current assessments follow.

#### *Paragraph U92 – Audit Protocol*

Paragraph U92 requires the DPD to develop an Audit Protocol to be used by all personnel when conducting audits. The Audit Protocol must establish a regular and fixed schedule for all audits

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<sup>75</sup> Including investigations into uses of force, prisoner injuries, and allegations of misconduct; arrests; stops and frisks; witness identification and questioning; custodial detention practices; and complaint investigations.

required by both the UOF CJ and COC CJ to ensure the audits occur with sufficient frequency and cover all DPD units and commands.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraph U92 during the quarter ending November 30, 2007, finding the DPD in compliance with the requirements of the paragraph. The Monitor evaluated the 2007/2008 Audit Protocol submitted by the DPD and determined that audits were scheduled with sufficient frequency and the protocol included appropriate standards for conducting and reviewing such audits. In addition, the DPD provided adequate training on the Audit Protocol to its audit personnel, and maintained signed annual confidentiality declarations from all audit personnel.

### ***Current Assessment of Compliance***

On August 31, 2008, the DPD submitted its 2008/09 Audit Protocol. The Monitor conducted a review of the content of the protocol and determined that the UOF and COC CJ audits were scheduled with sufficient frequency therein. Similar to the previous Audit Protocols submitted, the 2008/09 AP contains acceptable standards for conducting and reviewing such audits in accordance with *Generally Accepted Government Auditing Standards*.

In response to a related document request,<sup>76</sup> the DPD indicated that the dissemination of the protocol and related training processes are currently underway, and the DPD will submit the requested documentation prior to the end of the quarter ending November 30, 2008.

Based on the foregoing, the Monitor is withholding a determination of the DPD's compliance with paragraph U92.

### ***Paragraph U94 - Audits of UOF, Prisoner Injuries and Misconduct Investigations***

Paragraph U94 requires the DPD to conduct regularly scheduled annual audits covering all DPD units and commands that investigate uses of force, PIs, and allegations of misconduct (AOM). These audits were due by August 31, 2004, and annually thereafter.

In order to address the requirements of paragraph U94, the DPD's AT has historically conducted three separate audits of a) UOF investigations, b) PI investigations, and c) AOM investigations. The Monitor has similarly split its evaluation of this paragraph into three separate evaluations (subparagraphs U94a, U94b and U94c).

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<sup>76</sup> On September 5, 2008, the Monitor requested documentation supporting the dissemination and implementation of the 2008/09 Audit Protocol.

## ***Background***

The Monitor last assessed the DPD's compliance with subparagraph U94a during the quarter ending November 30, 2007, finding that the DPD was not yet in compliance. The AT failed to identify at least five force investigations that were critical to the review, and did not test all of the areas required by the UOF CJ in its first *UOF Investigations Audit*, which was submitted on August 31, 2007.

The Monitor last assessed the DPD's compliance with subparagraph U94b during the quarter ending May 31, 2007, finding that the DPD was not yet in compliance. The AT incorrectly assessed the DPD's compliance with a number of UOF CJ requirements in the *PI Investigations Audit* submitted by the DPD's AT on January 31, 2007.

The Monitor last assessed the DPD's compliance with subparagraph U94c during the quarter ending November 30, 2007, finding the DPD in compliance. The Monitor concluded that the *Combined AOM Audit* submitted by the DPD on July 31, 2007 was a thorough and quality audit.

## ***Current Assessment of Compliance***

### ***Subparagraph U94a – Use of Force Investigations Audit***

The AT submitted the *Use of Force Investigations Audit* on its due date of August 31, 2008. The Monitor has requested the audit working papers, and will assess the audit and report its findings and the DPD's compliance with subparagraph U94a upon completion of its review.

### ***Subparagraph U94b – Prisoner Injuries Investigations Audits***

In order to assess the DPD's compliance with subparagraph U94b, the Monitor reviewed the *PI Investigations Audit Report* submitted by the AT on February 29, 2008, and the related audit work plan. The Monitor also conducted an assessment of 100% of the population and related working papers.

The Monitor's findings, which have been discussed the DPD AT, are highlighted below.

The *PI Investigations Audit* was submitted on a timely basis and included a review of all closed PI investigations from April 1 through October 31, 2007,<sup>77</sup> covering all DPD units and commands that investigate PIs, i.e. the commands, FI, and the Joint Incident Shooting Team (JIST).

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<sup>77</sup> The AT originally selected a time period from August 1-October 31, 2007 but extended its time period to begin April 1, 2007 due to the low number of investigations.

To identify the population, the AT requested all investigations that had closed during the audit time period, from each command and FI. The commands forwarded six investigations and FI identified one investigation. The AT subsequently performed completeness testing and identified two additional command and four additional FI/JIST investigations, resulting in a total audit population of 13 PI investigations.<sup>78</sup> Two of the FI investigations involved fatalities, and seven of the 13 investigations describe PI incidents that also involved a use of force by DPD officers (herein referred to as “connected UOF”).

The following table illustrates the above population information:

	Command	FI	JIST	Total
PI investigations originally forwarded to the AT and included in the population	6 <sup>79</sup>	1	0	7
Additional PI investigations appropriately identified by the AT	2	1	3	6
Total number of investigations included in the audit population	8	2	3	13

While the audit correctly identified systemic problems with regard to identifying a complete population, the AT improperly included three investigations that were not PIs<sup>80</sup> (herein referred to as “non-PI incidents”). These three investigations involved injuries that arrestees sustained prior to police contact for which the DPD supervisor had incorrectly completed an auditable form and conducted an investigation. The AT should have excluded these three non-PI investigations from this audit, which would have reduced the total population from 13 to ten. As a result, each of the AT’s mathematical computations of compliance were incorrect; however, the AT’s overall findings of non-compliance remained valid.

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<sup>78</sup> FI had not originally identified the four additional investigations because the subject was injured as a result of a pursuit, and FI did not consider these to be PI incidents. However, the AT used a more expansive definition that included such incidents. After several discussions, the OCR staff agreed that the audit correctly included these incidents as PIs in the audit population.

<sup>79</sup> Included three investigations of injuries sustained by arrestees prior to police contact.

<sup>80</sup> UOF CJ section I, paragraph 1. gg, states that “ The term Prisoner Injury means an injury, or complaint of injury that occurs in the course of taking or after an individual is taken into DPD custody that is not attributable to a use of force by a DPD employee.”

The AT covered the scope requirements of paragraph U94 and included the related substantive paragraphs U27-40; however, the Monitor identified the following concerns:

- For one JIST investigation, the AT incorrectly reported that the investigator's conclusion was not appropriate because the investigator had not evaluated the connected UOF. Based on the Monitor's review, the investigator did, in fact, consider and evaluate the connected UOF. This resulted in an incorrect rate of compliance for subparagraph U32f (requirement that the investigator evaluate the UOF).
- For all 13 investigations reviewed, the AT tested and reported compliance with paragraph U34 (the requirement to complete an auditable form for all PIs) based solely on the presence of the auditable forms, but did not evaluate the accuracy or correctness of such forms. In its review of the auditable forms, the Monitor found that six of the seven forms that had a connected UOF were not properly completed to indicate that a force had occurred (i.e. the force checkbox was not marked on the form). Additionally, for one JIST investigation, the AT incorrectly concluded that the incident did not require an auditable form because the individual was "not in custody" when the injury occurred. However, the auditable form was required since the incident occurred in the course of taking the person into custody (via a vehicle pursuit).<sup>81</sup> The completion of auditable forms is important to ensure identification and tracking of PI and UOF incidents, and serves as a method for ensuring that these incidents are investigated and receive appropriate supervisory review and corrective action.
- In three FI investigations, the AT reported that the investigators' conclusions were not appropriate because the investigators did not evaluate the connected UOF. Although the investigators failed to evaluate the connected UOF, the Monitor noted that the investigators' conclusions in connection with other events (e.g., the injury, the pursuit, and/or policy violations) were appropriate. Since investigations will often contain multiple "conclusions," the AT should separately assess and report on each conclusion.
- In its assessment of compliance with subparagraph U32f (the requirement for investigators to evaluate all force, including tactics, and AOM), the AT incorrectly included an investigation of an incident in which no force was used. Subparagraph U32f is only applicable to incidents that have a connected use of force.
- Paragraph U35 specifies, in part, that the DPD policies regarding PI notifications require officers to notify a supervisor following the PI incident, and specifies certain actions by the supervisor upon such notice. In contrast to previous audits of PI investigations, the AT revised this audit's methodology to exclude these requirements from its evaluation of PI incidents based on the premise that subparagraph U35b is only applicable to UOF incidents.

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<sup>81</sup> This incident resulted in the death of a person being pursued by DPD members. As such, the AT applied the standards contained in paragraphs applicable to in-custody deaths and critical firearm discharges (paragraphs U37-40) to this incident. While these standards are not technically required, the Monitor understands that it is the DPD's practice to review all incidents involving a death consistent with the requirements in paragraphs U37-40.

The Monitor does not agree with this change in approach and plans to discuss it with the parties.

- Paragraph U36 specifies, in part, that the DPD policies be revised regarding UOF and PI investigations and its subparagraphs further specify the timelines for completing such investigations. Similar to the AT's interpretation of subparagraph U35b above, and again in contrast to previous audits, the AT excluded paragraph U36 based on the premise that this paragraph is only applicable to UOF incidents.
- The AT provided little analysis of the overall audit findings and did not emphasize areas of importance in the executive summary. For example, the AT did not identify that seven of the 13 investigations in the audit population had a connected UOF incident in addition to the PI. Also, the executive summary did not highlight that the investigators failed to evaluate the connected UOF in four of the five investigations conducted by FI/JIST, and that three of these incidents involved vehicle pursuits. This information is necessary in the executive summary so that DPD management can easily recognize, evaluate and address the problems from an operational perspective. In this case, the audit findings indicate that FI investigators are not investigating all elements of each incident, (e.g., injuries, force, misconduct), which could result in a failure to identify improper uses of force.
- The Monitor also identified several administrative and/or technically incorrect issues related to the AT's internal communication of audit findings and working paper documentation. These issues were communicated to the AT.

In summary, the Monitor determined that the audit contained both qualitative performance-related deficiencies and quantitative errors that significantly affected the overall quality of the audit. Of the 13 investigations reviewed by the AT, ten contained one or more of the above deficiencies identified by the Monitor.

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with subparagraph U94b.

#### ***Subparagraph U94c – Allegations of Misconduct Investigations Audits***

The AT submitted the *AOM Investigations Audit* on its due date of August 31, 2008. The Monitor has requested the audit working papers, and will assess the audit and report its findings and the DPD's compliance with subparagraph U94c upon completion of its review.

#### **Paragraph U95 – Audits of Probable Cause, Stops and Frisks and Witness Identification and Questioning Documentation**

Paragraph U95 requires the DPD to conduct regularly scheduled annual audits of a) arrest practices, b) stops and frisks, and c) witness identification and questioning documentation. Such audits must cover all precincts and specialized units and must include an evaluation of the scope, duration, content, and voluntariness, if appropriate, of the police interaction. The arrest practices

audit must also include a comparison of the number of arrests to requests for warrants and number of arrests for which warrants were sought to judicial findings of probable cause. These audits were due by August 31, 2004, and annually thereafter.

### ***Background***

The Monitor last assessed the DPD's compliance with subparagraph U95a during the quarter ending August 31, 2007, finding that the DPD was not yet in compliance mainly because the *Arrest Practices Audit* submitted on April 14, 2007 did not include testing of all of the UOF CJ requirements and incorrectly assessed certain arrests.

The Monitor last assessed the DPD's compliance with subparagraph U95b during the quarter ending November 30, 2007, finding that the DPD was not yet in compliance because the *Stop and Frisk Audit* submitted on August 31, 2007 either did not identify or incorrectly identified a significant number of stops and frisks.

The Monitor last assessed the DPD's compliance with subparagraph U95c during the quarter ending February 29, 2008, finding that the DPD was not yet in compliance primarily because the *Witness Identification and Questioning Audit* submitted on August 31, 2007 did not test certain Consent Judgment requirements and because there were inconsistencies between the audit's actual and reported findings.

### ***Current Assessments of Compliance***

#### ***Subparagraph U95a – Arrest Practices Audit***

In order to assess the DPD's compliance with subparagraph U95a, the Monitor reviewed the *Arrests Audit Report* submitted by the DPD's AT on May 31, 2008 and the related audit work plan. The Monitor also conducted an assessment of a statistically valid random sample<sup>82</sup> of the audit population of arrests and related audit matrices and other working papers.

The Monitor's findings, which have been discussed with the AT, are highlighted below.

The AT submitted the *Arrests Audit* in a timely manner within the same quarter that the audit was submitted in 2007. The AT identified 901 arrestees from October 7-13, 2007 and subsequently identified a subpopulation of 540 "new" arrests, being arrests that were not made on the basis of an existing warrant. The AT then appropriately stratified the population of 540 arrests over the districts and units and randomly selected a sample of 88 arrests, applying valid sampling techniques and testing to the appropriate error rate depending on the level of

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<sup>82</sup> The Monitor's sample of 44 arrests was randomly selected from the AT's sample of 88 arrests, using a confidence interval of 95%, an error interval of +/-4%, and an expected proportion of success rate of 94%. The Monitor reviewed all 44 arrests in its sample.

compliance in each audit objective. While the AT performed these procedures appropriately, the entire population of arrests reviewed was more than seven months old at the time of submission of the audit. Consequently, the audit findings were stale. The AT should have reviewed more recent data in order to provide more up-to-date findings.<sup>83</sup>

The audit properly included all of the substantive paragraphs related to this topic. The AT correctly found that three of the arrests in its sample of 88 did not have sufficient probable cause and reported 97% compliance with the pertinent objective and requirement of paragraph U43.<sup>84</sup> The AT determined that the DPD was non-compliant with all paragraphs tested (paragraphs U43, U46, U48, U59 and U114). Based on the Monitor's testing of the audit fieldwork, the Monitor concurs with the above reported conclusions for the sample selected.

While it is clear to the Monitor that the audit fieldwork in regards to the substantive paragraphs was accurate and performed with few deficiencies, the audit's required comparisons of the number of arrests to the number of requests for warrants, and the number of warrants requested to the number of judicial findings of probable cause were flawed. Paragraph U95 specifically requires the audit to include such comparisons and while the AT included both comparisons in its audit report, the AT incorrectly calculated the first comparison using all 88 arrests in the audit sample, rather than using only the 52 arrests that were applicable.<sup>85</sup> In regards to both of the above comparisons, the AT also reported the figures in each comparison as ratios, rather than expressing this statistic as a percentage in a manner that would portray the extent to which warrants were requested and granted for the arrests reviewed, as follows.

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<sup>83</sup> The AT found the DPD in non-compliance with paragraph U43 (implementation of the arrest policies), based on the data assessed in this audit; in its more recent assessment of paragraph U43, during the quarter ending May 31, 2008, the Monitor determined that the DPD is in compliance with paragraph U43; accordingly, the staleness of the audit resulted in stale findings.

<sup>84</sup> The audit report contained a typographical error reporting 94% rather than 97% compliance in the Executive Summary section of the audit report.

<sup>85</sup> Applicable arrests were those arrests where a warrant would normally have been requested. For most juvenile arrests, misdemeanor arrests, and arrests that bond-out, the DPD would not typically request a warrant, so these types of arrests should have been excluded from the computations required by this audit. While the Monitor's last assessment of this audit did not identify this deficiency because the audit working papers had not specifically identified the non-applicable arrests, such arrests should also have been excluded from a similar computation for the prior audit.

	<i>REPORTED BY AT</i>	<i>HOW IT SHOULD HAVE BEEN REPORTED</i>
# arrests compared to # of warrants	{ 88/37 2.38	37/52 71%
# warrants requested compared to # of warrants granted	{ 37/31 1.19	31/37 83%

Additionally, the AT did not conduct an analysis of the above comparisons. While paragraph U95 does not specifically require the AT to analyze the results of the comparisons, it is standard audit practice to do so. Had the AT examined and questioned the cause of the disparity between the number of arrests and the number of warrants sought, the AT might have discovered the above errors and corrected them prior to the submission of the audit report.<sup>86</sup> By analyzing the results of the testing, the AT could also have established a baseline for the number of arrests for which warrants were not sought and the number of warrant requests that were denied in order to facilitate future reviews for patterns or problems and provide recommendations regarding corrective action, if appropriate. The lack of such analysis and incorrect information significantly affected the quality of this audit.

Based on the lack of auditable forms completed for all three of the arrests without sufficient probable cause, the AT correctly found the DPD in 0% compliance with the paragraph U43 requirement to complete an auditable form for all arrests with no probable cause. However, the AT also conducted completeness testing of auditable forms and discovered that in the Southwestern District the arrest log book contained three additional instances in which an auditable form should have been completed but was not.<sup>87</sup> While the AT’s findings of 0% compliance would not have changed, the AT should have included these additional instances in its calculation and reported its compliance rate based on 0/6 rather than 0/3. The completion of auditable forms is important to ensure proper identification of violations of the arrests policies and serve as a method for ensuring correction action to prevent repeated violations.

The Monitor concurred with the AT’s findings in connection with all 44 of the named arrestees included in the AT’s sample that were reviewed by the Monitor. However, for an arrestee who was not specifically selected by name but was involved in a multiple-arrestee incident in the AT’s sample of arrests, the Monitor concluded that probable cause was not adequately

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<sup>86</sup> As suggested by the Monitor’s staff, the AT submitted an “Audit Correction” notice on August 13, 2008 to address this.

<sup>87</sup> The logbook identified one arrestee on October 7, 2007 and two arrestees on October 13, 2007 who were released by the Desk OIC due to the lack of probable cause; however, no auditable forms were completed.

established in the CRISnet report completed by the officer. Although the AT agreed that the officer's CRISnet report could have been more thorough when describing the probable cause, the AT disagreed with the Monitor's assessment and therefore did not, but should have, reported this particular finding as an Other Related Matter.<sup>88</sup>

Overall, the AT's matrix questions and other working papers were well-formatted and organized and the Monitor was able to reconcile the findings reported to the supporting work papers. The audit report continues to improve from prior reports on this topic submitted by the AT and included an appendix that illustrated compliance by Consent Judgment paragraph in sequential order, as previously recommended by the Monitor. Except as noted above, the AT made appropriate recommendations within the audit where the DPD was non-compliant.

Although there were a number of aspects of this audit that were well done, based on the number and nature of materially important qualitative performance-related deficiencies that had some affect on the quality of this audit, primarily relating to the comparisons specifically required for this audit and the staleness of the data, the Monitor finds the DPD in partial compliance with subparagraph U95a.

#### ***Subparagraph U95b – Investigatory Stop and Frisk Practices Audit***

The DPD's AT submitted the *Investigatory Stop and Frisk Practices Audit* on its due date of August 31, 2008. The Monitor has requested the audit working papers, and will assess the audit and report its findings and the DPD's compliance with subparagraph U95b upon completion of its review.

#### ***Subparagraph U95c – Witness Identification and Questioning Audit***

The DPD's AT submitted the *Witness Identification and Questioning Audit* on its due date of August 31, 2008. The Monitor has requested the audit working papers, and will assess the audit and report its findings and the DPD's compliance with subparagraph U95c upon completion of its review.

#### **Paragraph U96 – Audit of Custodial Detention Practices**

Paragraph U96 requires the DPD to conduct regularly scheduled annual audits of the DPD's custodial detention practices, including evaluating the length of detention between the time of arrest and the time of arraignment and the time to adjudicate holds. Such audits must cover all precincts and specialized units.

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<sup>88</sup> However, the Monitor did not expect the AT to add this particular finding to the compliance calculations for the related paragraph. The Monitor notes that the AT did appropriately report the lack of articulation under objective 2 in connection with the other specific arrestees sampled and reviewed.

## *Background*

The Monitor last assessed the DPD's compliance with paragraph U96 during the quarter ending August 31, 2007, finding the DPD in compliance. The Monitor concluded that the *Custodial Detention Practices Audit* submitted on April 14, 2007 was timely, appropriately assessed the DPD's compliance, and made insightful recommendations.

## *Current Assessment of Compliance*

In order to assess the DPD's compliance with paragraph U96, the Monitor reviewed the *Custodial Detention Audit* submitted by the DPD's AT on May 31, 2008. The Monitor also conducted an assessment of a statistically valid random sample<sup>89</sup> of the audit population of arrests and holds, and reviewed the audit matrices and other related audit working papers.

The Monitor's findings, which have been discussed with the AT, are highlighted below.

The AT submitted the *Custodial Detention Practices Audit* in a timely manner within the same quarter that the audit was submitted in 2007. The AT identified 638 arrestees from October 7 to 13, 2007 and conducted thorough completeness tests, identifying 192 additional arrestees who were added to the population, bringing the total population to 830 arrestees. The AT then appropriately excluded from this population all non-applicable arrests, such as those with existing warrants and those that were released on bonds. The resulting population consisted of 223 arrests from which a sample of 88 was randomly selected to review holds, warrants and arrest documentation. The AT also reviewed restriction documentation from October 1 through December 31, 2007.

While the AT correctly assessed the above populations, the incidents reviewed were more than seven months old at the time of submission of the audit. The Monitor advised the AT that going forward, the AT should review more recent data in order to ensure the findings and compliance conclusions are not stale.<sup>90</sup>

- The AT properly included all of the substantive paragraphs related to this topic and determined that the DPD did not meet the requirements of any of the paragraphs tested (U49-55, U58, U60 and U115). The AT also properly defined and assessed the "time between arrest and arraignment" and the "time to adjudicate holds," as required by paragraph U96, and made appropriate recommendations to address the problems identified during the course of the audit. Based on the Monitor's testing of the audit fieldwork, the Monitor concurred with the AT's conclusions.

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<sup>89</sup> The Monitor reviewed a sample selected using a confidence interval of 95%, an error interval of +/-4%, and an expected proportion of success rate of 94%.

<sup>90</sup> The Monitor notes that although the data in this audit was stale, the Monitor's more recent assessment of the substantive paragraphs resulted in findings that were similar to the findings in this audit.

- The AT's matrix questions and working papers were well-formatted and organized, and the audit report continues to improve with each report submitted. As recommended previously by the Monitor, the AT included an appendix illustrating the DPD's compliance by Consent Judgment paragraph.
- The Monitor identified a number of areas where the audit report could be improved, and communicated this information to the AT in order to improve future audit reports. However, the issues identified did not significantly impact the overall quality of the audit report.
- Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U96.

### **Paragraph U97 – Audits of OCI Audits of External Complaints and Investigations**

Paragraph U97 requires the Chief Investigator (CI) of the OCI to designate an individual or entity to conduct annual audits that examine external complaints and complaint investigations, and to review all audit reports regarding officers under OCI command and take appropriate disciplinary or non-disciplinary corrective action.

#### ***Background***

The Monitor last assessed the DPD's compliance with paragraph U97 during the quarter ending November 30, 2007, finding that the DPD was not yet in compliance. The Monitor determined that the *External Complaint and Complaint Investigation Audit* submitted by the DPD on August 31, 2007 was not in compliance due to the number and nature of substantial performance-related errors which had a significant impact on the quality of the audit.

#### ***Current Assessment of Compliance***

The DPD did not submit the *External Complaint and Complaint Investigation Audit* required by paragraph U97, which was due by August 31, 2008.<sup>91</sup>

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with the requirements of paragraph U97.

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<sup>91</sup> The DPD advised the Monitor that the reason this audit was not submitted was due to computer problems. The electronic folder, which included the audit work plan, matrices, and other working papers, were deleted from the hard drive during system maintenance in July 2008. The DPD's IT personnel were not able to restore the files from prior system backups or otherwise recover the files and it was too late to redo all of the work in order to complete the audit.

### **Paragraph U98 – Random Reviews of Videotapes and Recording Equipment**

Paragraph U98 requires the DPD to conduct and document periodic random reviews of scout car camera videotapes for training and integrity purposes. In addition, the DPD must require periodic random surveys of scout car video recording equipment to confirm that it is in proper working order.

#### ***Background***

The Monitor last assessed the DPD's compliance with paragraph U98 during the quarter ending February 29, 2008. The Monitor provided to the DPD, via written memorandum, an analysis of the DPD Training Directive for In-Car Camera and Detention Processing Area Camera Videos – Random Reviews/Functionality Checks (collectively referred to as the "Video Review Protocol," which is designed to address the requirements of paragraph U98 and subparagraph C64d), inclusive of DPD Form 713, the Video Review Log, and related guidance documents. In the memorandum, the Monitor noted a few issues that required correction prior to dissemination, training and implementation of the Video Review Protocol.<sup>92</sup> The Monitor withheld a determination of compliance, noting that once the issues had been addressed, the documents would meet the policy requirements of subparagraph C64d and paragraph U98.

#### ***Current Assessment of Compliance***

Since the Monitor's last report, the Monitor has reviewed and approved the Video Review Protocol, as well as Directives 303.3, *In-Car Video Equipment*, and 305.4, *Holding Cell Areas*. As a result, the DPD has complied with the policy requirements of paragraph U98. For the reasons set forth more fully below in the Monitor's evaluation of U100-102; however, it is apparent that the DPD has not effectively trained its personnel on or implemented this policy to conduct reviews of the patrol car videos.

Based on the foregoing, the Monitor finds that the DPD is in compliance with the policy requirements but is not yet in compliance with the training and implementation requirements of paragraph U98.

### **D. USE OF VIDEO CAMERAS**

This section comprises paragraphs U100-102. It requires the DPD to develop a policy on the use of video cameras that provides a systematic approach for activation, recording, review and preservation of video cameras and tapes. Additionally, the DPD is required to repair and replace

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<sup>92</sup> The Monitor recommended that the DPD make revisions to Directives 305.4 and 303.3, the Video Review training directive, and related documents to provide consistency among all documents and ensure that they all refer to the correct versions, titles and form numbers; to ensure that supervisors have clear direction and understanding.

all non-functioning video equipment. Other paragraphs in the UOF CJ and COC CJ that require periodic random reviews of videotapes and periodic random surveys of recording equipment are U98 and C64, which are also discussed in this report.

Consistent procedures throughout the DPD in this area will facilitate the availability of information for investigative purposes and will assist in the identification of at-risk behavior and violations of police procedure. These policies will also serve to protect DPD officers by providing an accurate record of encounters with citizens.

The Monitor last assessed the DPD's compliance with paragraphs U100-102 during the quarter ending February 29, 2008. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### *Paragraphs U100-102 – Non-Functioning Video Cameras; Video Camera Policy; Video Recording Policy*

Paragraph U100 requires the DPD to repair or replace all non-functioning video cameras.

Paragraph U101 states that the DPD policy on video cameras shall be revised and augmented to require: activation of scout car video cameras at all times the officer is on patrol; supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, uses of force, vehicle pursuits and external complaints; and that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated.

Paragraph U102 states that the DPD policy on video cameras shall require officers to record all motor vehicle stops, consents to search a vehicle, deployments of a drug-detection canine, or vehicle searches.

### *Background*

The Monitor last assessed the DPD's compliance with paragraphs U100-102 during the quarter ending February 29, 2008, finding that the DPD remained in compliance with the policy requirements but was not yet in compliance with the implementation requirements of the paragraphs. The DPD indicated that no formal training had yet taken place regarding Directive 303.3, *In-Car Video*. The DPD further reported that in March 2007, it placed into service 133 new fully equipped patrol vehicles, including an updated digital video camera system, thus increasing the percentage of vehicles with operable video equipment from 15% in February 2007 to 56%. The DPD noted that of 533 total patrol cars, 413 have camera equipment (77.5%), but only 238 patrol cars had operable cameras (45%).

### *Current Assessment of Compliance*

During the current quarter, the Monitor requested an update as to what steps the DPD has taken to ensure that officers are recording all motor vehicle stops, consents to search a vehicle,

deployments of drug-detection canine, or vehicle searches. While the DPD provided the Monitor during the last quarter with teletype #08-0399, which was read at roll-calls in February 2008 to instruct officers on their responsibilities regarding in-car video equipment,<sup>93</sup> the DPD failed to provide any updated information this quarter.

On September 11, 2008 members of the Monitoring Team conducted inspections at six DPD districts: Northwestern, Central, Northeastern, Eastern, Central and Southwestern. The Monitoring team members interviewed shift sergeants and officers and inspected the daily detail sheets, and found the following:

- Only two districts were actively ensuring that the patrol cars operating during the shift in fact had operable video cameras installed: Six of seven cars (86%) out on patrol in the Central District and fifteen out of sixteen cars (94%) out on patrol in the Southwestern District had operable cameras.
- Only the Southwestern District appeared to have a Vehicle Maintenance Officer (VMO) actively ensuring that video cameras were in working order in the patrol cars.
- None of the remaining districts appeared to be ensuring with any regularity, if at all, at the beginning or end of the shifts that patrol cars were leaving or returning with operable cameras:
- Five of 11 cars (46%) out on patrol in the Northwestern District had operable cameras. The Monitor team members observed the departure of the 8:00 a.m. patrol in the Northwestern District, but it in no way appeared that checking the video equipment was routine at the inception of the shift.
- Six of 14 cars (43%) out on patrol in the Eastern District had operable cameras.
- The Monitor was unable to determine anything with respect to the cars on shift in the Western District, but a spot check of 12 of the 18 cars on the parking lot revealed only eight working video cameras (67%).
- In the Northeastern District, the daily sheet showed 12 cars out on patrol, five of which had cameras, but it was not documented whether they were in fact working. A spot check in that district revealed that only three of the 12 cars on the parking lot had working cameras (25%). An interview with a police officer at the Northeastern District revealed that the video equipment was not even turned on at the beginning of the shift, and checks are not performed with any regularity.
- Other problems observed by the Monitoring Team included a complete failure to test the microphones of the video recording equipment at the beginning of shifts. Most of the

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<sup>93</sup> As noted above, the DPD confirmed that the roll call training is not intended to fulfill or partially fulfill Consent Judgment requirements.

officers interviewed stated that there simply was no way to test whether they were working. Technicians at DPD Communications Systems, who are responsible for maintaining the digital recording equipment in the patrol cars, as well as serving as a central repository for all video recordings, however, demonstrated that testing could in fact be accomplished. It appears that officers are unaware of how to accomplish this relatively simple task, indicating a need for training. The Monitor had also been informed that many of the patrol cars did not have fans installed to cool the digital recording equipment stored in the trunks of the cars. Communications Systems confirmed that this had been the case, resulting in widespread and systematic failures of the recording equipment. It appears that the problem is being remedied with respect to 2007 patrol cars, but earlier models are not, nor have they ever been, equipped with this necessary equipment.

Perhaps the greatest bar to effective implementation of the video recording equipment in patrol cars is the lack of any system to ensure the proper uploading of the digital data from the patrol cars to the central repository at Communications Systems. Technicians at Communications Systems indicated that it could take upwards of an hour to download one eight hour shift worth of video per patrol car.<sup>94</sup> Every district indicated that there is no procedure in place to ensure that once cars return from patrol, they are stationed by the towers long enough to allow the video to download. More significantly, the time that it would take to do this for an entire fleet of cars coming in from patrol would make it impossible to use the same cars from one shift immediately on the next shift because shift changeovers take only about ten to fifteen minutes. Solutions to this problem would likely have to include a greater number of cars at the districts, the staggered turnover of shifts, or, more plausibly, a new digital system. As matters presently stand, however, the video that is recorded during shifts is not being properly downloaded and stored in the central repository. Review of the video is therefore impossible. It appears to the Monitor that the video recording system in patrol cars, in its present state, is useless.

Based on the foregoing, the Monitor concludes that the DPD is in compliance with the policy requirements but is not yet in compliance with the training and implementation requirements of paragraphs U100-102.

## E. DISCIPLINE

This section comprises paragraphs U103-105. It requires the DPD to eliminate the current backlog of disciplinary cases and to establish guidelines and create a scheduling process that will prevent backlogs from developing in the future. In order to provide guidelines for uniformity in discipline, the DPD must create a matrix that establishes a presumptive range of discipline for each type of rule violation.

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<sup>94</sup> Video is downloaded remotely from the computers in the cars to towers mounted on the sides of the districts overlooking the parking lots. For this to work, however, the cars must be parked in the lot.

The Monitor last assessed the DPD's compliance with paragraphs U103-105 during the quarter ending February 29, 2008. The Monitor again assessed compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### **Paragraph U103 – Backlog of Disciplinary Cases**

Paragraph U103 requires the City to ensure that adequate resources are provided to eliminate the backlog of disciplinary cases and that all disciplinary matters are resolved as soon as reasonably possible.

#### ***Background***

The Monitor last assessed the DPD's compliance with paragraph U103 during the quarter ending February 29, 2008. The Monitor determined that any backlogged cases were due to extenuating circumstances. Accordingly, the Monitor found that the DPD was in compliance with the paragraph.

#### ***Current Assessment of Compliance***

The DPD identified 11 cases (six of which relate to a single officer) in response to the Monitor's request to indicate the current backlog of cases for which the timelines established under paragraph U104 are not being met. All of those cases demonstrated extenuating circumstances for the delays, as the officers have been out on extended leaves of absence. In four cases, officers were out for medical reasons. In a fifth case, an officer was returned to active duty in September 2008 following a prolonged absence after he was disabled. The remaining six cases all pertain to an officer whose trial board was cancelled due to his military commitment.

The DPD states in its 20th Quarter Status Report that the Disciplinary Authority now provides monthly reminders to DPD executives informing them of any Commander's Actions pending in their commands. In addition, reminders are sent to Trial Board members who have past due trial board findings with notification to the appropriate Assistant Chief(s).

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph U103.

### **Paragraph U104 – Guidelines for Disciplinary Process**

Paragraph U104 requires the DPD to schedule disciplinary hearings, trials, and appeals at appropriately frequent intervals to prevent a disciplinary backlog from developing. As part of determining how often to schedule such hearings, the DPD must establish guidelines dictating the maximum period of time that should elapse between each stage of the disciplinary process.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph U104 during the quarter ending February 29, 2008, finding that the DPD was not yet in compliance with the paragraph. The Monitor reviewed disciplinary files in which discipline was imposed during the month of December 2007 and determined that the DPD adhered to the Disciplinary Timeline Process for five of 12 files (42%). In addition, the DA's six-month review indicated that two matters were awaiting findings by the trial board, one matter was awaiting approval from "legal" pending administrative closure, two matters were pending Chief approvals, and five matters were awaiting arbitration decision.

### *Current Assessment of Compliance*

On September 18, 2008, in response to a document request submitted after the end of the quarter, the DPD provided a list of the 100 disciplinary files for which discipline was imposed in June 2008 (this compares with 12 files that the DPD indicated were closed in December 2007, and 13 files for June 2007). The Monitor has not yet completed its review of a statistical sample of these files for compliance with the timelines developed under paragraph U104. The DPD also provided the Monitor with the DA's six-month review, which indicates that five matters are awaiting trial board findings, two matters are awaiting approval from the legal department for administrative closure, three matters are pending approval from the Chief of Police, and ten matters are awaiting arbitration decisions.

Based on the foregoing, the Monitor has not yet evaluated the DPD's compliance with paragraph U104.

### *Paragraph U105 – Disciplinary Matrix*

Paragraph U105 requires the DPD to create a disciplinary matrix that: establishes a presumptive range of discipline for each type of rule violation; increases the presumptive discipline based on both an officer's prior violations of the same rule as well as violations of other rules; requires that any departure from the presumptive range of discipline must be justified in writing; provides that the DPD shall not take only non-disciplinary corrective action in cases in which the disciplinary matrix calls for the imposition of discipline; and provides that the DPD shall consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph U105 during the quarter ending February 29, 2008, finding the DPD in compliance with the policy and implementation requirements but not yet in compliance with the training requirements of the paragraph. The Monitor's review of disciplinary files determined that the discipline imposed fell within the

appropriate presumptive range on the disciplinary matrix. In addition, the DPD's training matrix identified the training module responsive to the requirements of the Consent Judgment paragraphs, including paragraph U105, but training had not yet begun.

### *Current Assessment of Compliance*

The DPD's *Supervisory Leadership and Accountability Lesson Plan* addresses the requirements of paragraph U105, among others. The DPD indicated that it had commenced its annual in-service training program, which incorporates the *Supervisory Leadership and Accountability Lesson Plan*, on August 4, 2008. The DPD anticipates that substantially all officers will have completed this training within 43 weeks.

On September 18, 2008, the DPD provided a list of the 100 disciplinary files in which discipline was imposed in June 2008. The Monitor has not yet completed its review of a statistical sample of these files to determine whether the discipline imposed was within the range identified in the disciplinary matrix. As a result, the Monitor finds the DPD in compliance with the policy requirements but has not yet evaluated compliance with the implementation requirements of paragraph U105. The Monitor finds that the DPD is not yet in compliance with the training requirements of paragraph U105.

## VII. TRAINING

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This section of the UOF CJ (paragraphs U106-123) directs the DPD to coordinate and review all UOF and Arrest and Detention training to ensure quality, consistency, and compliance with applicable law and DPD policy. Significantly, the DPD must provide annual training for all DPD recruits, officers and supervisors in a number of areas including UOF, arrests and other police-citizen interactions and custodial detention. Furthermore, the DPD must develop a firearms protocol and provide supervisory, investigator and field training. The Department must also select and train trainers, evaluate all training, conduct needs assessments, and create and maintain individual training records for all officers. The UOF CJ provides specific requirements for review and reporting on these issues to the Monitor and the DOJ.

### A. OVERSIGHT AND DEVELOPMENT

This section comprises paragraphs U106 -111. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending May 31, 2008, and is scheduled to again assess compliance with these paragraphs during the quarter ending November 30, 2008.

## B. USE OF FORCE TRAINING

This section comprises paragraph U112 only. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending May 31, 2008, and is scheduled to again assess compliance with this paragraph during the quarter ending November 30, 2008.

## C. FIREARMS TRAINING

This section comprises paragraph U113 only. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending May 31, 2008, and is scheduled to again assess compliance with this paragraph during the quarter ending November 30, 2008.

## D. ARREST AND POLICE-CITIZEN INTERACTION TRAINING

This section comprises paragraph U114 only. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending May 31, 2008, and is scheduled to again assess compliance with this paragraph during the quarter ending November 30, 2008.

## E. CUSTODIAL DETENTION TRAINING

This section comprises paragraphs U115-117. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending February 29, 2008. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

**Paragraphs U115-117 – Custodial Detention Training; Custodial Detention Training – Advise Relative to Arraignment Delay; Custodial Detention Training – Advise that Materiality of Witness is Judicial Determination**

Paragraph U115 requires the DPD to provide all DPD recruits, officers and supervisors with annual training on custodial detention. Such training shall include DPD policies regarding arrest, arraignments, holds, restrictions, material witness and detention records.

Paragraph U116 requires the DPD to advise officers of the DPD arraignment policy shall not be delayed because of the assignment of the investigation to a specialized unit; the arrest charge(s) the availability of an investigator, the gathering of additional evidence or obtaining a confession.

Paragraph U117 requires the DPD shall advise officers that whether an individual is a material witness and whether that material witness should be committed to custody is a judicial determination.

## *Background*

The Monitor last assessed the DPD's compliance with paragraphs U115-117 during the quarter ending February 29, 2008. The DPD indicated that its Curriculum Design and Development Team (CDDT) was in the process of developing a lesson plan that covers the requirements of these paragraphs, which was to be submitted during the quarter ending May 31, 2008. However, these paragraphs were covered in the *Detention Officer Training Lesson Plan* which was submitted on November 17, 2007 and upon which the Monitor provided comments in a memorandum dated January 8, 2008. The lesson plan was resubmitted on February 18, 2008, and the Monitor was in the process of evaluating the resubmitted lesson plan as of the end of that quarter. During the quarter ending August 31, 2007, the Monitor found that the DPD was not yet in compliance with paragraphs U115-117, as the DPD continued to conduct custodial detention training on an ongoing basis despite the fact that the lesson plan for that training had not been approved by the Monitor.

## *Current Assessment of Compliance*

During the previous quarter, the Monitor informed the DPD that it was insufficient to cover paragraphs U115-117 in the *Detention Officer Training Lesson Plan* only, because unlike paragraphs C73 and C75-78 these paragraphs are applicable to all officers.<sup>95</sup> The DPD indicated that minor changes would be made to the *Use of Force Lesson Plan* to meet all of the requirements of paragraphs U115-117.

The DPD's Office of Training and Professional Development began its in-service training program on August 4, 2008. According to the DPD, it is a mandatory 40-hour block of training for all officers, recruits and supervisors scheduled throughout the next 12-month period. The block of instruction is scheduled to include the delivery of Consent Judgment approved lesson plans in the following areas:

- Use of Force (paragraphs U112 and U115-117);
- PR-24 Intermediate Weapon (paragraph U112);
- Law of Arrest and Search and Seizure (paragraph U114); and
- Supervisory Leadership and Accountability (paragraphs U118-22).<sup>96</sup>

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<sup>95</sup> Paragraphs C73 and C75-78, which cover training in the COC CJ, are applicable to detention officers, detention officers, supervisors and members of the Holding Cell Compliance Committee (HCCC).

<sup>96</sup> The DPD has also included instruction on customer service, discrimination awareness, sexual harassment and realistic patrol tactics in the in-service training. The Monitor has requested copies of the lesson plans covering these subjects for review; however, the DPD has refused to provide them stating that these subject matters are not applicable to training on Consent Judgment paragraphs. The Monitor expressed a particular interest in the lesson

Although the Monitor has attended select in-service training classes, the Monitor's assessment of the delivery of the training course has not been completed. Nevertheless, greater than 94% of the DPD members required to attend this training must be trained before the DPD can achieve compliance.

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with paragraphs U115-117. However, the Monitor commends the DPD for the notable progress made in complying with Consent Judgment requirements by initiating in-service training during the current quarter.

## F. SUPERVISORY TRAINING

This section comprises paragraphs U118-120. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending February 29, 2008. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### *Paragraphs U118 and U119 – Supervisory Training; Leadership and Command Accountability Training*

Paragraph U118 requires the DPD to provide supervisors with training in the appropriate evaluation of written reports, including what constitutes a fact based description, the identification of conclusory language not supported by specific facts and catch phrases, or language that so regularly appears in reports that its inclusion requires further explanation by the reporting officer.

Paragraph U119 directs the DPD supervisors to receive leadership and command accountability training and learn techniques designed to promote proper police practices. This training shall be provided to all DPD supervisors within 30 days of assuming supervisory responsibilities and shall be made part of annual in-service training.

### *Background*

The Monitor last assessed the DPD's compliance with paragraphs U118-119 during the quarter ending February 29, 2008, finding that the DPD was not yet in compliance. The Monitor approved the revised *Supervisory Leadership and Accountability Lesson Plan* on November 9, 2007. However, as of the end of the quarter ending February 29, 2008, the DPD had not conducted training using the approved lesson plan. The DPD indicated that it was devising a roll out plan in order to begin the implementation of the lesson plan. On February 20, 2008, the DPD

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plans on customer service and realistic patrol tactics since those subjects are covered by the Consent Judgment; however, the DPD has not provided the lesson plans.

indicated that it meant for the revised lesson plan to address the requirements of paragraphs U121 and 122, although these paragraphs were not listed on the cover page of the plan. The Monitor again reviewed the lesson plan and after the end of the quarter asked the DPD to provide the subsections where the requirements of these paragraphs were covered. On March 25, 2008, the Monitor met with the DPD concerning this issue. The DPD then resubmitted a revised lesson plan on March 29, 2008.

### *Current Assessment of Compliance*

As reported in the *Current Assessment of Compliance* of paragraphs U115-117, the DPD began its annual in-service training program, which incorporates the *Supervisory Leadership and Accountability Lesson Plan*, on August 4, 2008. Although the Monitor has attended select in-service training classes, the Monitor has not yet completed its evaluation of the classroom presentation of this specific training material. Nevertheless, according to the training schedule, the DPD has not yet trained greater than 94% of the officers required to attend the training for these paragraphs.

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with paragraphs U118-119. However, the Monitor commends the DPD for the notable progress made in complying with Consent Judgment requirements by initiating in-service training during the current quarter.

### *Paragraph U120 – Supervisory Training - Risk Assessment Training Requirement*

Paragraph U120 directs the DPD to provide training on risk management to all DPD supervisors, including the operation of risk management database.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph U120 during the quarter ending February 29, 2008, finding that the DPD was not yet in compliance. Although the Monitor approved the *Supervisory Leadership and Accountability Lesson Plan* on November 9, 2007, the DPD had not conducted training using the approved lesson plan as of the end of that quarter. Furthermore, the risk management database, specifically the DPD's MAS, was not fully developed or implemented as of the end of that quarter.

### *Current Assessment of Compliance*

As reported in the *Current Assessment of Compliance* under paragraphs U118-119, the DPD began its annual in-service training program on August 4, 2008 which incorporates the *Supervisory Leadership and Accountability Lesson Plan*. Although the Monitor has attended select in-service training classes, the Monitor has not yet completed its evaluation of the classroom presentation of this specific training material. Nevertheless, according to the training

schedule, the DPD has not yet trained greater than 94% of the officers required to attend the training for these paragraphs.

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with paragraph U120. However, the Monitor commends the DPD for the notable progress made in complying with Consent Judgment requirements by initiating in-service training during the current quarter.

## G. INVESTIGATOR TRAINING

This section comprises paragraphs U121-122. The Monitor last assessed the DPD's compliance with these paragraphs during the quarter ending February 29, 2008. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### *Paragraphs U121-122 – Investigator Training – Required Training; Handling External Complaints*

Paragraph U121 directs the DPD to provide training on appropriate burdens of proof, interview techniques and the factors to consider when evaluating officer, complainant or witness credibility to all officers who conduct investigations to ensure that their recommendations regarding dispositions are unbiased, uniform and legally appropriate.

Paragraph U122 directs the DPD to provide all supervisors charged with accepting external complaints with appropriate training on handling external complaints that emphasizes interpersonal skills. The DPD shall provide training on the DPD external complaint process, including the role of OCI and IAD in the process, to all new recruits and as part of annual in-service training.

### *Background*

The Monitor last assessed the DPD's compliance with paragraphs U121-122 during the quarter ending February 29, 2008, finding that the DPD was not yet in compliance. Near the end of that quarter, the DPD advised the Monitor that the *Supervisory Leadership and Accountability Lesson Plan*, which had previously been approved in November 2007, was also meant to address the requirements of paragraphs U121-122. The DPD stated that all of the requirements of paragraph U122 were already in the lesson plan and asked the Monitor for an opinion regarding the same. The DPD also stated that the lesson plan covered nearly all of the requirements of paragraph U121, and that it would submit an addendum to the lesson plan to cover the remaining requirements. On March 25, 2008, the Monitor met with the DPD concerning this issue. The DPD then resubmitted a revised lesson plan on March 29, 2008.

### *Current Assessment of Compliance*

As reported in the *Current Assessment of Compliance* of paragraphs U118-119, the DPD began its annual in-service training program, which incorporates the *Supervisory Leadership and Accountability Lesson Plan*, on August 4, 2008. Although the Monitor has attended select in-service training classes, the Monitor has not yet completed its evaluation of the classroom presentation of this specific training material. Nevertheless, according to the training schedule, the DPD has not yet trained greater than 94% of the officers required to attend the training for these paragraphs.

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with paragraphs U121-122. However, the Monitor commends the DPD for the notable progress made in complying with Consent Judgment requirements by initiating in-service training during the current quarter.

## H. FIELD TRAINING

This section comprises paragraph U123 only. The Monitor last assessed the DPD's compliance with this paragraph during the quarter ending February 29, 2008. The Monitor again assessed the DPD's compliance with this paragraph during the current quarter. The results of our current assessment follow.

### *Paragraph U123 - Field Training – Enhancement of FTO Program*

Paragraph U123 directs the DPD to develop, subject to DOJ approval, a protocol to enhance the Field Training Officer (FTO) program within 120 days of effective date of this Agreement. The protocol shall address the criteria and method for selecting and removing the FTOs and for training and evaluating FTOs and trainees.

### *Background*

The Monitor last assessed the DPD's compliance with paragraphs U123 during the quarter ending February 29, 2008, finding that the DPD was not yet in compliance, as implementation of the FTO protocol had not commenced. On October 16, 2007, the DOJ approved the revised FTO Protocol, with additional recommendations. According to the DPD, these recommendations were incorporated into the protocol and the protocol was resubmitted to DOJ on November 30, 2007. According to the DPD's Eighteenth Quarter Status Report, implementation of the FTO protocol was scheduled to commence once the revised selection process was completed.

### *Current Assessment of Compliance*

According to the DPD, training was conducted on the revised FTO Program Standard Operating Procedures Manual (SOP) to 40 current FTOs in April 2008.<sup>97</sup> However, the Monitor was not informed about this training in advance and was, therefore, unable to assess it. During the current quarter, the Monitor was informed that the DPD Training Center was offering a 40-hour FTO certification course to nine FTO candidate/trainees on August 4 through 8, 2008.<sup>98</sup> A member of the Monitoring Team attended one day of the course on August 7, 2008. Prior to the Monitor's attendance, a copy of the FTO lesson plan was requested and the Monitor was told that there was not a lesson plan for the FTO training course. Instead, the instructor would be teaching directly from the FTO Program SOP. The DPD then provided a copy of the lesson plan on the day that the Monitoring Team Member was already in attendance at the FTO training. As a result, the Monitoring Team member who attended one day of the course did not have a copy of the lesson plan. When the Monitor requested a copy of the lesson plan from the instructor during the course, the team member was given a copy of the Student Guide and the SOP (not a copy of the lesson plan that was separately provided on that day by the DPD). For these reasons, the Monitor was not able to evaluate whether the instructor utilized the lesson plan during the course. Most of the morning of the day of FTO trainee instruction attended by the Monitor was spent on review from the previous three days; however, the Monitor made the following observations:

The instructor demonstrated acceptable knowledge of the topics presented and discussed. The instructional content was presented in a clear and concise manner and participant questions were handled well. The topics discussed included psychomotor, cognitive and affective skills, and the level of difficulty of teaching each, and an in-depth discussion regarding FTOs as role models and how they can influence new recruits.

The Monitor will have to review the lesson plan and attend more days of the course to fully evaluate the requirements of paragraph U109. However, the Monitor notes that there was no in-depth discussion of strategies that could be used to impact the learning needs of new recruits in the identified Domains of Learning (psychomotor, cognitive, affective). For example, the instructor stated that time management and officer safety were examples of "attitude" or affective skills; however, an explanation of this statement was not provided and neither was a strategy for addressing these issues with a new recruit.

A question from an FTO trainee about when a new recruit should be exposed to various activities resulted in a discussion regarding ways to train the Probationary Police Officer (PPO). The

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<sup>97</sup> The DPD has indicated that these 40 officers were already in the pre-existing FTO program and therefore were not selected under the SOP.

<sup>98</sup> The nine FTO trainees offer the first opportunity for the Monitor to assess the implementation of the SOP with regards to the selection criteria and evaluation process for FTOs.

discussion highlighted that there was no specific direction provided to the FTO trainees in terms of the process for progression of PPO skills.

The Monitor intends to evaluate the next FTO training course if advance notice is given. Furthermore, the Monitor will evaluate the implementation of the SOP by assessing whether the SOP was followed when the nine new FTO trainees were chosen.

Based on the foregoing, the Monitor withholds a determination of the DPD's compliance with the requirements of paragraph U123.

## VIII. MONITORING, REPORTING, AND IMPLEMENTATION

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Paragraph U139 requires the DPD to reopen for further investigation any investigation the Monitor determines to be incomplete, subject to certain restrictions. The paragraph requires that any directive to reopen an investigation by the Monitor be given within a reasonable period following the investigation's conclusion and be given prior to the time when the disposition is officially communicated to the subject officer. Although the Monitor has requested various investigative files for review, as the DPD pointed out in its Fifteenth Quarter Status Report, the files reviewed usually closed several months prior to the review. The Monitor did not take into account whether it was a reasonable period since closing and did not have knowledge as to whether the disposition had been communicated to the subject officer. The Monitor has not yet requested that a mechanism be developed for meeting the restrictions of this paragraph regarding when an investigation can be reopened. However, a mechanism for taking these matters into account must be developed before the requirements of this paragraph can be carried out properly.

As reported previously, the Monitor will no longer make a compliance finding with regard to this paragraph but, rather, will report instances in which the Monitor directs the DPD to reopen an investigation and the results thereafter. As also reported previously, the requirements of paragraph U139 will become more pertinent when the DPD begins to achieve compliance with the investigative requirements in the UOF CJ.

## **SECTION THREE: COMPLIANCE ASSESSMENTS - THE CONDITIONS OF CONFINEMENT CONSENT JUDGMENT**

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This section of the report contains the Monitor's compliance assessments of the COC CJ paragraphs scheduled for review during the quarter ending August 31, 2008.

### **I. FIRE SAFETY POLICIES**

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This section of the COC CJ comprises paragraphs C14-22. It requires the DPD to develop, implement, and provide training on specific fire safety policies and procedures and develop and implement a comprehensive fire safety program (FSP) in all DPD facilities that maintain holding cells.

The Monitor found the DPD in compliance with paragraph C22 during the quarter ending August 31, 2005, as the Monitor confirmed that all Kane Fiber Ceiling Tiles had been removed from DPD buildings containing holding cells.<sup>99</sup> The Monitor last assessed the DPD's compliance with paragraphs C14-21 during the quarter ending November 30, 2007. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

#### **Paragraphs C14-21 – Life Safety Code Compliance; Detection, Suppression and Evacuation Programs; Fire Safety Program Development; Fire Safety Program Implementation; Interim Fire Safety Measures; and Testing of Fire Safety Equipment**

Paragraph C14 requires the DPD to ensure that all holding cells, and buildings that contain them, meet and maintain compliance with the current Life Safety Code (LSC) within one year of the effective date of the COC CJ. As part of this effort, the City of Detroit shall ensure that the Detroit Fire Department (DFD) conducts regular and periodic inspections to evaluate whether the conditions in DPD holding cells, and buildings that contain them, are in compliance with the LSC.

Paragraph C15 requires the DPD to develop and implement a comprehensive fire detection, suppression and evacuation program<sup>100</sup> for all holding cells, and the buildings that contain them, in accordance with the requirements of the LSC and in consultation with the DFD.

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<sup>99</sup> The DPD will remain in compliance with paragraph C22 unless it begins using buildings that contain Kane Fiber Ceiling Tiles to detain prisoners.

<sup>100</sup> Within the COC CJ and in the Monitor's report, the Comprehensive Fire Detection, Suppression and Evacuation Program is also referred to as the "Fire Safety Program" or "FSP" (paragraph C16).

Paragraph C16 requires the DPD to develop the fire safety program in consultation with, and receive written approval by, the DFD. As part of the overall program, the DFD must evaluate the need for, and if necessary, the DPD must install fire rated separations, smoke detection systems, smoke control systems, sprinkler systems and/or emergency exits for holding cells and buildings that contain them. The approved plan must be submitted for review and approval of the DOJ within three months of the effective date of the COC CJ.

Paragraph C17 requires the DPD to implement the fire safety program within one year of the effective date of the UOF CJ (July 18, 2004). The approved program must be reviewed and approved in writing by the DFD, at a minimum of once per year and prior to any revisions.

Paragraph C18 requires the DPD to take immediate interim fire safety measures for all buildings that maintain holding cells including ensuring proper alarm activation, emergency reporting by prisoners, and automated back-up systems for life safety equipment (i.e. emergency lighting, signage, fire alarms and smoke detection systems). In addition, the interim measures must reduce the spread of smoke and fire via the stairs, garages, hazardous rooms and exposed pipes.

Paragraph C19 requires the DPD to ensure that fire safety equipment is routinely tested, inspected and maintained in all precincts that maintain holding cells. This equipment includes such items as sprinkler systems, fire alarm systems, manual fire extinguishers, emergency lighting and exit signs, and self-contained breathing apparatus.

Paragraph C20 requires the DPD to immediately enforce its no-smoking policy in all holding cells or provide ashtrays and ensure that the holding cells are constructed and supplied with fire rated materials.<sup>101</sup>

Paragraph C21 requires the DPD to immediately ensure the proper storage of all flammable and combustible liquids in all detention cell areas, buildings that house detention cells, and connected structures, including garages.

## *Background*

The Monitor last assessed the DPD's compliance with paragraphs C14-C21 during the quarter ending November 30, 2007, finding that the DPD was in compliance with paragraphs C20-21 and in compliance with the policy requirements of paragraphs C14-19, but the DPD was not yet in compliance with the implementation requirements of paragraphs C14-19. The DPD indicated to the Monitor that no changes had been made to DPD buildings or the status of the DPD's compliance with the LSC since the Monitor's previous assessment, and the City committed to moving forward with plans to retrofit the existing facilities containing holding cells in an effort

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<sup>101</sup> The Monitor notes that although paragraph C20 specifies that the DPD's no smoking policy be enforced within "holding cells," the DPD policy, which is in accordance with the Michigan Clean Indoor Air Act, P.A. 198 of 1986 and P.A. 296 of 1988, prohibits smoking throughout Department facilities.

to achieve compliance with the Consent Judgment paragraphs. Additionally, the DPD developed, but had not fully implemented a comprehensive FSP for all buildings that maintain holding cells, had not fully complied with all of the LSC in each building nor had they developed a consistent method for ensuring that all fire safety equipment contained within these facilities was routinely inspected, tested and maintained.

### ***Current Assessment of Compliance***

In previous assessments of the DPD's compliance with paragraphs C14-21, the Monitor has reviewed the DPD's semi-annual audit of the FSP, which is required by paragraph C66, to supplement the Monitor's on-site inspections of the DPD holding cell facilities. However, the DPD did not conduct the FSP audit required to be submitted by July 31, 2008. Given the status of the DPD's ongoing efforts to comply with the requirements of paragraphs C14-19, the Monitor conducted limited on-site inspections of all DPD buildings containing holding cells to assess only the areas where the DPD has previously achieved compliance.<sup>102</sup> Once the DPD has completed the retrofit process, the Monitor will assess the DPD's compliance with all requirements contained in paragraphs C14-21.

The current status of the retrofit and the results of the Monitor's inspections follow.

### ***Paragraph C14 – LSC Compliance***

On May 15 and July 23, 2008, the City submitted plans to DOJ detailing proposed fire alarm and sprinkler systems in most of the holding cell facilities. These plans are part of the DPD's continuing efforts to retrofit the existing facilities to achieve compliance with the LSC and related Consent Judgment paragraphs. On August 22, 2008, the DOJ responded in a letter to the City stating that the systems appear to be designed properly but requesting that similar plans for the Southwestern District be provided for DOJ review and approval as required.

According to the DPD's 20<sup>th</sup> Quarter Status Report, the Eastern District had received retrofit upgrades during July 2008 and the remaining facilities are on schedule for completion by December 31, 2008, as ordered by the Court.<sup>103</sup>

### ***Paragraph C15 – Comprehensive Fire Detection, Suppression and Evacuation Program***

While the DPD had previously developed a FSP and had received approval from DOJ on that plan as required, the DPD experienced difficulties in fully implementing many of the specific requirements of the program, especially those that are connected to compliance with the LSC.

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<sup>102</sup> The Monitor conducted on-site inspections of DPD facilities containing holding cells on September 11, 2008.

<sup>103</sup> The Monitor will assess the status of these upgrades during planned on-site inspection of the districts to be conducted during the quarter ending November 30, 2008 in connection with its assessment of compliance with requirements regarding medical and mental health care and detainee safety policies.

The DPD recently made substantial revisions to the Emergency Response Plans (ERP), which are a part of the Comprehensive Emergency Preparedness Program (CEPP) required by paragraphs C23-25. During the ERP revisions, the DPD opted to incorporate the FSP into the revised ERP/CEPP. The newly revised ERPs, incorporating the FSP, were reviewed and approved by the DFD on June 5, 2008 for the five districts that contain holding cells.<sup>104</sup>

Although the FSP was approved by the DFD as required, the DPD has not yet implemented the specifics of the FSP. Once the DPD has completed the retrofit in the holding cell facilities, and conducts the training on the FSP and CEPP as required by paragraph C75, the Monitor expects that the DPD will be able to implement the requirements of those programs and the COC CJ.

***Paragraphs C16 – C19 Development and Implementation of the Fire Safety Program, Interim Fire Safety Measures, and Testing of Fire Safety Equipment***

As reported above in paragraph C14, the DPD is in the process of retrofitting the holding cell facilities in order to address the requirements of paragraphs C16-19, among others. As a result, the DPD has not yet implemented the entire FSP.

***Paragraph C20 – Smoking Policy***

While the Monitor found no evidence of smoking within the holding cells during its inspections, the Monitor did find evidence of smoking in several district buildings containing holding cells.<sup>105</sup> Although smoking in the building is a violation of DPD Policy and the Michigan Clean Indoor Act, it is not a violation of the specific requirements of paragraph C20.

***Paragraph C21 – Storage of Flammable Liquids***

During its inspections, the Monitor found that all district buildings maintaining holding cells met the requirements to properly store flammable and combustible liquids.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with paragraphs C20-21. The Monitor also finds that the DPD is in compliance with the policy requirements but not yet in compliance with the implementation requirements of paragraphs C14-19.

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<sup>104</sup> Central District does not have holding cells, but its staff oversee the cells at the Detroit Receiving Hospital (DRH) where detainees from other districts may be taken if they are in need of medical attention. The hospital has its own emergency plan.

<sup>105</sup> Cigarette butts were observed on the garage floor and directly outside the perimeter of the Eastern, Northwestern and Northeastern Districts.

## II. EMERGENCY PREPAREDNESS POLICIES

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This section of the COC CJ comprises paragraphs C23-25. It requires the DPD to develop and implement emergency preparedness plans for all facilities that maintain holding cells. These procedures and policies are to be designed to ensure that each precinct and the entire Department have a clear understanding of what actions are required in the event of an emergency.

The Monitor last assessed the DPD's compliance with paragraphs C23-25 during the quarter ending November 30, 2007. The Monitor again assessed compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### *Paragraph C23 – Establishing of Safety Levels*

Paragraph C23 requires the DPD to ensure a reasonable level of safety and security of all staff and prisoners in the event of a fire and/or other emergency.

#### *Background*

The Monitor last assessed the DPD's compliance with paragraph C23 during the quarter ending November 30, 2007, finding that the DPD was not yet in compliance. As noted by the Monitor, compliance with paragraph C23 cannot occur until the DPD attains compliance with paragraphs C24-25, and the DPD had not achieved compliance with these paragraphs as of the end of that quarter.

#### *Current Assessment of Compliance*

As described in the *Current Assessment of Compliance* for paragraphs C24-25, below, the DPD is not yet in compliance with these paragraphs.

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with paragraph C23.

### *Paragraph C24 – Emergency Preparedness Program Development*

Paragraph C24 requires the DPD to develop a comprehensive emergency preparedness program (CEPP or EPP), with the written approval of the DFD, for all DPD buildings that contain holding cells. The program must be submitted for the review and approval of the DOJ within three months of the effective date of the COC CJ and implemented within three months of the DOJ's approval. The approved program must be reviewed and approved in writing by the DFD, at a minimum of once per year and prior to any revisions. The program must include an emergency response plan for each building that contains holding cells in the event of a fire-related

emergency, which identifies staff responsibilities and key control procedures. The program must also require that fire drills be performed and documented for each building that contains holding cells on all shifts once every six months.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph C24 during the quarter ending November 30, 2007, at which time the Monitor found that the DPD was not yet in compliance with the requirements of this paragraph. The *Emergency Preparedness Program Audit* submitted by the DPD on July 31, 2007 identified a number of deficiencies in connection with the requirements of paragraph C24, including significant operational inconsistencies in the ERPs for each district building containing holding cells and ERPs that varied in terms of formatting and terminology or did not reflect actual practices. In addition, 21 of 36 (58%) Police Detention Officers (PDOs) who were interviewed could not demonstrate knowledge of all of their responsibilities under the EPP. The audit also determined that the DPD failed to document relevant information for each fire drill that was conducted. Lastly, although the DPD disseminated the ERPs via the DPD's Intranet and placed a copy in each district, considering the high percentage of members who could not demonstrate their responsibilities under the ERP, the Monitor concluded that the associated training must be delivered to relevant DPD personnel in order to effectively implement the information contained in the ERPs.

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with paragraph C24 during the current quarter, the Monitor reviewed the *Emergency Preparedness Program Audit* submitted by the DPD on July 31, 2008, and had several discussions with the HCCC members who were involved in the conduct of the audit. Although the Monitor concluded that the audit was not in compliance with the requirements of paragraph C67, the circumstances contributing to that finding did not prevent the Monitor from relying upon the audit's findings in connection with the requirements of paragraph C24, as the Monitor's testing resulted in concurrence with the audit findings of non-compliance for all paragraphs tested.<sup>106</sup>

The following reflects the Monitor's and AT's findings.

- As described above in the *Current Assessment of Compliance* for paragraphs C14-21, the DPD recently revised its ERPs for the buildings containing holding cells with the exception of the DRH.<sup>107</sup> The DPD met the requirement of having the EPP, including the ERPs,

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<sup>106</sup> Refer to the *Current Assessment of Compliance* for paragraph C67 for information regarding the Monitor's assessment of the audit.

<sup>107</sup> The DRH has its own emergency plan for which the DPD members assigned to DRH must operate under in an emergency.

annually reviewed and approved by the DFD,<sup>108</sup> and provided staff access to the ERPs by placing them in a red binder at the front desk areas, which addresses the policy component of paragraph C24.

In regards to the implementation of the EPP; during interviews of the holding cell area staff, specifically Officers in Charge (OIC), Cell Block Supervisors (CBS) and PDOs, the audit found that 92% of the staff members knew their responsibilities in connection with notifications, evacuation procedures, and key control as described in the EPP. This is a decrease from the 99% reported in the prior audit submitted on January 31, 2008, but an increase from the 58% described in the Monitor's previous assessment, which was a finding from the audit submitted on July 31, 2007. Additionally, the audit found that the DPD failed to ensure that all of their district facilities with holding cells and the DRH performed and properly documented at least one fire drill on all three shifts every six months.<sup>109</sup>

Although the EPP was approved by the DFD as required, as with the FSP mentioned above, the DPD has not yet implemented the specifics of the EPP, as evidenced by the varying findings when holding cell staff were interviewed regarding their knowledge of their responsibilities under the EPP. Once the DPD has conducted the training on the EPP as required by paragraph C75, the Monitor expects that the DPD will be able to implement the requirements of the COC CJ in this area.

Based on the foregoing, the Monitor finds that the DPD is in compliance with the policy requirements but is not yet in compliance with the implementation requirements of paragraph C24.

### **Paragraph C25 – Key Control Policies**

Paragraph C25 requires the DPD to develop and implement key control policies and procedures that will ensure that all staff members are able to manually unlock all holding cell doors in the event of a fire or other emergency. At a minimum, these policies and procedures shall ensure that keys can be identified by touch in an emergency and that the DPD conduct regular and routine inventory, testing and maintenance of all holding cell keys and locks.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraph C25 during the quarter ending November 30, 2007, at which time the Monitor found that the DPD was not yet in compliance

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<sup>108</sup> Notification of the DFD review and approval of the EPP occurred on June 5, 2008.

<sup>109</sup> Some of the issues contributing to the finding are: failure to provide documentation of the performance of required number of fire drills (Eastern District, DRH) and failure to properly/completely document performance of fire drills (Northwestern District, Eastern District, and DRH).

with the requirements of this paragraph. The *Emergency Preparedness Program Audit* submitted by the DPD on July 31, 2007 identified a number of deficiencies in connection with the requirements of paragraph C25, including failure to ensure routine inventory, testing and maintenance of keys; district buildings maintaining holding cells that documented key and lock inventory in the desk blotter, which is a non-auditable format; and failure to implement a uniform procedure for performing and documenting key and lock maintenance. In addition, although the DPD developed a procedure requiring the documentation of key and lock testing and inventory on an auditable form, "Fire Drill Documentation Log" (DPD 703), this procedure was performed too infrequently, failing to address the "routine testing and inventory" requirement of paragraph C25.

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with paragraph C25 during the current quarter, the Monitor reviewed the *Emergency Preparedness Program Audit* submitted on July 31, 2008.<sup>110</sup>

The following reflects the Monitor's and AT's findings:

- PDOs interviewed were able to demonstrate the ability to identify cellblock keys by touch and manually unlock/open all holding cell doors; however, CBSs interviewed could not demonstrate this proficiency. Given that any of the DPD staff assigned to the holding cell area may need to unlock the doors in an emergency, the CBSs should also possess this ability.
- The DPD policy for inventory, inspection and maintenance of keys and locks (Directive 305.4-6.6, *Holding Cell Areas*) does not reflect recently revised practices, including the use of the DPD Form 715, which is an inspection checklist used by the HCCC to document and conduct the inventory, testing and maintenance of keys and locks as required.
- During the audit time period, from January through June 2008, the HCCC used several different versions of forms in an attempt to document the required inventory, maintenance and inspections of keys and locks, which prevented the AT from adequately assessing the DPD's compliance with this requirement.
- The audit found that the Southwestern District-Annex and the Northwestern District both had cellblock keys missing during the March 2008 monthly inspection, and no maintenance or replacement requests could be located.

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with paragraph C25.

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<sup>110</sup> Refer to the *Current Assessment of Compliance* for paragraph C67 for information regarding the Monitor's assessment of the audit.

### *Recommendations*

The Monitor recommends that the DPD amend Directive 305.4 to reflect current approved practices and ensure that all staff use the approved forms to document the inventory, maintenance and inspection of cellblock keys and locks.

## **III. MEDICAL AND MENTAL HEALTH CARE POLICIES**

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This section of the COC CJ comprises paragraphs C26-34. It requires the DPD to develop and implement a medical and mental health care program, which includes a series of policies, procedures and protocols. These policies and procedures must be designed and developed to ensure that the DPD is adequately identifying and responding to the medical and mental health care conditions and needs of its detainees. The policies and procedures must be approved by a qualified medical and mental health professional. The comprehensive medical and mental health screening program (CMMHSP) must include specific intake screening procedures and medical protocols and must be reviewed and approved by the DOJ prior to implementation.

The Monitor last assessed the DPD's compliance with paragraphs C26-34 during the quarter ending February 29, 2008. The Monitor found the DPD in compliance with paragraphs C28-29, which are "policy only" paragraphs. The DPD will remain in compliance with these paragraphs until such time as the policies directly responsive to the paragraphs are revised.<sup>111</sup> The Monitor is scheduled to again assess compliance with paragraphs C26-27 and C30-34 during the quarter ending November 30, 2008.

## **IV. PRISONER SAFETY POLICIES**

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This section of the COC CJ comprises paragraphs C35-38. It requires the DPD to develop and implement prisoner safety policies for all facilities that maintain holding cells. Each precinct, and the entire Department, must have clear and concise policies, procedures and forms that will ensure the safety and well-being of prisoners.

The Monitor last assessed the DPD's compliance with paragraphs C35-38 during the quarter ending February 29, 2008, and is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending November 30, 2008.

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<sup>111</sup> As with all "policy-only" paragraphs with which the DPD has achieved compliance, any revisions to the policy will trigger an additional assessment by the Monitor. Implementation of the policy is tested under paragraph U27.

## **V. ENVIRONMENTAL HEALTH AND SAFETY POLICIES**

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This section of the COC CJ (paragraphs C39-46) requires the DPD to develop and implement environmental health and safety policies for all facilities that maintain holding cells. These procedures and policies are to be designed to ensure the cleanliness and maintenance of the cell-block areas to ensure the safety of DPD prisoners.

The Monitor has concluded that the DPD is in compliance with paragraphs C44 and C46, which respectively require the DPD to ensure that lighting in all cell block areas is sufficient to reach 20 foot-candles of illumination at desk level and in personal grooming areas and that all Hepa-Aire purifiers comply with the Michigan Occupational Safety and Health Agency standards.<sup>112</sup>

The Monitor last assessed the DPD's compliance with paragraphs C39-43 and C45 during the quarter ending May 31, 2008, and is scheduled to again assess compliance with these paragraphs during the quarter ending February 28, 2009.

## **VI. POLICIES CONCERNING PERSONS WITH DISABILITIES**

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This section of the COC CJ (paragraphs C47-48) requires the DPD to develop and implement appropriate policies concerning persons with disabilities for all facilities that maintain holding cells. These procedures and policies are to be designed to ensure the detainees with disabilities are provided with appropriate facilities and care.

The Monitor last assessed the DPD's compliance with paragraphs C47-48 during the quarter ending February 29, 2008, and is scheduled to again assess the DPD's compliance with these paragraphs during the quarter ending November 30, 2008.

## **VII. FOOD SERVICE POLICIES**

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This section of the COC CJ comprises paragraphs C49-50. It requires the DPD to develop and implement a comprehensive new food service policy with the assistance and approval of a qualified dietician and sanitarian. The new program must ensure that food is prepared and served in a sanitary manner, and that prisoners are fed on a regular basis. In addition, the

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<sup>112</sup> The Monitor will not assess compliance with paragraph C44 again unless alterations are made to the lighting fixtures or other conditions arise that affect the sufficiency of the lighting in the cell block areas. The Monitor will not assess compliance with paragraph C46 again unless Hepa-Aire purifiers are re-installed in buildings containing holding cells.

program must ensure that all prisoners are provided with an alternative meal if they are unable to eat the standard meal for religious or dietary reasons.

The Monitor last assessed the DPD's compliance with paragraphs C49-50 during the quarter ending May 31, 2008, and is scheduled to again assess compliance with these paragraphs during the quarter ending February 28, 2009.

## VIII. PERSONAL HYGIENE POLICIES

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This section of the COC CJ comprises paragraph C51 only. The Monitor last assessed the DPD's compliance with paragraph C51 during the quarter ending May 31, 2008, and is scheduled to again assess compliance with this paragraph during the quarter ending November 30, 2008.

## IX. USE OF FORCE AND RESTRAINTS POLICIES

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This section of the COC CJ (paragraphs C52-54) requires the DPD to revise its policies regarding prisoners and comply with the DPD's UOF policies and procedures for any UOF on prisoners in holding cells. In addition, the DPD must not handcuff prisoners to benches for longer periods of time than are necessary. The DPD is required to submit its revised UOF policies to the DOJ for review and obtain DOJ's approval.

The Monitor last assessed the DPD's compliance with paragraphs C52-54 during the quarter ending February 29, 2008. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### *Paragraphs C52-53 – Use of Force on Prisoners in Holding Cells Policies; Prisoner Policies*

Paragraph C52 states that the DPD shall require that any use of force on prisoners in holding cells complies with the DPD's use of force policies and procedures.

Paragraph C53 states that the DPD shall revise and augment its policies regarding prisoners to require that:

- a. officers utilize appropriate precautions when interacting with a prisoner who has previously demonstrated he or she is recalcitrant or resistant, including: summoning additional officers; summoning a supervisor; and using appropriate restraints;
- b. absent exigent circumstances, officers notify a supervisor before using force on a prisoner confined to a cell; and
- c. the supervisor assess the need to use force on a prisoner confined to a cell, direct any such force and ensure the incident is videotaped.

## *Background*

During the quarter ending February 29, 2008, the Monitor elected to defer its assessment of the DPD's compliance with paragraphs C52-53 so that the assessment could be made in conjunction with the review of the *UOFHC Investigations Audit*, which covers paragraphs C52-53, among others, and was to be submitted by the DPD on July 31, 2008.

## *Current Assessment of Compliance*

In order to assess the DPD's compliance with the paragraphs C52-53 during the current quarter, the Monitor reviewed the *UOFHC Audit Report*,<sup>113</sup> which included ten incidents involving a use of force that occurred in a holding cell (or holding cell area).<sup>114</sup>

In regards to the requirements of paragraph C52, the types of force used by officers in these ten incidents included hard-hands only (compliance controls and physical controls). Based on the information reported in the officers' reports and supervisory investigations, the Monitor found that in all ten incidents officers used an appropriate level and type of force in response to and commensurate with the subjects' resistance.<sup>115</sup> The officers gave verbal warnings when possible and de-escalated the level once the situations were under control, as is required in the DPD's use of force polices.

Only two of the incidents were applicable to the requirements of paragraph C53.<sup>116</sup> In these two incidents, the detainees were verbally threatening to harm the detention officers just prior to the officers removing handcuffs. Once removed, the subjects became physically aggressive, resulting in the need for officers to use force to control the detainees. In both incidents, the officers' statements described the detainees as being recalcitrant, intoxicated and verbally resistant just prior to the uses of force. In order to comply with the requirements of paragraph C53, the officers should have used appropriate precautions in both incidents, such as summoning additional officers and a supervisor prior to removing the restraints. While the Monitor acknowledges that the officers' statements contained in the documentation may or may not be complete, officers should be reminded that they should request assistance whenever possible.<sup>117</sup>

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<sup>113</sup> The *UOFHC Audit* was submitted on July 31, 2008. Refer to the *Current Assessment of Compliance* for subparagraph C65a, below.

<sup>114</sup> The AT is not required to audit the force incident, only the "investigation" of the force. As such, the Monitor conducted an independent assessment of the force using the ten incidents included in this audit.

<sup>115</sup> All ten force incidents occurred in holding cell areas; none of the ten incidents occurred on a prisoner confined to a holding cell.

<sup>116</sup> In these incidents, the force occurred in the processing area. .

<sup>117</sup> Although paragraph U32f is not being evaluated this quarter, the Monitor notes that none of the eight investigations that included a force incident specifically evaluated the officers' tactics. Instead, in many instances

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph C52, but not yet in compliance with paragraph C53.

### *Paragraph C54 – Prisoners in Handcuffs*

Paragraph C54 states that the DPD shall not handcuff prisoners to benches for longer periods of time than are necessary.

### *Background*

The Monitor last assessed the DPD's compliance with paragraph C54 during the quarter ending February 29, 2008, finding the DPD in compliance with the requirements of the paragraph. The DPD demonstrated that through its policies and reporting requirements, detainees are rarely, if ever, being handcuffed to fixed objects, and even if so, for only limited duration.

### *Current Assessment of Compliance*

The DPD has discontinued its use of the *Handcuff to Object (H2O) Form* (DPD 670), which had been employed to capture the exact time that a detainee is handcuffed to a fixed object and the exact time that the detainee is un-handcuffed from this fixed object. The form also reiterated the importance of not handcuffing a detainee to a fixed object for longer than three hours. In response to a document request, the DPD provided the Monitor with an administrative message, teletype #08-02281, dated April 22, 2008, which, while announcing the discontinuation of the form, instructed DPD officers that they were still bound to follow the requirements of this paragraph.

In its 20th Quarter Status Report, the DPD noted that the provisions of paragraph C54 are addressed in the Directive 305.4,  *Holding Cell Areas*. The DPD noted that it prohibits the handcuffing of a detainee to a fixed object for periods longer than three hours, and that the HCCC conducts inspections to evaluate the DPD's compliance with this paragraph. During the months of June, July and August 2008, the DPD reported that inspections conducted by the HCCC found all five holding cell facilities compliant with the requirements of this paragraph.

The DPD provided the Monitor with documentation related to the inspections performed by HCCC with respect to the five holding cell facilities. The following inspections were conducted:

- June 9, 2008 in the Western District;
- June 10, 2008 in the Eastern, Northeastern, Northwestern, and Southwestern Districts;

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the underlying facts and circumstances were simply restated by the investigator from the officer's reports without any evaluation as required by subparagraph U32f.

- July 8, 2008 in the Southwestern, Northeastern, Eastern and Northwestern Districts;
- August 6, 2008 in the Southwestern District;
- August 7, 2008 in the Eastern District;
- August 8, 2008 in the Western District; and
- August 11, 2008 in the Northeastern and Northwestern Districts.

At no time during these inspection were any detainees observed handcuffed to a fixed object. These inspections appear to support the DPD's contention that this practice has become increasingly rare, and in the instances where it does occur, detainees are not handcuffed for more than three hours.<sup>118</sup> The Monitor will conduct an independent assessment during the next quarter that this paragraph is scheduled for review.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph C54.

## **X. INCIDENT DOCUMENTATION, INVESTIGATION AND REVIEW**

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This section of the COC CJ (paragraphs C55-57) requires the DPD to comply with its general incident investigation policies, UOF investigation policies and PI investigation policies in connection with all UOF, injuries and in-custody deaths occurring to prisoners in holding cells. The DPD is required to provide its revised UOF policies to the DOJ for review and to obtain DOJ's approval.

The Monitor last assessed the DPD's compliance with paragraphs C55-57 during the quarter ending May 31, 2008. The Monitor again assessed the DPD's compliance with these paragraphs during the current quarter. The results of our current assessments follow.

### **Paragraph C55-57 – Prisoner Injury and Use of Force in Holding Cell Investigations**

Paragraph C55 states that the DPD shall require that all uses of force, injuries to prisoners and in custody deaths occurring in the DPD holding cells are investigated in compliance with the DPD's general incident investigation policies.

Paragraph C56 states that the DPD shall require that all uses of force occurring in DPD holding cells are reported and investigated in compliance with the DPD's use of force investigation policies.

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<sup>118</sup> The Monitor is concerned that these inspections are spot-checks and may not reveal whether individuals are being handcuffed to objects at all and if so, for more than three hours.

Paragraph C57 states that the DPD shall require that all injuries to prisoners occurring in DPD holding cells are reported and investigated in compliance with the DPD's PI investigation policies.

### *Background*

The Monitor last assessed the DPD's compliance with paragraphs C55-57 during the quarter ending May 31, 2008, finding that the DPD remained in compliance with the policy requirements but was not yet in compliance with the implementation requirements of the paragraphs. In reaching these conclusions, the Monitor reviewed and placed reliance on the findings contained in the *Prisoner Injuries in Holding Cells (PIHC) Audit* submitted by the DPD on January 31, 2008, which was required by subparagraph C65b.

### *Current Assessment of Compliance*

On July 31, 2008, the DPD submitted the *PIHC Audit Report* and the *UOFHC Audit Report*, both of which included UOF and/or PI investigations of incidents that occurred in a holding cell. A total of 12 such investigations were reviewed in these two audits, ten of which were UOF investigations and two of which were PI investigations. All 12 investigations were conducted at the command level.

The Monitor has not yet completed its evaluation of the above audits and is therefore electing to defer its assessment of the DPD's compliance with paragraphs C55-57. This assessment will be completed in conjunction with the review of the audit, which is expected to be completed during the quarter ending November 30, 2008. As a result, the Monitor has not yet completed its evaluation of the DPD's compliance with paragraphs C55-57.

## **XI. EXTERNAL COMPLAINTS**

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This section of the COC CJ (paragraphs C58-59) requires the DPD to comply with its external complaint and investigation policies when responding to all external complaints and incidents occurring in holding cells.

The Monitor last assessed the DPD's compliance with paragraphs C58-59 during the quarter ending May 31, 2008, and is scheduled to again assess compliance with these paragraphs during the quarter ending November 30, 2008.

## **XII. GENERAL POLICIES**

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This section of the COC CJ (paragraphs C60-61) requires the DPD to ensure that all terms are clearly defined in all policies that are developed, revised, and augmented, and to make proposed policy revisions available to the community.

The Monitor last assessed the DPD's compliance with paragraphs C60-61 during the quarter ending May 31, 2008, and is scheduled to again assess compliance with these paragraphs during the quarter ending November 30, 2008.

### **XIII. MANAGEMENT AND SUPERVISION**

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This section of the COC CJ (paragraphs C62-72) requires the DPD to operate its holding cells in compliance with its comprehensive risk management plan and to routinely evaluate the operation of the holding cells to minimize the risks to its staff and prisoners. The DPD must evaluate such operations through the use of video cameras and via regularly scheduled semi-annual<sup>119</sup> audits that assess and report on issues affecting the safety and well-being of DPD personnel and prisoners in the DPD's holding cells.<sup>120</sup>

The Monitor last assessed the DPD's compliance with paragraphs C62-64, subparagraph C65a, the HCCC requirement of paragraph C66, and paragraphs C68 and C69 during the quarter ending February 28, 2008. The Monitor last assessed the DPD's compliance with subparagraphs C65b and c, the Fire Safety Audit requirement of paragraph C66, paragraph C67, and paragraphs C70-C72 during the quarter ending May 31, 2008.

The Monitor again assessed the DPD's compliance with paragraphs C62-71 during the current quarter. The results of our current assessments follow.

#### **Paragraph C62 – Evaluation of Holding Cells**

Paragraph C62 requires the DPD to routinely evaluate the operation of the holding cells to minimize the risk of harm to staff and prisoners.

#### ***Background***

The Monitor last assessed the DPD's compliance with paragraph C62 during the quarter ending February 29, 2008, finding that the DPD was not yet in compliance with the paragraph. During that quarter the DPD commenced conducting inspections of each building containing holding cells, once per month, and documenting the inspections using the revised "*Evaluation of the Operation of the Holding Cells*" (DPD715 form). The DPD715 form is a checklist designed to

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<sup>119</sup> On October 4, 2004, at the request of the parties, the Court amended the audit schedule in the COC CJ by requiring the DPD's COC CJ audits to be completed semi-annually with the first and second audits due by January 31 and August 31, 2004, and subsequent audits due by January 31, 2005 and every six months thereafter.

<sup>120</sup> The topics covered by these audits include: UOF; injuries to prisoners and allegations of misconduct in holding cells; fire detection, suppression and evacuation; emergency preparedness; medical/mental health; detainee safety; environmental health and safety; and food service.

facilitate compliance with paragraph C62. While the Monitor provided feedback on the form, and found the form a good tool to routinely evaluate the operation of the holding cells, the DPD had not yet developed guidelines and instruction for the staff who will be using the checklist. The Monitor indicated that until the guidelines are developed, the DPD could not achieve compliance with the requirements of paragraph C62.

### *Current Assessment of Compliance*

In order to assess the DPD's compliance with paragraph C62 during the current quarter, the Monitor reviewed the recently submitted Guidelines to the DPD715 form, along with completed DPD715 forms for inspections conducted by the HCCC during this quarter.

The Monitor's review of the Guidelines identified a few areas that should be clarified and/or improved, such as adding language to direct the inspector to check for improper storage of flammable liquids in areas other than the garage and adding verbiage to more clearly define ambiguous terminology (such as "cleanliness" and "properly completed"). By providing sufficient and clear direction to the members conducting the inspections, the evaluations of the holding cells will be more consistent, accurate, and will help to ensure that the holding cells are evaluated by the DPD to minimize the risk of harm to staff and prisoners. The Monitor will initiate discussions with the DPD to communicate all of the details of the Monitor's assessment of the Guidelines.

The HCCC conducted inspections, utilizing the DPD715 forms, on June 9-10, July 8, and August 6-8 and 11th, 2008 in five districts, totaling 15 inspections during the current quarter; however, no inspections were conducted at DRH even though many of the items on the form apply to the DRH holding cells.<sup>121</sup> While the inspections identified a number of problems in the holding cells, such as non-functioning video cameras, burned-out light bulbs, and a lack of required number of cell checks being documented on the cell check log, not all areas of the forms were completed (i.e., some checkboxes were left blank.) Furthermore, only about half of the forms indicated the name of the person to whom notification of the results and a copy of the form were provided. Additionally, based on the manner in which certain items were or were not inspected, and the manner in which the forms were completed, it does not appear that the Guidelines were used by the HCCC to conduct these inspections. Once the DPD revises the Guidelines, and disseminates them to the members conducting the inspections, the quality of such inspections should improve.

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with paragraph C62.

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<sup>121</sup> In its 20th Quarter Status Report, the DPD indicated that the HCCC performs unannounced "district" holding cell inspections. The DPD has indicated that it plans to implement an inspection process for the DRH during the next quarter. This process will be a modified version of the inspections being conducted at the districts.

### **Paragraph C63 – Risk Management Plan**

Paragraph C63 requires the DPD to operate the holding cells in compliance with the DPD's comprehensive risk management plan including implementation of:

- a. the Risk Management Database (discussed in paragraphs U79-90);
- b. the performance evaluation system (discussed in paragraph U91);
- c. the auditing protocol (discussed in paragraph U92);
- d. regular and periodic review of all DPD policies; and
- e. regular meetings of DPD management to share information and evaluate patterns of conduct by DPD that potentially increase the DPD's liability.

### ***Background***

The requirements of paragraph C63 mirror those of paragraph U78. The Monitor last assessed the DPD's compliance with paragraph C63 during the quarter ending February 29, 2008 finding that the DPD was not yet in compliance with subparagraphs C63a and c and was in compliance with subparagraphs C63d and e. The Monitor had not yet re-evaluated the DPD's compliance with subparagraph C63b.

### ***Current Assessment of Compliance***

Regarding subparagraph C63a, as described in the *Current Assessment of Compliance* for paragraph U78, the MAS database has not yet been tested to verify that it is fully developed or operational.

Regarding subparagraph C63b, as described in the *Current Assessment of Compliance* for paragraph U78, the Monitor has not yet re-evaluated the requirements of paragraph U91, and intends to do so after the next cycle of performance evaluations are complete.

Regarding subparagraph C63c, the DPD is not yet in compliance with the majority of the paragraphs relating to the auditing protocol.

Regarding subparagraph C63d, as described in the *Current Assessment of Compliance* for paragraph U78, the DPD's Policy Focus Committee did not meet during this quarter, and the Monitor is awaiting information confirmation of the next scheduled meeting.

Regarding subparagraph C63e, as described in the *Current Assessment of Compliance* for paragraph U78, the DPD is continuing to meet to address issues of liability as required by subparagraphs U78e and C63e.

Based on the foregoing, the Monitor finds that the DPD is in compliance with subparagraphs C63d and e, but not yet in compliance with subparagraph C63c. The Monitor has not yet evaluated the DPD's compliance with subparagraph C63a and withholds a determination of compliance with subparagraph C63b.

### **Paragraph C64 – Video Cameras – Holding Cells**

Paragraph C64 states that the DPD policy on video cameras shall be revised and augmented to require:

- a. the installation and continuous operation of video cameras in all prisoner processing areas of DPD holding cells within one year of the effective date of the COC CJ;
- b. supervisors to review videotapes of all incidents involving injuries to a prisoner or an officer, UOF and external complaints;
- c. that the DPD retain and preserve videotapes for at least 90 days, or as long as necessary for incidents to be fully investigated; and,
- d. that the DPD conduct and document periodic random reviews of prisoner processing area camera videotapes for training and integrity purposes and conduct periodic random surveys of prisoner processing area video recording equipment to confirm that it is in proper working order.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraph C64 during the quarter ending February 29, 2008, finding that the DPD was not yet in overall compliance with the paragraph. The Monitor found that the DPD remained in compliance with the policy requirements of the paragraph, but was not yet in compliance with the implementation requirements of subparagraphs C64a-c because training had not begun under the *Detention Officer Training Lesson Plan*. The Monitor withheld a determination of the DPD's compliance with the implementation requirements of subparagraph C64d pending further review of the DPD's Video Review Protocol.

### ***Current Assessment of Compliance***

Regarding subparagraph C64a, on September 11, 2008, Monitoring Team members conducted inspections of the Northeastern, Eastern, Northwestern, Western, and Southwestern Districts. The cameras in the prisoner processing areas were functioning in each of the districts. The DPD states in its 20th Quarter Status Report that the installation of the equipment and continuous operation of the video equipment is the responsibility of Technology Services, which continues to operate, maintain and ensure the proper functionality of all digital video equipment in holding cell processing areas. The DPD further acknowledges that it has not yet commenced training of DPD members regarding this requirement.

Regarding subparagraph C64b, in its 20th Quarter Status Report, the DPD noted that the *UOFHC Audit*, which was submitted on July 31, 2008, evaluated ten UOF incidents. The *PIHC Audit*, which was submitted on July 31, 2008, evaluated two detainee injury incidents. Of those 12 incidents, there were eight incidents where a supervisory review of the videotape should have been performed. However, it was determined that the supervisory review of videotape was actually performed for only one incident. In the remaining incidents a supervisory review of the videotape did not take place because there was a pending request for the videotape to be obtained, the videotape was no longer available, or the video system did not work at the time of the incident.

Regarding subparagraph C64c, in its 20th Quarter Status Report, the DPD noted that Technology Services maintains the archives of digitally captured video for 90 days, or for longer periods when an investigation will take longer than 90 days to conclude. The video archive system also provides supervisors the option of downloading the video to a desktop computer and/or a CD-ROM for review and retention purposes. However, the issues identified in the *PIHC Audit* in connection with subparagraph C64b and those identified in the *Current Assessment of Compliance* for paragraphs U100-102 are relevant here. The DPD must ensure that all video archives are properly maintained.

Regarding subparagraph C64d, in its 20th Quarter Status Report, the DPD noted that members of the HCCC performed monthly random inspections of the video camera equipment located within the processing areas of all district holding cell facilities for operability on June 13, 2008, July 17, 2008 and August 15, 2008. In addition, the DPD reported that when a camera is identified as inoperable, Technology Services is notified to ensure that repairs are made. The inspections confirmed that all detainee processing area cameras were in operation, with the exception of the Eastern District due to an electrical problem that occurred there. Cameras in the Eastern District were functioning at the time of the Monitor's inspection on September 11, 2008.

The Monitor also finds that the Training Directive related to paragraph C64 is sufficient to meet the policy component of the subparagraph. The Monitor has recommended, however, that when operations allow, the number of reviews should be increased to more than once per month. The DPD has confirmed that it has not yet implemented this requirement to begin reviewing video of the prisoner processing areas. The DPD is prepared to begin training geared towards implementation.

Based on the foregoing, the Monitor finds that the DPD remains in compliance with the policy requirements but is not yet in compliance with the training and implementation requirements of paragraph C64.

**Paragraph C65 – Audits of UOF, Prisoner Injuries and Misconduct Investigations in Holding Cells**

Paragraph C65 requires the DPD to conduct regularly scheduled semi-annual audits covering all DPD units and commands (including a sample of command, IAD and Homicide Section investigations) that investigate uses of force, PIs, and AOM in holding cells.

In order to address the requirements of paragraph C65, the DPD's AT has historically conducted three separate audits of a) investigations of UOF in holding cells, b) investigations of PIs in holding cells, and c) investigations of AOM in holding cells. The Monitor has similarly split its evaluation of this paragraph into three separate evaluations (subparagraphs C65a, C65b and C65c).

***Background***

The Monitor last assessed the DPD's compliance with subparagraph C65a during the quarter ending February 29, 2008, finding that the DPD was not yet in compliance as the DPD did not submit the *UOFHC Audit*, which was due on January 31, 2008.

The Monitor last assessed the DPD's compliance with subparagraphs C64b and C65c during the quarter ending May 31, 2008, finding the DPD in compliance with the requirements of these subparagraphs.

***Current Assessment of Compliance***

***Subparagraph C65a – Holding Cells Use of Force Investigations Audit***

On July 31, 2008, the DPD submitted a *UOFHC Audit*, which found that the Department was not yet in compliance with all paragraphs tested (C55-57, and U27-40). During the current quarter, the Monitor began its review of the audit report and working papers for this audit and conducted on-site reviews of all ten investigations included in the audit. However, the Monitor has not yet completed its overall evaluation of this audit or the DPD's compliance with subparagraph C65a. The Monitor expects to report its findings in the Monitor's Report for the Quarter Ending November 30, 2008.

***Subparagraph C65b – Prisoner Injuries in Holding Cells Audit***

On July 31, 2008, the DPD submitted a *PIHC Audit*, which found that the Department was not yet in compliance with all paragraphs tested (C55, C57, U27-36, and U39.) During the current quarter, the Monitor began its review of the audit report and working papers for this audit and conducted on-site reviews of the two investigations included in the audit. However, the Monitor has not yet completed its overall evaluation of this audit or the DPD's compliance with subparagraph C65b. The Monitor expects to report its findings in the Monitor's Report for the Quarter Ending November 30, 2008.

### ***Subparagraph C65c – Allegations of Misconduct in Holding Cells Audit***

On July 31, 2008, the DPD submitted an *Allegations of Misconduct Investigations in Holding Cells (AOMHC) Audit*, which found that the Department met the requirements of paragraphs U29-30, U32-33, U58, U61, U65-67 and U68; and did not meet the requirements of paragraphs U27 and U59. The AT also found the DPD in partial compliance with paragraph U28, and did not evaluate compliance with paragraph U31. During the current quarter, the Monitor began its review of the audit report and working papers for this audit and conducted on-site reviews of all five investigations included in the audit. However, the Monitor has not yet completed its overall evaluation of this audit or the DPD's compliance with subparagraph C65c. The Monitor expects to report its findings in the Monitor's Report for the Quarter Ending November 30, 2008.

### **Paragraph C66 – Holding Cell Compliance Committee Responsibilities**

Paragraph C66 requires the DPD to form a HCCC that is responsible for assuring compliance with the relevant provisions of the COC CJ. This paragraph also requires the HCCC to conduct regularly scheduled semi-annual audits of all facilities that house holding cells to evaluate and report upon compliance with the fire detection, suppression and evacuation program as detailed in the COC CJ.<sup>122</sup>

### ***Background***

The Monitor last assessed the DPD's compliance with the HCCC requirement of paragraph C66 during the quarter ending February 29, 2008, finding the DPD in compliance because the HCCC met at least once per month and the meetings were attended by members with appropriate expertise in the topic areas discussed. These topic areas were related to areas where the DPD was not yet in compliance and remedies were discussed to further the DPD towards implementation of the COC CJ required policies, programs and procedures.

The Monitor last assessed the DPD's compliance with the *Fire Safety Practices and Policies (FSPP) Audit* requirement of paragraph C66 during the quarter ending May 31, 2008, finding the DPD in compliance. The Monitor determined that the *FSPP Audit* due and submitted on January 31, 2008 was conducted by appropriate members of the HCCC and was a quality audit.

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<sup>122</sup> The scope of such audits must include an evaluation of the smoke detectors and sprinklers, the back-up power systems, and the DPD's fire equipment.

## *Current Assessment of Compliance*

### ***HCCC Requirement of Paragraph C66***

In order to assess the DPD's compliance with the HCCC requirements of paragraph C66 during the current quarter, on August 28, 2008, the Monitor requested that the DPD submit a current listing of all members assigned to the HCCC and their roles within the HCCC; a listing of the dates and attendance rosters of all HCCC meetings held from May 1, 2008 through July 31, 2008; and a copy of the Agenda and minutes taken (if any) describing the subject matter and content of the meetings. The Monitor also attended a scheduled HCCC meeting on September 25, 2008.<sup>123</sup>

The September 25th meeting was attended by appropriate HCCC members and the items discussed were in relation to areas pertinent to achieving compliance with various COC CJ provisions, such as the operation of fire sprinkler systems in the holding cells; scheduling training on the Audit Protocol for HCCC members involved in the conduct of audits; and the use of the electronic blotters to document various holding cell activities. The HCCC members present took an active role in discussing remedies to solve recently identified issues and ways to further the DPD towards full compliance with the COC CJ requirements.

In regards to the requested documentation, the Monitor received some materials on September 15, 2008 and additional materials on September 24, 2008. Given the timing for receipt of these materials, the Monitor has not yet completed its review and assessment of the DPD's compliance with the HCCC requirement of paragraph C66.

### ***FSP Audit Requirement of Paragraph C66***

The DPD did not submit the Fire Safety Program and Policies (FSPP) Audit Report that was due by July 31, 2008.<sup>124</sup>

As a result, the Monitor finds that the DPD is no longer in compliance with the FSPP audit requirements of paragraph C66.

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<sup>123</sup> Due to scheduling issues, the HCCC meeting attended by the Monitor was after the end of the current quarter.

<sup>124</sup> The DPD advised the Monitor that the non-submission of this audit was a strategic decision to allocate its audit resources to other COC CJ required audits, since the DPD is currently upgrading the fire alarm and sprinkler systems at various district buildings, and this audit would have found the DPD in non-compliance during the period of transition. These upgrades are being made pursuant to the court-ordered retrofit of DPD facilities in order to comply with certain LSC requirements, and are required to be completed by December 31, 2008. They are described in the Executive Summary to this report and in the *Current Assessment of Compliance* for paragraphs C14-21. The DPD expects to conduct the FSPP audit once the LSC upgrades are completed.

### **Paragraph C67 – Audit of Emergency Preparedness Program**

Paragraph C67 requires the HCCC to conduct regularly scheduled semi-annual audits of the DPD's Emergency Preparedness Program (EPP) for all DPD buildings that contain holding cells.

#### ***Background***

The Monitor last assessed the DPD's compliance with paragraph C67 during the quarter ending May 31, 2008, finding the DPD in compliance. The Monitor determined that the *EPP Audit* submitted by the DPD on January 31, 2008 was appropriately conducted by the HCCC and was a quality and thorough audit.

#### ***Current Assessment of Compliance***

During the current quarter, the Monitor completed its review of the *EPP Audit* submitted by the AT on July 31, 2008 and the associated audit work plan, working papers and fieldwork documents.

The Monitor's findings, which have been discussed with the DPD's AT, are as follows:

- The audit report was submitted on a timely basis by the required due date of July 31, 2008 and was appropriately conducted by members of the AT and HCCC with expertise in emergency management.
- The audit included all substantive paragraphs and found that the DPD has not yet achieved compliance with the requirements of paragraphs C23-25 and the training requirements of paragraph C75. Based on its review of the audit, the Monitor concurs with the AT's findings.<sup>125</sup>
- On June 5, 2008, revised ERPs were approved by the DFD for the five districts that contain holding cells.<sup>126</sup> The AT, the HCCC and the DPD members all played an important role in the revision process and are commended for facilitating the development of the significantly improved ERPs.
- Paragraph C67 specifically requires that the EPP audit include a sampling of key maintenance and inventory records, which are required by subparagraph C25b (requires routine testing, inventory and maintenance of keys and locks.) The AT was able to conduct

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<sup>125</sup> The Monitor notes that while the AT found the DPD non-compliant with the primary paragraphs C23-25, the AT correctly identified that the DPD was in compliance with certain subparagraphs and/or components of these paragraphs. Refer to the Monitor's *Current Assessment of Compliance* for paragraphs C23-25 for further detail.

<sup>126</sup> Central District does not have holding cells, but its staff oversee the cells at the DRH, where detainees from other districts may be taken if they are in need of medical attention. The hospital has its own emergency plan.

this testing in the district buildings using the new HCCC monthly inspection form<sup>127</sup> and correctly found the DPD in non-compliance due to the lack of documentation. However, the HCCC did not conduct these inspections at the DRH holding cell facility and the AT also excluded the DRH from its testing of the C67 and C25b requirements. The AT stated that the examination of key and locks at DRH was performed in other audit tests, specifically by testing detention officers' ability to identify keys by touch, the ability to manually unlock cell doors, and the review of fire drill documentation. However, none of the aforementioned tests address the requirement for "routine" testing, maintenance and inventory, nor do they satisfy the paragraph C67 requirement for the audit to include a sampling of records in all buildings containing holding cells. Furthermore, as identified by the AT, the fire drills were not performed at the DRH for the period under review; as a result, the AT had no fire drill documentation to review in regards to keys and locks in any case. The AT should have included the DRH holding cells in its assessment of routine keys and locks testing, inventory and maintenance. The HCCC should also include the DRH holding cell facility in its monthly inspections schedule.

- In keeping with the established audit approach, during the period July 12 to 17, 2008, the AT conducted on-site interviews and "table-top" exercises with DPD holding cell staff to assess their knowledge of responsibilities during various emergency situations. With the exception of personnel from the DRH facility, the AT interviewed all ranks of DPD members with direct responsibility for detainees. In regards to the DPD personnel assigned to the DRH holding cells, the AT only interviewed PDOs; interviews of supervisors (OIC or Cellblock Supervisors) were not conducted, as no supervisors are stationed at the DRH's holding cells. However, the AT stated that the PDOs at DRH are responsible for making supervisory decisions during an emergency. Given this, the AT should have directed the interview questions for the testing of supervisory emergency preparedness knowledge to the PDOs, rather than excluding the questions altogether.
- With respect to the on-site interviews, the AT appropriately revised the interview questions to address the new ERPs and introduced more open-ended questions that are a stronger test of the individuals' knowledge. Although the Monitor welcomes these changes, it notes that open-ended questions require more complete documentation of answers to ensure they can be accurately analyzed and compared for consistency. The AT should thoroughly review the interview questions and accompanying answers prior to the next audit to ensure that interviewees' answers are adequately documented and assessed.
- The *EPP Audit* is required to include an overall evaluation of emergency preparedness, which includes testing the ERPs to ensure they are fully implemented and appropriately address all fundamental safety issues. However, in contrast to prior audits, the AT

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<sup>127</sup> Form DPD715, *Evaluation of the Operation of Holding Cells*, which was developed in response to paragraph C62.

eliminated testing to determine if evacuation routes are posted on the cellblock walls.<sup>128</sup> These and other safety issues of the ERPs should be evaluated in connection with the AT's evaluation of emergency preparedness.<sup>129</sup>

- The audit test results were accurately transferred from the testing matrices to the audit report and the report was well-presented, logical and included a number of important safety recommendations.
- The AT included a useful Appendix to the audit report illustrating compliance by Consent Judgment paragraph. This Appendix provides the DPD's executive staff and Monitor an at-a-glance picture of Consent Judgment compliance by paragraph and subparagraph. While this Appendix is not specifically required by the audit paragraph and the Monitor did not consider it in the assessment of the audit, the Monitor identified some inaccuracies and missing information, which were communicated to the AT.

As described above, the Monitor determined that the audit contained substantial qualitative performance-related deficiencies that significantly affected the overall quality of the audit. Based on the foregoing, the Monitor finds that the DPD is no longer in compliance with paragraph C67.

### **Paragraph C68 – Audit of Medical/Mental Health Programs and Policies**

Paragraph C68 requires the HCCC to conduct regularly scheduled semi-annual audits of the DPD's medical/mental health programs and policies for all DPD buildings that contain holding cells.

#### ***Background***

The Monitor last assessed the DPD's compliance with the requirements of paragraph C68 during the quarter ending February 29, 2008, finding that the DPD was not yet in compliance as the *Medical and Mental Health Care Programs and Policies Audit Report* submitted by the DPD on January 31, 2008 had both quantitative and qualitative deficiencies that significantly affected the quality of the audit.

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<sup>128</sup> The ERPs require site-specific evacuation routes to be posted on the cellblock wall and in the common path of travel.

<sup>129</sup> In light of the extent of operational provisions contained in the DPD's ERPs, future audits will likely need to incorporate a system of "weighting" to consider the significance of each requirement when evaluating overall emergency preparedness.

### ***Current Assessment of Compliance***

The DPD did not submit the *Medical and Mental Health Care Programs and Policies Audit* that was due by July 31, 2008. Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with the requirements of paragraph C68.

### **Paragraph C69 – Audit of Detainee Safety Programs and Policies**

Paragraph C69 requires the HCCC to conduct regularly scheduled semi-annual audits of the DPD's detainee safety programs and policies for all DPD buildings containing holding cells.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraph C69 during the quarter ending February 29, 2008, finding the DPD in compliance. The Monitor determined that the *Detainee Safety Program and Policies Audit* submitted on January 31, 2008 was appropriately conducted by the HCCC and was a quality and thorough audit.

### ***Current Assessment of Compliance***

On July 31, 2008, the DPD submitted a *Detainee Safety Program and Policies Audit*, which found that the Department was not yet in compliance with all paragraphs tested (C35-38). During the current quarter, the Monitor began its review of the audit report and audit working papers for this audit. Based on the foregoing, the Monitor has not yet completed its evaluation of this audit or the DPD's compliance with paragraph C69.<sup>130</sup>

### **Paragraph C70 – Audits of Environmental Health and Safety Program**

Paragraph C70 requires the HCCC to conduct regularly scheduled semi-annual audits of the DPD's environmental health and safety program covering all DPD buildings that contain holding cells.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraph C70 during the quarter ending May 31, 2008, finding the DPD in compliance. The Monitor determined that the *Environmental Health and Safety (EH&S) Audit* submitted by DPD on January 31, 2008 was appropriately conducted by the HCCC and was a quality and thorough audit.

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<sup>130</sup> The Monitor expects to report its findings in its Report for the Quarter Ending November 30, 2008.

### *Current Assessment of Compliance*

During the current quarter, the Monitor completed its review of the *EH&S Audit* submitted by the DPD on July 31, 2008. The Monitor determined that the audit methodology was not significantly altered from the prior two audits of this topic that were found to be compliant.<sup>131</sup> The Monitor conducted an abbreviated review where the audit's findings of DPD's compliance with Consent Judgment provisions had not changed from the prior audit, and the Monitor conducted detailed testing of the audit fieldwork in those areas where the compliance findings had changed from non-compliant to compliant.

The Monitor's findings, which have been discussed with the DPD's AT, are highlighted below:

- The audit was submitted by the DPD in a timely manner on July 31, 2008, and was conducted by members of the HCCC, as required by paragraph C70, along with members of the AT.
- The audit properly included all of the substantive paragraphs related to this topic, including an assessment of related training. The audit methodology, including the time periods selected for review, the population determination and sampling, sufficiently tested each of the objectives and substantive paragraphs.
- The Monitor was able to reconcile the findings reported to the supporting work papers and reports and to the conclusions reached for each objective. The Monitor concurs with all of the AT's reported conclusions, namely that the DPD is in compliance with paragraphs C39 and C41-45 but is not yet in compliance with paragraph C40.
- Over the prior three audits, the AT has alternated its sampling procedures for testing the daily and weekly logs, sometimes using professional judgment when selecting sample sizes and sometimes using statistical methods to sample these same documents. Although both judgmental and statistical sampling are acceptable audit methods, going forward the AT should use statistical sampling in order to ensure consistency and enhance the validity and comparability of the audit findings.
- While the AT appropriately included DRH in the unannounced on-site inspections for cleanliness and repairs, similar to the most recent *EH&S Audit* submitted on January 31, 2008, the AT was unable to review cleaning or maintenance documentation at the DRH as no documentation is completed.<sup>132</sup> While the Monitor acknowledges that the AT could not review such documentation in this audit, futures audits should include this review when it

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<sup>131</sup> This approach is described in the *Monitor's Methodologies* section, above.

<sup>132</sup> DRH Environmental Service Department (ESD) and not the DPD personnel assigned to the DRH holding cells are responsible for cleaning and maintenance of the holding cells.

becomes available in order to support the DPD's compliance with paragraph C41 at the DRH holding cells.<sup>133</sup>

- As part of its on-site reviews the AT also inspected all holding cells for suicide hazards and compliance with the requirements of paragraph C34.<sup>134</sup> Although the AT completed these inspections and appropriately found the Department in compliance, as no suicide hazards were identified, the results of this testing were not reported by either objective or paragraph. The audit report should include the results of all testing, especially in connection to Consent Judgment compliance.

Based on the foregoing, the Monitor finds the DPD in compliance with paragraph C70.

### **Paragraph C71 – Audits of Food Service Program and Policies**

Paragraph C71 requires the HCCC to conduct regularly scheduled semi-annual audits covering all DPD buildings that contain holding cells of the food service program.

#### ***Background***

The Monitor last assessed the DPD's compliance with paragraph C71 during the quarter ending May 31, 2008, finding the DPD in compliance. The Monitor determined that the *Detainee Food Service Program (and Personal Hygiene Practices Audit)* submitted on January 31, 2008 was appropriately conducted by the HCCC and was a quality and thorough audit.

#### ***Current Assessment of Compliance***

On July 31, 2008, the DPD submitted a *Detainee Food Service Program and Personal Hygiene Practices Audit FSP*, which found that the Department was not yet in compliance with paragraphs C50c-d, C51, C71a and C78b and in compliance with paragraphs C49, C50a-b and C71b. During the current quarter, the Monitor began its review of the audit report and working papers for this audit and has met with the AT to discuss several points of consideration. Based on the foregoing, the Monitor has not yet completed its evaluation of this audit or of the DPD's compliance with paragraph C71.<sup>135</sup>

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<sup>133</sup> The Monitor understands that the HCCC is working with DRH ESD personnel to facilitate the completion of cleaning and maintenance documentation.

<sup>134</sup> Paragraph 34 requires that the DPD remove or make inaccessible all suicide hazards in holding cells including exposed pipes, radiators and overhead bars.

<sup>135</sup> The Monitor expects to report its findings in its Report for the Quarter Ending November 30, 2008.

#### XIV. TRAINING

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This section of the COC CJ (paragraphs C73-78) requires the DPD to provide all detention officers with comprehensive training, maintain individual training records, provide training in key areas such as emergency response, intake and medical protocols, safety programs, maintenance protocols, and food preparation and delivery protocols.<sup>136</sup>

The Monitor last assessed the DPD's compliance with paragraph C74 during the quarter ending November 30, 2007, and is scheduled to again assess the DPD's compliance with this paragraph during the quarter ending May 31, 2008. The Monitor last assessed the DPD's compliance with paragraphs C73, 75-78 during the quarter ending August 31, 2007. The Monitor again assessed compliance with these paragraphs during the current quarter. The results of our current assessments follow.

**Paragraphs C73; C75-78 – Training of Detention Officers Emergency Preparedness Training; Mental/Health Screening Program Testing; Detainee Safety Programs and Polices; Environmental Health and Hygiene Training**

Paragraph C73 directs the DPD to provide comprehensive pre-service and in-service training to all detention officers.

Paragraph C75 directs the DPD to provide all detention officers, supervisors of detention officers and members of the Holding cell compliance committee with annual training in emergency preparedness. Such training shall include drills and substantive training in the following topics:

- emergency response plans and notification responsibilities;
- fire drills and use of fire extinguishers and other fire suppression equipment;
- key control drills and key control policies and procedures; and
- responding to emergency situations, including scenarios detention officers likely will experience.

Paragraph C76 directs the DPD to provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in the medical/mental health screening programs and polices. Such training shall include and address the following topics:

- prisoner intake procedures and medical and mental health protocols, including protocols for transferring or housing prisoners with infectious diseases, disabilities and/or requiring increased monitoring;

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<sup>136</sup> Refer to the UOF CJ training section in this report for additional information regarding DPD training-related issues.

- recoding, updating and transferring prisoner health information and medications;
- the prescription medication policy, including instructions on the storage, recording and administration of medications; and
- examples of scenarios faced by detention officers illustrating proper intake screening and action in response to information regarding medical and mental health conditions.

Paragraph C77 directs the DPD to provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in detainee safety programs and policies. Such training shall include and address the following topics:

- the security screening program, including protocols for identifying and promptly and properly housing suspected crime partners, vulnerable, assaultive or special management prisoner;
- protocols for performing, documenting and obtaining supervisory review of holding cell checks;
- protocols concerning prisoners in observation cells, including protocols for direct and continual supervision, for spotting potential suicide hazards and providing appropriate clothing; and
- examples of scenarios faced by detention officers illustrating appropriate security screening, segregation and monitoring techniques.

Paragraph C78 directs the DPD to provide all detention officers, supervisors and members of the Holding Cell Compliance Committee with annual training in environmental health and safety and hygiene. Such training shall include and address the following topics:

- Cell block cleaning and maintenance protocols and
- Sanitary food preparation and delivery protocols.

### ***Background***

The Monitor last assessed the DPD's compliance with paragraphs C73 and C75-78 during the quarter ending August 31, 2007, finding that the DPD was not yet in compliance with any of these paragraphs. The DPD did not submit to the Monitor appropriate documentation in connection with the requirements of these paragraphs, including lesson plans for the Monitor's review. The DPD continued conducting custodial detention training on an ongoing basis, despite the fact that the lesson plan for the current training had not been submitted to the Monitor. According to the DPD's Sixteenth Quarter Status report, the DPD's CDDT identified deficiencies in the *Detention Officer Training Lesson Plan*, and was in the process of revising it. These revisions were to be based upon general TA and recommendations and evaluations provided by the Monitor from other recently reviewed lesson plans.

### *Current Assessment of Compliance*

Since the DPD's Detention Officer Training Lesson Plan was submitted to the Monitor on November 17, 2007, it has been submitted and re-submitted numerous times in response to feedback from the Monitor. During the quarter ending May 31, 2008, the Monitor forwarded a memorandum containing additional recommendations and comments regarding the lesson plan on April 24, 2008. The CDDT resubmitted a revised lesson plan on May 9, 2008. The Monitor met with the DPD on May 27, 2008 to discuss issues related to the lesson plan. Following the meeting, the DPD made additional revisions to the lesson plan to address the concerns raised at the meeting. The Monitor received the revised plan on May 28, 2008, and again on June 26, 2008. On July 22, 2008, the Monitor indicated that the lesson plan adequately addresses the applicable COC CJ paragraphs. According to the DPD, the Training Center is in the process of devising a schedule to deliver this training to DPD members who are required to receive it.

Based on the foregoing, the Monitor finds that the DPD is not yet in compliance with paragraphs C73 and C75-78.

## **XV. MONITORING AND REPORTING**

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Paragraph C94 requires the DPD to reopen for further investigation any investigation the Monitor determines to be incomplete, subject to certain restrictions. See paragraph U139, which is the corresponding paragraph in the UOF CJ, for information regarding the requirements of this paragraph.

## CONCLUSION

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In August, the DPD began utilizing the Management Awareness System department-wide and commenced a 40-hour in-service training course that will cover many of the Consent Judgment requirements. These are significant achievements for which the City and the DPD are commended. The DPD also continues to work toward complying with the December 31, 2008, court-ordered deadline to retrofit the holding cells.

Nevertheless, the DPD continues to face challenges to compliance, many of which are related to the lack of adequate or complete documentation.

Sheryl Robinson Wood  
Independent Monitor

October 15, 2008

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**APPENDIX A:**

**Acronyms Frequently Utilized in Quarterly Reports Issued by the Independent Monitor for the DPD**

Following is a listing of acronyms utilized in the Independent Monitor's Quarterly Reports.

<b>ACRONYM</b>	<b>DEFINITION</b>
A&D	Arrest and Detention
AT	Audit Team
BOPC	Board of Police Commissioners
BOR	Board of Review
BRT	Board Review Team
CALEA	Commission on Accreditation for Law Enforcement Agencies
CAN report	Corrective Action Needed report
CBS	Cell Block Supervisor
CCR	Citizen Complaint Report
CDDT	Curriculum Design and Development Team
CEPP	Comprehensive Emergency Preparedness Program
CFD	Critical Firearm Discharge
CI	Chief Investigator
City	City of Detroit
CLBR	Command Level Board of Review
CLFRT	Command Level Force Review Team

CLO	Compliance Liaison Officer
CME	Confidential Medical Envelopes
CMMHSP	Comprehensive Medical and Mental Health Screening Program
CO	Commanding Officer
COC CJ	Conditions of Confinement Consent Judgment
CRD	Civil Rights Division
CRIB	Civil Rights Integrity Bureau
CSU	Communications Systems Unit
DA	Disciplinary Administration
DAS	Disciplinary Administration Section
DCCL	Detention Cell Check Log
DDHWP	Detroit Department of Health and Wellness Promotion
DDMHIL	Daily Detainee Meal and Hygiene Items Log
DDOH	Detroit Department of Health
DFD	Detroit Fire Department
DFF	Detainee File Folders
DFO	Detention Facility Officer
DHWP	Detroit Health and Wellness Promotion
DIF	Detainee Intake Form
DOJ	Department of Justice
DPD	Detroit Police Department

DPR	Daily Prisoner Report
DRH	Detroit Receiving Hospital
ECD	Emergency Communications Division
EPP	Emergency Preparedness Program
FI	Force Investigation
FIS	Force Investigation Section
FIU	Force Investigation Unit
FRT	Force Review Team
FSP	Fire Safety Program
FSPP	Fire Safety Practices and Policies [Audit]
GAS	Government Auditing Standards
HCCC	Holding Cell Compliance Committee
IACP	International Association of Chiefs of Police
IA	Internal Affairs
IAD	Internal Affairs Division
IAS	Internal Affairs Section
ICD	Internal Controls Division
IM	Independent Monitor
IMAS	Interim Management Awareness System
ITS	Information Technology Services
JIST	Joint Incident Shooting Team

LP	Lesson Plan
MAS	Management Awareness System
MCOLES	Michigan Commission on Law Enforcement Standards
MIF	Medical Intake Form
MIOSHA	Michigan Occupational Safety and Health Administration
MITN	MCOLES Information and Tracking System
MSP	Michigan State Police
OCI	Office of the Chief Investigator
OIC	Officer in Charge
OCR	Office of Civil Rights
PAB	Professional Accountability Bureau
PAIR	Police Action Incident Report
PCR	Preliminary Complaint Report
PDDS	Platoon Daily Detainee Summary
PDO	Police Detention Officer
PEERS	Performance Evaluation and Enhancement Review Session
PI	Performance Indicator
PSA	Public Service Announcement
RFP	Request for Proposals
RMB	Risk Management Bureau
RMG	Risk Management Group

SCAN	Security Communications Alert Network, Inc.
SCBA	Self-Contained Breathing Apparatus
SIR	Supervisor's Investigation Report
SME	Subject Matter Expert
SMT	Senior Management Team
SOP	Standard Operating Procedure(s)
TA	Technical Assistance
USAO	United States Attorney's Office
UOF	Use(s) of Force
UOF CJ	Use of Force and Arrest and Witness Detention Consent Judgment
WCPO	Wayne County Prosecutor's Office
WCSD	Wayne County Sheriff's Office
WIQD	Witness Identification and Questioning Documentation

# BALTIMORE AND THE POLICE

## A Critical Engagement with the DoJ Report on the Baltimore Police Department



### The Public Life Committee

of the Department Philosophy and Religious Studies  
and the College of Liberal Arts at Morgan State University  
Cordially invite you to a round table on the Department of  
Justice report on the Baltimore Police Department.

1-4pm, April 8, 2017 | Morgan State University  
Banneker Hall, Rm 112

#### Participants:

**Dr. Lorenzo Boyd**, Chair, Department of Criminal Justice, University of Maryland Eastern Shore

**Ms. Myisha Cherry**, PhD Candidate in philosophy at University of Illinois, Chicago; Visiting Edmond J. Safra fellow in Ethics, Harvard University

**Rev. Dr. Kevin Daniels**, Episcopal Senior Pastor, St. Martin Church of Christ; School of Social Work, Morgan State University

**Mr. Dayvon Love**, Director of Research and Public Policy, Leaders for a Beautiful Struggle

**Mr. Ray Kelly**, Co-Director, No Boundaries Coalition

**Dr. Natasha Pratt-Harris**, Associate Professor, Department of Sociology and Anthropology, Morgan State University

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