



# VENABLE<sub>LLP</sub>

Responses to the Request for  
Additional Information from  
Applicants for the Position of Court-  
Appointed Monitor for the Baltimore  
Police Department

July 31, 2017



The team assembled by Venable LLP is pleased to respond to the request for supplemental information from applicants for the position of court-appointed monitor for the Baltimore Police Department under the Consent Decree entered by the U.S. District Court for the District of Maryland on April 7, 2017. We look forward to our interview with the parties on August 3, 2017.

**REQUEST NO. 1. Project Management. The ability to effectively manage the numerous projects, tasks, and people who will be involved in implementing the Consent Decree is critical to the success of the reforms. Please identify the individual on your team who will assume primary responsibility to manage the implementation of the Monitor's duties under the Consent Decree, and any subordinates who will be managing the implementation of a specific area. Please describe their relevant expertise and experience to perform this role. Please also describe how the team will resolve any differences of opinion that may arise among the members of the team, including the law enforcement experts. Finally, please identify the individual(s) who will serve as the primary point of contact for the Court, and describe any relevant experience.**

**RESPONSE:**

*Consent Decree Management.* As set forth in our proposal, Ken Thompson will serve as the monitor and will assume primary responsibility for overseeing implementation of the monitoring team's duties under the Consent Decree. In addition, Mr. Thompson, a life-long resident of Baltimore, will assume primary responsibility for community engagement.

Seth Rosenthal and Chief Theron Bowman will serve as deputy monitors. Mr. Rosenthal's principal duties will include:

- Coordination and drafting of the monitoring team's reports and court filings
- Administration, including coordination of scheduling, budgeting, and document organization and retention
- Coordination and oversight of the subject matter experts responsible for monitoring the following key subject areas:
  - Community engagement and trust building
  - Use of force, de-escalation, and crisis intervention
  - Impartial policing
  - First Amendment retaliation

Chief Bowman's principal responsibilities will include coordination and oversight of the subject matter experts responsible for monitoring the following key subject areas:

- Stop, search, and seizure
- Sexual assault investigation
- Community policing
- Accountability
- Management and supervision
- Officer assistance and support

Our initial response includes the prior experience of Mr. Thompson, Mr. Rosenthal, and Chief Bowman. For Mr. Thompson's, please see pages 26 and 162-163 of the response. For Mr. Rosenthal's, please see pages 26 and 164-166. For Chief Bowman's, please see pages 22 and 50-58.

*Dispute Resolution.* We will have an internal dispute resolution process. If subject matter experts have a difference of opinion, the subject matter experts will present their opinions to Mr. Thompson, the monitor, and



Mr. Rosenthal and Chief Bowman, the deputy monitors. Mr. Thompson, Mr. Rosenthal and Chief Bowman will make a preliminary determination on the resolution of the dispute, seeking input from the parties as needed. In the event of any disagreement among Mr. Thompson, Mr. Rosenthal and Chief Bowman, Mr. Thompson's preliminary determination will prevail. It is important to emphasize that, because the monitor and deputy monitors are appointed by the Court, this determination will be preliminary only. Mr. Thompson will present any internal disputes to the Court, along with the preliminary determination. The Court either will resolve the issue or will advise Mr. Thompson to notify the parties of the issue and allow them to present their positions to the court for resolution.

*Primary Contact.* Mr. Thompson will be the primary point of contact for the Court, together with Mr. Rosenthal, who, as noted above, will be the deputy monitor responsible for overseeing administration of the monitoring team's work. As trial lawyers, both Mr. Thompson and Mr. Rosenthal have extensive experience interacting with judges, as explained on page 26 of our proposal and in Appendix 1 in the biographies of Mr. Thompson and Mr. Rosenthal. Because of the experience of the team's subject matter experts, all team members also will be available to address specific issues with the Court.

**REQUEST NO. 2. Community Accountability. The ability to engage with and build legitimacy among the diverse communities of Baltimore is also essential to the success of the Consent Decree. Please identify the specific actions that you will undertake to ensure effective bilateral communication with groups and individuals in Baltimore, including: (a) how you will ensure that your community engagement efforts are inclusive of Baltimore's diverse communities; (b) the specific team members responsible for undertaking the actions; (c) the anticipated hours each team member will spend conducting these actions, and for how many of those hours each team member will be physically present in the City of Baltimore; (d) how community feedback will be documented and incorporated into monitoring activities; and (e) the portion of your budget that will be dedicated to community engagement. If you plan to add any additional team members to conduct these activities, please identify the process and criteria for retaining these persons, including any involvement by the Parties or the Court.**

**RESPONSE:**

**a) How you will ensure that your community engagement efforts are inclusive of Baltimore's diverse communities**

Community engagement is key to both the BPD's efforts to achieve the goals of the Consent Decree and the monitoring team's ability to gauge the BPD's compliance with the Consent Decree. For that reason, the monitoring team plans to have extensive contact with community members. The Consent Decree requires the monitor to hold one meeting each quarter in a different neighborhood. We will, of course, comply with that requirement and will advertise and conduct outreach to ensure robust attendance. We also intend to establish working relationships with a variety of community groups and will seek out invitations to the meetings of those groups in order to obtain their input. In addition, we will establish ties with community leaders from across the City and meet informally with them. We anticipate that meeting with community organizations and leaders to be a routine part of the work of our team. While the monitoring team's ability to publicly comment on the BPD's compliance efforts is limited by the terms of the Consent Decree, the ability to seek information and input from the public is not.

On top of conducting outreach and holding meetings with community members, we will be accessible to community members through a telephone hot line we plan to establish. In addition, we will establish a website that will report on the team's work and the BPD's progress and permit public comment via email. Finally, we will establish regular office hours to permit members of the community to provide us their input.



Our community engagement efforts will be led by individuals who have long ties with or are readily accessible to Baltimore. Mr. Thompson has lived in Baltimore all of his life and maintains an office downtown. He will always be available to meet with and hear from community members and organizations. Seth Rosenthal works in the District of Columbia, will spend significant time in Baltimore working on implementation of the Consent Decree (he already spends time in Venable's Baltimore office), and will be similarly available to meet with community members and organizations. Perhaps most importantly, as explained in our proposal (see pages 18, 36, 38-39) and below, the team will include a community liaison or liaisons (if it is determined that more than one is beneficial) whose sole responsibility will be to engage Baltimore's diverse communities in the Consent Decree process. To select a liaison or liaisons, we will seek the input of the parties and community members to identify a credible, unbiased individual or individuals with the ability to command the respect of all of the Consent Decree's stakeholders.

#### **b) The specific team members responsible for community engagement**

As explained above, Ken Thompson, Seth Rosenthal, and the community liaison(s) will assume primary responsibility for community engagement. However, our subject matter experts also have experience in community engagement, having conducted outreach to, and established working relationships with, community organizations and leaders, including organizations and leaders from marginalized communities, both in their work on other consent decrees and in their work with other law enforcement organizations. Our subject matter experts will draw on that experience to help develop relationships with, and obtain input from, Baltimore's diverse communities. This experience includes the following:

- Before becoming Sheriff of Washtenaw County, Jerry Clayton not only ran a successful community policing operation as Commander, but created a program that allowed criminal offenders to work with employers in the community under law enforcement supervision. He also designed and conducts Lamberth Consulting's community policing training program, and has run focus groups designed to identify opportunities to enhance law enforcement and community relations.
- Washtenaw County Chief Deputy Emerita Sheriff Woods helped Sheriff Clayton spearhead the Washtenaw County program allowing offenders to work with community employers, and served as Deputy Chief of the Community Services Division of the Ann Arbor Police Department, where she was responsible for the direction, control, and planning of community programs and services.
- With decades of experience in community policing, Dr. Ellen Scrivner has developed extensive community outreach strategies, including a national training strategy that was implemented through a nationwide network of innovative, regional community policing institutes.
- Chief Mary Ann Viverette successfully developed and adopted a city-wide community policing philosophy in Gaithersburg, Maryland, where 49% of the citizens speak languages other than English. Thanks to her efforts, the Gaithersburg Police Department received the Livability Award from the U.S. Conference of Mayors in 1995 for its community policing programs.
- Chief Robert L. Stewart embraced and became a national leader on community policing during his 22 years of service with the Metropolitan Police Department in the District of Columbia, and in his subsequent positions in Louisville, Kentucky, Ormond Beach, Florida and as Executive Director of NOBLE. He served as NOBLE's representative to the Community Policing Consortium and teaches community policing as a police practices expert.
- Steve Parker served as a community liaison for the Department of Justice for the NOPD consent decree earning the trust of numerous community groups. Upon his retirement in 2014, the local LGBTQ community threw him a going-away party attended by a number of representatives of hard-to-reach communities in New Orleans.



In short, we know how to make sure that hard-to-reach voices are heard.

**c) The anticipated hours each team member will spend conducting these actions, and for how many of those hours each team member will be physically present in the City of Baltimore**

In our proposed budget, attached to our proposal as Appendix 4, we have estimated the budget devoted to community engagement for all five years of the consent decree. For instance, in Year One we have estimated that team attorneys will spend 290 hours on community engagement; the community liaison(s), 180 hours; and the subject matter experts, 80 hours. With the exception of telephone calls or emails to arrange for meetings, all of this work will be done when team members are physically present in Baltimore.

**d) How will community feedback be documented and incorporated into monitoring activities?**

Team members will memorialize all community contacts, including meetings, telephone calls, emails, and comments posted to our website. The process we will utilize for documenting community contacts will be no different than the process we will utilize for documenting the team's other work: we will develop and utilize electronic forms that allow for contemporaneous recording of all activities and observations. We will review information from these forms to arrive at our findings regarding compliance and to draft our reports. Our reports will identify the meetings we have, and the input we receive, from community members. Because re-establishing the community's trust of the BPD is a primary goal of the Consent Decree, the findings set forth in our reports will necessarily take into account the feedback we receive from the community.

**e) The portion of your budget that will be dedicated to community engagement. If you plan to add any additional team members to conduct these activities, please identify the process and criteria for retaining these persons, including any involvement by the Parties or the Court**

In our proposed budget, we have estimated that approximately ten percent of the budget be allocated to community engagement. See Appendix 4 of our proposal.

As explained above and in our proposal (on page 26), our team will include at least one trusted member of the Baltimore community to serve as a liaison among the City's diverse communities, the BPD, and our team. It may include more. Because the liaison(s) will play a crucial role in facilitating the relationships required to bring about the reform that the Consent Decree envisions, we believe that the selection of the liaison(s) requires input from community organizers, community groups, DOJ, the City, and the Court. The liaison(s) must possess not only an intimate understanding of local issues and conditions, but the rare ability to command the respect of every stakeholder, including community leaders and residents, City leadership, DOJ, and the Court (whom the liaison(s) will both work for and represent). It is thus imperative that all stakeholders agree on a liaison. For that reason, we have not yet chosen one. If we are selected as monitor, choosing the liaison(s)—with input from all stakeholders—will be our first order of business. To that end, we have begun exploring possibilities.

**REQUEST NO. 3. Technical Assistance. The monitoring team's ability to provide guidance and expertise to the Baltimore Police Department will likewise be a critical part of the success of the Consent Decree. For each area of the Consent Decree, please identify the law enforcement or subject matter expert(s) who will provide Technical Assistance, their prior expertise and experience implementing reforms in the sections of the Consent Decree to which they are assigned, whether and where they have implemented reforms similar to those included in this Consent Decree, and the specific number of hours each expert has committed to working in each subject matter area during each year of the consent decree, and for how many of those hours will each expert be physically present in the City of Baltimore. If you anticipate that certain experts' involvement will increase or**



**decrease during the implementation of the consent decree depending on the stage of implementation or other factors, please describe how you anticipate managing that involvement.**

**RESPONSE:**

When we assembled our team, we determined that it was not enough for a prospective subject matter expert to have experience in police management alone. This is a civil rights consent decree, not simply a police management consent decree. Therefore, we determined that, in addition to experience in police management and oversight, our subject matter experts had to have experience implementing reforms aimed at ensuring constitutional policing as either (1) a member of another monitoring team, (2) a member of a department that was or is under a consent decree, (3) a consultant for police departments seeking to implement constitutional policing reforms, or (4) an individual with direct experience working with the Department of Justice to implement constitutional policing reforms. As a result, our team is comprised of members who have been among the nation's leaders in constitutional policing. We have years of experience reforming departments, monitoring departments, and serving as investigators for the Department of Justice in pattern-and-practice investigations. Our intention is, and always has been, to draw on this experience not only to monitor the BPD's compliance with the consent decree, but to provide the BPD technical assistance whenever it is requested.

Our proposal sets forth, in detail, the areas of the consent decree where the BPD may call upon our subject matter experts for technical assistance. Please refer to pages 4-5, Sections A and B of the Personnel section of our proposal (pages 21-28), and Qualification Nos, 3, 5, 7, 11, 14 and 15 in the Qualifications sections of our proposal (pages 31-40), which describe each team member's qualifications to provide technical assistance in the areas the Consent Decree addresses, as well as each member's past experience furnishing such assistance. Pages 27-28 also include a chart listing the specific areas to which each subject matter expert is assigned and as to which each can provide technical assistance. Additionally, as is evident from the Personnel and Qualifications section of our proposal and from each expert's biography, many of our experts have the ability to provide technical assistance in areas to which they are not formally assigned, and will assist in those other areas if requested.

At this point we have not prepared a budget that splits technical assistance and monitoring work. Please see pages 16-17 of our proposal, as well as our budget estimates (Appendix 4), for a description of how we envision the nature of our work evolving over the term of the Consent Decree. We will be prepared to discuss this in more detail with estimates at the interview on Thursday, August 3<sup>rd</sup>. However, it is difficult to predict the need for technical assistance until those requests are made by BPD to the monitor.