Application of Douglas F. Gansler and Glenn F. Ivey to Serve as Independent Monitor of the Baltimore Police Department

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Submitted By:

Douglas F. Gansler
Buckley Sandler LLP
1250 24th St. NW, Suite 700
Washington, DC 20037
(202) 349-8058
DGansler@buckleysandler.com

Glenn F. Ivey
Price Benowitz, LLP
409 7th St. NW, #100
Washington, DC 20004
(202) 600-9400
glenn@pricebenowitz.com

Submitted To:

Puneet Cheema
Trial Attorney
Civil Rights Division
U.S. Department of Justice
601 D St. NW
Washington, DC 20579
puneet.cheema2@usdoj.com

Erin Sher Smyth
Purchasing Agent for Baltimore City
231 E. Baltimore St., 3rd Floor
Baltimore, MD 21202
Erin.Sher@baltimorecity.gov

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I. EXECUTIVE SUMMARY

Glenn F. Ivey, Esq., and Douglas F. Gansler, Esq., submit this application to serve as Independent Co-Monitors of the Consent Decree jointly entered into by the Civil Rights Division of the United States Department of Justice ("Civil Rights Division") and the Baltimore City Police Department ("BPD") and subsequently approved by the United States District Court for the District of Maryland on April 7, 2017 ("Consent Decree"). Based on their breadth and depth of their prior law enforcement experience as, respectively, the two-term elected State's Attorney for Prince George's County, and the two-term elected State's Attorney for Montgomery County, Maryland, Mr. Ivey and Mr. Gansler (who, in his 22 years in law enforcement, also served as an Assistant United States Attorney and as the elected Maryland Attorney General) understand intimately the particular challenges that local law enforcement departments in Baltimore, and more generally Maryland, face in establishing and implementing policies and procedures designed to protect our citizens. Also, both have been directly involved in Baltimore affairs for the majority of their lives, including Mr. Ivey having lived and worked in Baltimore, and Mr. Gansler who worked in Baltimore, and represented some of its City agencies, for eight years.

The proposed team (collectively, with Mr. Gansler and Mr. Ivey, the "Monitoring Team") they have assembled has extensive experience with law enforcement practices, monitoring and auditing law enforcement agencies, and navigating and strengthening the relationship between police and the communities they serve. The team includes lawyers, criminologists, a religious and community leader, and leading police chiefs. The team's experience is broad, but also deep.

More importantly, it is a team with long-standing and deep connections to Baltimore and Maryland, and that uniquely understands Baltimore and its diverse communities. It is a team that not only has worked and lived in Baltimore, but is part of the city's future. Many of the team members have lived, worked, and served in Baltimore and Maryland for nearly their entire careers. One team member is an accomplished and respected pastor in Baltimore. The team's academics all have extensive experience in Maryland or the surrounding area. One of the team's academics even served as a Baltimore police officer. The team's strength is not only its experience, but its strong connection to Baltimore and Maryland.

The proposed Monitoring Team is keenly aware of the many issues and challenges facing the City of Baltimore and BPD. These issues, identified in the Consent Decree and the investigation by the Department of Justice ("DOJ"), have contributed to decades of debilitating erosion in Baltimore citizens' confidence in and public perception of the Police Department that serves their community. Due to their roots in Baltimore and Maryland, members of the Monitoring Team are aware of these issues firsthand, not just from nightly news reports or newspaper articles. The Monitoring Team understands that confidence in BPD can only be restored when the BPD tackles the challenges it faces and improves its policies, practices, and culture.

The proposed Co-Monitors are both highly-regarded within the Maryland legal and law enforcement communities, as well as having enjoyed long-term positive interaction with Baltimore community groups. As gleaned from the body of their professional work, they both possess and have demonstrated the skills and experience that are required to work collaboratively with the parties in achieving the objectives of the BPD Consent Decree.

For Mr. Ivey, police use of excessive force was a central issue in Prince Georges County when he was first elected in 2002. Prince George's County's Police Department ("PGPD") had a long-standing reputation for unjustified use of deadly force, for coercing confessions from suspects that were later found to be questionable or false, and failing to hold officers accountable who had used excessive force in making arrests. To address these concerns, Mr. Ivey worked with PGPD to install cameras on police cruisers as well as in interrogation rooms, to use vertical prosecution methods when investigating and prosecuting police excessive force cases, and to implement aspects of the 2004 DOJ consent decree between the Civil Rights Division and PGPD. Mr. Ivey worked directly with rank-and-file officers to address their concerns and explain the need for reform, with community leaders who had led public protests against PGPD, and with elected officials and other community leaders to incorporate their support for consensus solutions to these challenges. During this period, Mr. Ivey's office also, apparently for the first time, successfully convicted officers facing charges related to use of excessive force, including Keith Washington, who is currently serving a 45-year jail sentence. At the same time, Mr. Ivey's office maintained strong and positive working relationships with PGPD, leading in part to annual reductions in crime, which continues today, and garnering the endorsement of the local chapter of the Fraternal Order of Police (FOP) when he sought re-election in 2006.

Mr. Ivey also developed a national profile addressing policing issues. He was invited to become a board member of the National Network for Safe Communities, headed by John Jay Professor David Kennedy, which developed effective data-driven strategies to replace heavy-handed policing tactics, such as stop and frisk, arrest and release, and jump out squads. Mr. Ivey also founded the Association of Prosecuting Attorneys ("APA"), a national organization of progressive prosecutors working to identify and address racial and economic disparities in local criminal justice systems. The APA continues to play an active role among progressive prosecutors.

Mr. Gansler's experience has included, among many other relevant and varied accomplishments, managing the successful Joint Sniper Task Force comprised of federal, state, and local law enforcement officers in the wake of the October 2002 Beltway Sniper shootings by John Muhammad and Lee Boyd Malvo, chairing the Montgomery County NAACP Criminal Justice Committee, running the first prosecutor's office in the United States to fully implement Community Prosecution, establishing the first gang unit in any State's Attorney's office in Maryland, establishing the first Civil Rights Unit in the Maryland Attorney General's Office, arguing and winning a unanimous decision before the United States Supreme Court in the

Maryland v. Shatzer case involving police interrogation techniques, and convening a task force during his time as Attorney General of Maryland to assess the appropriate use of Tasers by law enforcement personnel statewide, which subsequently led to Maryland being the only state in the United States that tracks statewide Taser use by police.

Despite their close connections to the Maryland legal and law enforcement communities, Mr. Ivey and Mr. Gansler have demonstrated their independence and their unwavering commitment to the rule of law. For example, while Montgomery County States Attorney, Mr. Gansler was the first State's Attorney in Maryland to bring every police shooting before a Grand Jury to allow citizens to assess whether that shooting was justified. Both men have personally counseled police personnel on Constitutional and other legal limits to the exercise of police power, including search and seizure and police use of force issues. In instances where they have concluded that police officers have overstepped clear legal lines, they have recommended that appropriate disciplinary action be taken. Indeed, Mr. Gansler personally successfully prosecuted a police officer for domestic violence as well as prosecuted Terence Green for attempted first degree murder for the shooting of Montgomery County Police Officer Kyle Olinger. Such action, in some instances, has involved County-level prosecutions of police officers for using excessive force.

To assist them in their work as Co-Monitors, Mr. Ivey and Mr. Gansler have assembled a stellar team of professionals with significant experience working with BPD, Baltimore, and Maryland community groups and law enforcement, as well as nationally-renowned leaders in law enforcement. This team includes:

- Dr. Charles F. Wellford, Emeritus Professor of Criminology and Criminal Justice at the University of Maryland College Park, former Auditor of the Baltimore City Police Department (2010 to 2014), and Founding Co-chair of the Research Advisory Committee, International Association of Chiefs of Police (2009 to 2013);

- Dr. Cynthia Lum, Associate Professor of Criminology at George Mason University and Director of the Center for Evidence-Based Crime Policy, Department of Criminology and former Baltimore City Police Officer;

- Rev. S. Todd Yeary, Ph.D., Senior Pastor of the Douglas Memorial Community Church and co-founding principal of Community Churches for Community Development, Inc. and former Committee Member of OneBaltimore (Baltimore City's collaborative public-private coordinating organization which is working to strengthen and rebuild neighborhoods and communities in the aftermath of the recent disturbances);

- Ronal W. Serpas, former Superintendent of Police of the New Orleans Police Department (2010 to 2014) and Chief of Police of the Metropolitan Nashville Police Department (2001 to 2010);

- Leroy K. James, Executive Director for Campus Safety and Security for Johns Hopkins University (2015 to present) and Compliance Coordinator for the Consent Decree between the United States Department of Justice and Prince George's County, Maryland Police Department; and,

- Dr. Katheryn Russell-Brown, Chesterfield Smith Professor of Law and Director of the Center for the Study of Race and Race Relations at the University of Florida and former Associate Professor in the Criminology & Criminal Justice Department at the University of Maryland.

Working together, this team will independently, professionally, and with avowed purpose monitor the implementation of the Consent Decree. It is the Monitoring Teams genuine belief that, by so doing, the citizens of the City of Baltimore and BPD will be able to work harmoniously and with renewed trust to collaboratively fight and reduce crime in Baltimore without compromising citizens' constitutional rights or equal access to justice for all.

II. SCOPE OF WORK

The Consent Decree addresses significant issues that have simmered, festered, and grown over many years and decades. In addition, most of these issues are, at their core, institutional and systemic, not merely a collection of individualized, ad hoc incidents. The Civil Rights Division's intervention and the resulting BPD Consent Decree are a crucial step on the path toward ameliorating and improving these institutional and systemic issues to achieve durable, trusting, and positive change. The Co-Monitors' goal is to promote effective, safe and legal policing, while building a bridge to a police force that earns the trust, respect and confidence of the diverse community it serves.

Implementation and monitoring of the Consent Decree will involve outreach, engagement, and dialogue with the Parties and the community; providing oversight and technical support; data and statistical analysis; assessments and reports; and, supporting significant and meaningful changes to BPD's policies, procedures, and training protocols. The Monitoring Team will work closely and collaboratively with BPD and its staff to achieve this in a cost-effective way. Indeed, one of the Co-Monitors, Mr. Gansler, would be serving on a pro bono basis. The team anticipates the monitoring activities to be divided into distinct stages, based on its review of the BPD Consent Decree and the Monitoring Teams' knowledge and experience.

A. Initial Phase

The initial phase of the Independent Monitor's duties will involve an intensive and exhaustive gathering of information, establishing systems to facilitate the efficient, cost-effective work of the monitoring team, and devising a comprehensive Monitoring Plan. The Consent Decree provides the monitor 90 days to complete this work.

During this phase, the team will also initiate engagement to establish strong working relationships with the relevant stakeholders and the community. As part of this outreach, the Monitoring Team will set up systems for community and stakeholder input.

The goal of the Consent Decree is for BPD to achieve Full and Effective Compliance with All Material Requirements of the Agreement within five (5) years. The Monitoring Plan will be developed within 90 days of the team assuming its duties as Monitor. The Monitoring Plan will include specific deadlines and scheduling for the first year as well as anticipated scheduling for subsequent years of the Agreement.

The Independent Monitor's team will meet with the judge responsible for administering the Consent Decree, DOJ, the Mayor's Office, BPD employees, civil rights groups, community stakeholders and labor organizations representing the BPD to understand their goals and their

concerns and to obtain information needed to facilitate compliance with the Consent Decree. In addition, we will review BPD documents and record-keeping systems, including BPD's use of force, stop/search/arrest and bias-free policing policies; all training materials, including use of force, stop/search/arrest, bias-free policing and crisis intervention training materials; internal affairs policies and files; disciplinary proceedings policies and files; recruitment, hiring, performance evaluation and promotion policies and data; and databases containing information regarding, among other things, use of force incidents, stops/searches/arrests, internal affairs investigations and disciplinary outcomes. The Monitoring Team will attempt to expedite this preliminary review by taking into account any prior reviews of the same information by DOJ or any other organizations that may have performed similar reviews. Our review will allow us to gauge the information that is available, as well as any additional information that must be made available, to conduct compliance audits that will allow us to measure whether BPD is achieving Full and Effective Compliance with all of the Material Requirements of the Consent Decree within the prescribed maximum five-year timeline.

In order to conduct the business of monitoring in a transparent manner, we will establish an Independent Monitor website that will contain information related to the Consent Decree implementation process. The website will contain information about the Monitoring Team, meeting times and court dates. All formal reports prepared by the Monitoring Team will be posted on the website along with activities and events relative to the process. To best facilitate community feedback and input, the Monitoring Team will hold public meetings after each report is published.

The other key component of the Initial Phase is engagement and dialogue with the Parties and the community. Forging strong, respectful working relationships within the City of Baltimore, BPD, and the Civil Rights Division is a critical and integral starting ingredient of the work of the Monitoring Team. The Monitoring Team would propose initial meetings with individual and group stakeholders. It would seek feedback and input from police leadership, commanders, and rank-and-file officers through meetings and interviews. It will also meet with relevant union leaders, such as the FOP.

Just as important is engagement with civilians and the diverse communities of Baltimore. It is here that the Monitoring Team can implement and rely on its deep and unique relationships with Baltimore and the greater Maryland communities. Nearly all of the Monitoring Team have deep Baltimore and Maryland connections and most either currently live and work in Baltimore or have lived and worked there recently. The Monitoring Team, and Reverend Yeary in particular, are intimately familiar with and have worked tirelessly with the community. The Monitoring Team is committed to being on the ground in the diverse neighborhoods of Baltimore and meeting with both civic and community organizations and individual citizens. This Monitoring Team has not and does not scour the country for monitor opportunities – rather, this Monitoring Team is tailor-designed for Baltimore.

However, it is important to note that engagement with the community is not something that occurs once at the beginning of the project and then is cast aside. An ongoing dialogue with the community is important throughout the entire monitoring process. The Monitoring Team will continuously and consistently seek feedback and dialogue with the public, and will hold public meetings and gather public comments. This important component in the success of implementing the Consent Decree is best performed by a team that has deep roots in Baltimore and Maryland, and a stake in its future.

B. Initial Assessment

Many team members are already familiar with BPD, but the Monitoring Phase will include a fresh assessment of existing BPD policies and procedures, including policies on all of the issues as identified in the Consent Decree. Assessing current compliance is critical, as it establishes a baseline and will be used to identify and prioritize areas of concern. As part of this initial assessment, the Monitoring Team will analyze the relevant investigative file from the Civil Rights Division and related correspondence or documentation from BPD and the Civil Rights Division.

Perhaps even more importantly, the team will delve into the real-world applications of these policies, to glean what happens on the ground and on the streets, not just on paper or in an academic setting. The key is to understand not only what BPD policy instructs officers should do, but what they actually do. Even a high-quality, model policy will be ineffective if training and understanding are absent. Moreover, the Monitoring Team will seek to learn about any unofficial policies or practices of BPD. This phase will include interviews with officers and commanding officers, ride-alongs, and accompanying officers during shifts.

C. Monitoring Phase

The Co-Monitors and the Monitor Team will rigorously assess implementation and compliance of the Consent Decree. Several steps must occur before this can take place. First, the Monitor Team will review BPD's current policies, training, supervision, accountability systems, mechanisms for transparency and community oversight. Then, the Monitoring Team will provide technical assistance and recommendations to BPD while also engaging in community outreach and receiving community feedback. The Co-Monitors have an ongoing responsibility to communicate and work with the community, the City, BPD and DOJ. The Co-Monitors will set a "Collaboration Period" specifically devoted to coordinating with the DOJ to help BPD develop and implement the necessary revisions. The Monitoring Team will work closely with BPD in a cost-effective but also collaborative manner. The goal is to create lasting change for BPD and the Baltimore community as a whole. After BPD makes significant reforms, the Co-Monitors will gauge adherence to the Consent Decree through compliance reviews, outcome

assessments and comprehensive re-assessments. This responsibility includes issuing public reports, to be published on the monitoring website.

A successful monitoring team needs to review BPD's prior written and unwritten policies as a baseline for future reforms. Then, the Monitoring Team will assess BPD's adherence to the Consent Decree, and determine whether it has achieved Full and Effective Compliance. This includes a full assessment of BPD's current training programs, practices, policies and procedures that require reform under the Consent Decree:

- Policies on community policing;
- Contacts between officers and the public;
- Involuntary stops or detentions;
- Vehicle stops;
- Searches;
- Arrests and related training;
- Reviews of stops, searches, and arrests;
- Data collection;
- Bias and impartial policing;
- Policies for dealing with persons with behavioral health disabilities or other medical conditions and related crisis intervention;
- Use of force policies, training, and review protocols;
- Interactions with youth;
- Transportation of persons in custody;
- Handling of reports of sexual assault;
- Handling of First Amendment-protected activities;
- Misconduct investigations and related officer discipline policies;
- Supervision;
- Development and implementation of updated technology;
- Coordination with Baltimore City School Police Force;
- Recruiting, hiring, and retention;
- Staffing, performance evaluations, and promotions;

The Monitoring Team is mindful that each of these categories in the Consent Decree is unique and that one-size-fits all solutions are not the best solutions. Moreover, these areas may fall under different rubrics. Some issues, such as those relating to vehicle stops or arrests, pertain to situation-specific, real-time tactical decisions that police officers make in their day-to-day, ordinary interactions with civilians. Some issues, such as interactions with youth or with persons with behavioral health disabilities or in crisis, deal with officers' response to citizens with certain personal characteristics that may, and often do, impact their interactions with police. Other areas, managerial in nature, occur in the precinct rather on the streets. These areas would

include supervision, training, or issues relating to staffing and performance reviews. The Monitoring Team recognizes that these managerial areas, while often not as high-profile and often not visible to the public, ultimately have a tremendous impact on other areas of policing that do affect interactions between police and the community.

The Co-Monitors will collect, organize and analyze all of the relevant data on policies, trainings, protocols, incident reports, internal investigations and criminal investigations. Then, the Monitoring Team will apply its collective experience to develop and review data collection systems to match the specific needs of BPD and the requirements of the Consent Decree. The Monitoring Team will be able to quickly compile and review the necessary data to understand the full breadth of the problem and how it can be fixed.

The entire Monitor Team will continue to form and expand on existing and newly-developed close working relationships with the major players in the community who have a significant stake in BPD reforms. Here, personal experience and a historical understanding of Baltimore and Maryland on law enforcement reform and criminal justice initiatives, as well as legislative efforts and decades of enforcing and interpreting Maryland law, should prove critical. The Co-Monitors consciously filled their team with local experts who have worked closely with community leaders in the past.

The Co-Monitors and Monitoring Team will leverage their many years of experience with Maryland, Baltimore, and BPD to provide recommendations and technical assistance. The Monitoring Team understands from personal experience how law local, state, and federal law enforcement works. For example, Mr. Gansler and Mr. Ivey have years of experience both working with police, but also, when warranted, investigating and prosecuting officers. Chief Serpas and Mr. James were high-ranking police officers, and Professor Lum also served as a BPD police officer. Pastor Yeary has years of relevant experience working with and forging relationships with police in his role as a religious and community leader. Professor Wellford and Professor Lum are professional academics who concentrate and nationally-renowned experts on the study of police and policing. The goal is to assist BPD in reforming its policies, practices and trainings to comply with the Consent Decree. The Monitoring Team will utilize their specific experience implementing these reforms from within police departments and overseeing these reforms from the outside in monitoring, auditing or other supervisory capacities.

In accordance with the Consent Decree, the Co-Monitors will maintain regular communication with the City, BPD, DOJ, the Court, and the public. The team will hold frequent community meetings, taking care to set meetings at different times and in different neighborhoods to enable more interested citizens to attend meetings. Public updates will be frequent, both in formal reports and more informal updates published on the Monitoring Team's website. The Co-Monitors will set a "Collaboration Period," during which time BPD, the Co-Monitors, and DOJ will work collectively to help BPD revise its policies.

D. Compliance Review, Outcome Assessments, and Measurements

After BPD institutes reforms and changes to its policies and practices, the Co-Monitors and the Monitoring Team will conduct compliance reviews, outcome assessments, and comprehensive reassessments. The purpose of the Consent Decree is to obtain compliance to secure constitutional and legal policing. The Monitoring Team must confirm that the steps taken to devise, draft, and eventually implement new department policies, protocols, procedures, and training actually affect real-world policing that officers of BPD carry out in real-world policing situations, not just hypothetically.

At this stage, the Monitoring Team will conduct thorough compliance reviews to ensure that new policies and procedures are communicated effectively from commissioners and chiefs to commanders to officers working the streets. Not only that, BPD's new policies must translate from precincts into the streets. Thus, the Monitoring Team will systematically review and assess whether the changes made actually make an impact on real-world policing outcomes that result in tangible benefits for the citizens of Baltimore.

Some issues identified in the Consent Decree will require quantitative evaluation. For these areas, the assessment and review process will include gathering data, guided by the Consent Decree and in collaboration with the Parties, as well as identifying methodologies and appropriate time horizons for evaluating BPD's compliance with its new policies and procedures. In particular, Dr. Wellford and Dr. Lum are experts in evidence-based evaluation of policing outcomes, and the Monitoring Team will rely on their expertise in these areas. Mr. James also has extensive experience in this area, from his time as Compliance Coordinator for the Prince George's County Consent Decree.[1]

Additionally, more qualitative measures will be used when appropriate and where called for by the Consent Decree, such as reviews or assessments of the quality of training, the effectiveness of supervision, and the handling of misconduct complaints and internal reviews. For example, a qualitative review may involve a review to determine whether BPD policies conform to best practices, or ensuring that top performers in the Department are appropriately evaluated (and, when appropriate, promoted accordingly).

The Monitoring Team will conduct all outcome assessments set forth in the Consent Decree, including community surveys on the Baltimore citizens' interactions and attitudes toward BPD, assessments of use of force incidents, analyses of demographics, to determine whether policing is impartial and bias-free, reviews of interactions with individuals with behavioral disabilities or individuals in crisis, among many others.

The Monitoring Team will use rigorous, proven methodologies for assessing and evaluating compliance with the Consent Decree, using approaches that are reliable and scientifically sound. While conducting reviews and assessments, the policies, approaches, and

[1] A sample report from this work by Mr. James is included as appendix A.

statistics gathered in the Initial Assessment Phase, as well as the information gathered as part of DOJ's investigation, will serve as a baseline for assessing the impact of new policies, procedures, and protocols.

These outcome assessments also provide an opportunity to make additional refinements and improvements based on the data gathered and information learned. Some assessments may reveal continued challenges. Some reviews may show improvement, but indicate the possibility of further strides. Some analyses may be inconclusive or show that different approaches are needed. The Monitoring Team recognizes that there may be improvement in one area but ongoing issues in another. Further changes would be discussed with relevant stakeholders and the community and be incorporated into the Monitoring Plan. Moreover, the Monitoring Team's analyses should seek to ensure that the improvements realized are durable and lasting and not the result of statistical noise or aberration.

Throughout, the Monitoring Team will continue to engage the stakeholders and the community, seeking their input, advice, and feedback. Additionally, the Monitoring Team's ongoing work will include the publication of semi-annual written reports, designed for diverse audiences, covering the City and BPD's progress under the Monitoring Plan and evaluating its compliance with the Consent Decree. These reports will also explain the Co-Monitor's work during the relevant period, including an explanation of the methods and findings used to conduct compliance reviews, outcome assessments, and recommendations for achieving Full and Effective Compliance with the Consent Decree.

III. PERSONNEL AND CURRENT TIME COMMITMENTS

A. Names of Team Members

Glenn F. Ivey

Douglas F. Gansler

Rev. S. Todd Yeary, Ph.D.

Dr. Charles F. Wellford

Dr. Cynthia Lum

Chief Ronal Serpas, Ph.D.

Leroy K. James

Dr. Katheryn Russell-Brown

B. Summary of Relevant Background for Each Team Member

The proposed team is diverse and extremely experienced, both personally and professionally. It includes lawyers, academics, experts in policing and evidence-based crime policy, a religious and community leader, and current and former police chiefs. Importantly, it is a team with long-standing and deep connections to Baltimore and Maryland.

The team will be led by former Maryland Attorney General, State's Attorney for Montgomery County, Maryland, and Assistant United States Attorney Douglas F. Gansler, and former State's Attorney for Prince George's County, Glenn F. Ivey. The members of the team include:

- Douglas F. Gansler, former Attorney General of Maryland (2007 to 2015), President of the National Association of Attorneys General (2012 to 2013), State's Attorney for Montgomery County, Maryland (1999 to 2007), Assistant United States Attorney (1992-1996), and law clerk to the Honorable John F. McAuliffe, Maryland Court of Appeals (1989-1990);
- Glenn F. Ivey, former State's Attorney for Prince George's County (2002 to 2010) and Assistant United States Attorney (1990 to 1994);
- Dr. Charles F. Wellford, Emeritus Professor of Criminology and Criminal Justice at the University of Maryland College Park, former Auditor of the Baltimore City Police Department (2010 to 2014), and Founding Co-chair of the Research Advisory Committee, International Association of Chiefs of Police (2009 to 2013);
- Dr. Cynthia Lum, Associate Professor of Criminology at George Mason University and Director of the Center for Evidence-Based Crime Policy, Department of Criminology;
- Rev. S. Todd Yeary, Ph.D., Senior Pastor of the Douglas Memorial Community Church and co-founding principal of Community Churches for Community Development, Inc. and former Committee Member of OneBaltimore (Baltimore City's collaborative public-private coordinating organization which is working to strengthen and rebuild neighborhoods and communities in the aftermath of the recent disturbances);
- Ronal W. Serpas, former Superintendent of Police of the New Orleans Police Department (2010 to 2014) and Chief of Police of the Metropolitan Nashville Police Department (2001 to 2010),
- Leroy K. James, Executive Director for Campus Safety and Security for Johns Hopkins University (2015 to present) and Compliance Coordinator for the Consent Decree between the United States and Prince George's County Police Department; and,

- Dr. Katheryn Russell-Brown, Chesterfield Smith Professor of Law and Director of the Center for the Study of Race and Race Relations at the University of Florida and former Associate Professor in the Criminology & Criminal Justice Department at the University of Maryland.

More detailed information about each team members' backgrounds, qualifications, and experience is included in the foregoing sections of this application. Complete CVs are also attached as appendix B

C. Internal Organization of the Team, Including the Areas of Responsibility for Each Team Member

The team will be led by Co-Monitors Douglas F. Gansler and Glenn F. Ivey, who will direct the team members. The Co-Monitors and Monitoring Team will be involved in all aspects of monitoring. However, each team member, due to their particular experience and expertise, will have some specific areas of responsibility within the Monitoring Team.

Broadly, Mr. Gansler and Mr. Ivey will be responsible for areas requiring legal analysis or knowledge of federal, state, and local laws. Professor Wellford, Professor Lum, and Professor Russell-Brown will generally be responsible for statistical and data analysis and assessments. Chief Serpas and Mr. James will take the lead on matters relating to law enforcement practices and policies. Reverend Yeary will be primarily responsible for matters relating to community engagement and working with groups in and across the community.

Again, while the Co-Monitors and Monitoring Team expect to be involved in all parts of the monitoring, the table below provides a brief overview of expected areas of responsibility, based on each team member's experience and particular expertise.

Area of Responsibility	Team Member
Monitoring, auditing, evaluating, or reviewing performance of organizations such as law enforcement agencies	Dr. Charles F. Wellford Dr. Cynthia Lum Ronal Serpas Leroy James

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	Douglas F. Gansler Glenn F. Ivey Dr. Charles F. Wellford Dr. Cynthia Lum Ronal Serpas Leroy James Professor Katheryn Russell-Brown
Assessing legal sufficiency and compliance with constitutional and other legal requirements	Douglas F. Gansler Glenn F. Ivey Professor Katheryn Russell-Brown
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	Douglas F. Gansler Glenn F. Ivey Dr. Charles F. Wellford Dr. Cynthia Lum Rev. S. Todd Yeary Leroy James Professor Katheryn Russell-Brown
Criminology and statistical analysis, including internal and external benchmarking techniques, regression analysis, and other relevant statistical methods	Dr. Charles F. Wellford Dr. Cynthia Lum Professor Katheryn Russell-Brown
Familiarity with federal, state, and local laws	Douglas F. Gansler Glenn F. Ivey Leroy James Professor Katheryn Russell-Brown
Evaluating organizational change and institutional reform, including by applying qualitative and quantitative analyses to assess progress, performance, and outcomes	Dr. Charles F. Wellford Dr. Cynthia Lum Professor Katheryn Russell-Brown

Working with government agencies, including municipalities, elected officials, civilian oversight bodies, collective bargaining units, and other stakeholders interested in policing issues	Douglas F. Gansler Glenn F. Ivey Dr. Charles F. Wellford Dr. Cynthia Lum Rev. S. Todd Yeary Ronal Serpas Leroy James
Engaging effectively with diverse community stakeholders to promote civic participation, strategic partnerships, and community policing	Douglas F. Gansler Glenn F. Ivey Rev. S. Todd Yeary Ronal Serpas Leroy James
Mediation and dispute resolution, especially mediation of police complaints and neighborhood mediation	Rev. S. Todd Yeary Ronal Serpas
Use of technology and information systems, including data collection and management, and analytical tools, to support and enhance law enforcement practices	Dr. Charles F. Wellford Dr. Cynthia Lum
Appearing in court as a judge, monitor, counsel, or expert witness, or providing other types of testimony	Douglas F. Gansler Glenn F. Ivey Rev. S. Todd Yeary Leroy James
Writing complex reports for dissemination to diverse audiences	Douglas F. Gansler Glenn F. Ivey Dr. Charles F. Wellford Dr. Cynthia Lum Ronal Serpas Leroy James Professor Katheryn Russell-Brown

Providing formal and informal feedback, technical assistance, training, and guidance to law enforcement agencies	Dr. Charles F. Wellford Dr. Cynthia Lum Rev. S. Todd Yeary Ronal Serpas Leroy James
Reviewing policies, procedures, manuals, and other administrative orders or directives, and training programs related to law enforcement practices	Douglas F. Gansler Glenn F. Ivey Dr. Charles Wellford Ronal Serpas Leroy James
Municipal budgets and budgeting processes	Douglas F. Gansler Glenn F. Ivey Ronal Serpas Leroy James
Completing projects within anticipated deadlines and budgets	Douglas F. Gansler Glenn F. Ivey Dr. Charles F. Wellford Dr. Cynthia Lum Ronal Serpas Leroy James

D. Description of Other Employment and Professional Undertakings

The team members all have existing professional and community obligations. Every team member is fully committed to fully prioritizing their work as part of the independent Monitoring Team to effectively meet the requirements of the Consent Decree.

E. Team Members' Status

Mr. Gansler is a partner at Buckley Sandler, LLP.

Mr. Ivey is a partner at Price Benowitz, LLP.

Dr. Wellford is President and CEO of Justice Assessment and Evaluation Services, LLC. He does most of his consulting work through this entity.

Dr. Lum is employed by George Mason University and does not own her own business.

Pastor Yeary serves as Senior Pastor of Douglas Memorial Community Church in Baltimore, Maryland. He is also the Chief Executive Officer of two subsidiary corporations, Douglas Memorial Community Church Village, Inc., which deals with housing issues, and Camp Farthest Out, Inc., a youth program.

Chief Serpas is employed by Loyola University New Orleans.

Mr. James is Founder and CEO of L.K. James and Associates LLC. He does most of his consulting work through this entity.

Professor Katheryn Russell-Brown is employed by the University of Florida.

IV. QUALIFICATIONS

A. Team Member Qualifications

Co-Monitors

Mr. Gansler and Mr. Ivey are highly qualified to monitor the Consent Decree between DOJ and BPD addressing the issues identified in the DOJ investigation.

Mr. Gansler and Mr. Ivey possess lengthy, diverse, an extraordinary proven records of accomplishment in improving policing outcomes and compliance throughout Maryland and the United States. Both have deep local connections and have decades of experience serving and working with Baltimore's diverse communities. Both Mr. Gansler and Mr. Ivey have significant records of public service, engagement with law enforcement, and community involvement in Maryland.

Douglas F. Gansler

Co-Monitor Douglas F. Gansler has a unique record of public service, legal experience, and community involvement in Maryland. After being raised in Maryland, Mr. Gansler graduated from Yale University (cum laude) and the University of Virginia Law School before returning to Maryland to clerk for the Honorable John F. McAuliffe on the Maryland Court of Appeals.

After working as an associate at Howrey & Simon for two years, Mr. Gansler was appointed as an Assistant United States Attorney for the District of Columbia where he successfully prosecuted hundreds of criminal cases, including dozens of jury trials and appellate arguments before the District of Columbia Circuit Court and the Court of Appeals. Notably, Mr. Gansler prosecuted many high-profile matters, including the matter of the Georgian diplomat Gueorgui Makharadze who killed a 16-year-old Maryland girl while driving drunk near Dupont Circle. Mr. Gansler served in the Homicide, Economic Crimes, Appellate, Misdemeanor and Felonies Sections during his six year tenure.

Mr. Gansler then served two terms as the elected States Attorney for Montgomery County, Maryland, where he managed an office with 65 prosecutors and a budget of approximately $30 million in Maryland's most populous county of approximately one million citizens. Under Mr. Gansler's leadership, the office became the first prosecutor's office in the United States to fully implement community prosecution.[2] The community prosecution model was predicated on the promotion of diverse community stakeholders, strategic partnerships, and community policing. It promotes civic participation and community inclusion and support to improve the effectiveness of policing efforts. In short, where community prosecutors work alongside community police, criminal matters were handled in a far more effective, efficient and fair manner. While State's Attorney, Gansler established the office's gang unit, elder abuse unit,

[2] *See* The two articles on community prosecution, attached as appendix C and appendix D.

cybercrime unit, and drug court, all of which were the first in the State. Mr. Gansler regularly testified in Annapolis on pro-victim and pro-law enforcement legislation and served as the vice-President of the Maryland States Attorneys Association. Finally, while State's Attorney, Mr. Gansler personally prosecuted many high-profile cases, including Robert Lucas for the murder of Monseigneur Thomas Wells and Garrett Wilson for the murder of two of his babies for life insurance money. Mr. Gansler also led the legal team of the Joint Sniper Task Force which helped successfully arrest and prosecute the Beltway Snipers.

As Attorney General, Mr. Gansler managed a staff of over 460 lawyers and a budget of roughly $30 million. In addition to his significant legal accomplishments, such as arguing and winning a unanimous United States Supreme Court decision in *Maryland v. Shatzer*,[3] Mr. Gansler worked in a hands-on fashion with diverse communities to improve law enforcement outcomes and promote constitutional policing. He was unanimously elected and served as President of the National Association of Attorneys General. Mr. Gansler has established, created, or been a member of numerous leading committee and task forces throughout Maryland, including the Montgomery County NAACP Criminal Justice Committee, the Baltimore City Criminal Justice Coordinating Council, and Law Enforcement Leaders to Reduce Crime and Incarceration. While Attorney General, Mr. Gansler worked with the NAACP to set up a special Task Force on Electronic Weapons that published a groundbreaking report on protocols and training for the use of Tasers. The report is now used nationwide as a part of appropriate use of force training for police departments.[4] During his service as Attorney General, Mr. Gansler also published a report on reducing sexual assault at Maryland colleges and universities, including an examination of the policies, procedures, training and protocol for the reporting of sexual assault cases.[5]

Mr. Gansler has been recognized as a champion of civil rights and diversity in Maryland. As Attorney General, he established the Division of Civil Rights in the Office of the Attorney General and hired its first director. He created the Attorney General's NAACP Centennial Committee to mark the anniversary of the founding of the historic civil rights organization and study the NAACP's innovative legal strategies. He supported the creation of the first-ever Coretta Scott King Memorial, which is located at Anne Arundel Community College, to honor her accomplishments in promoting civil rights and women's rights. He received the 2008 Dr. Martin Luther King, Jr. Dreamkeeper's Award for his commitment to increasing the diversity of the staffs in the State's Attorney's Office and in the Office of the Attorney General. He also received Equality Maryland's Ally for Equality award for his support of LGBT rights and was recognized as the first statewide elected official in the history of Maryland to support marriage equality.

[3] 559 U.S. 98 (2010).
[4] The report is included as appendix E.
[5] This report is included as appendix F.

Mr. Gansler also has significant experience monitoring, auditing, and investigating the performance of organizations, including law enforcement. In 2015, Mr. Gansler was appointed by the Attorney General of Pennsylvania to serve as the Special Independent Deputy Attorney General for the Commonwealth of Pennsylvania to conduct an independent investigation into the misuse of the Commonwealth of Pennsylvania's government email communications systems, including communications involving law enforcement officials and officers, judges, and the Office of the Attorney General itself. The investigation identified almost 12,000 instances of communications that were offensive or discriminatory based on race, sex, religion, disability, or sexual orientation, or otherwise potential violations of state and federal law, as well as existing Commonwealth government policies. Additionally, while Attorney General, Mr. Gansler oversaw the implementation and monitoring of multiple consent decrees in areas as diverse as an environmental cleanup action and related $4 million civil penalty to being President of the National Association of Attorneys General engineering the consent National Mortgage Foreclosure Agreement with the five major national banks that resulted tens of billions of dollars in loan modifications and principal reduction, including for tens of thousands of Maryland residents. Mr. Gansler also led several investigations into public corruption, including an investigation of the Construction Services Department at the University of Maryland Baltimore County that resulted in the prosecution of nine individuals, and the prosecution of an employee who embezzled from the State's Kidney Disease fund.

Mr. Gansler has been an Adjunct Professor in Criminal Trial Practice at American University, Washington College of Law, for the past 21 years.

Mr. Gansler has forged, and maintains, close connections to Baltimore City, its diverse communities and civic and political leaders. Nine years ago, he founded the Charm City Youth Lacrosse League, a non-profit league offering free lacrosse skills training, league play, mentoring, tutoring, and assistance gaining access to area private schools for underserved city youth in Baltimore. On a yearly basis, over 500 youths in Baltimore still participate in the program and Mr. Gansler was named one of the Daily Record's Innovators of the Year in 2009 for his founding and leadership of the program. Mr. Gansler and his family remain involved in the league today.

Glenn F. Ivey

Co-Monitor Glenn F. Ivey has significant experience in public service in numerous different capacities throughout Maryland and at the federal level. He served as the two-term elected State's Attorney for Prince George's County Maryland. Mr. Ivey also served as the Chairman of the Maryland Public Service Commission, located in Baltimore. Mr. Ivey was an Assistant United States Attorney in the District of Columbia. He also has extensive Capitol Hill experience, and has served as Chief Counsel to the Leadership Office of the Senate Democratic Leader (Tom Dashchle), Counsel to the United States Senate Committee on Banking, Housing and Urban Affairs, and Senior Legislative Assistant to Congressman John Conyers, Jr. Mr. Ivey ran for the United States House of Representatives for Maryland's Fourth District in 2016,

placing second in a field of seven Democratic candidates. He has worked at several prominent area law firms and is currently a partner at Price Benowitz, where his practice focuses on white-collar criminal defense, Congressional and grand jury investigations, civil litigation, crisis management counseling and internal corporate investigations.

At the time Mr. Ivey became State's Attorney for Prince George's County, the County had a long-standing and well-earned reputation for excessive police force, especially when it came to the African-American community. PGPD was unfortunately a national leader in the use of deadly force, and also had disproportionately high crime rates. Relations between the State's Attorney's Office and PGPD were very poor, with both sides hurling public criticism at each other.

Mr. Ivey campaigned on a platform of reducing crime and at the same time holding police accountable who use of excessive force. Prior to Mr. Ivey, the State's Attorney's Office had never obtained a conviction against a police officer for using excessive force. Mr. Ivey immediately established a policy of sending every police-involved shooting to the grand jury and of sending an investigator to the scene of every police-involved contact shooting. During Ivey's tenure, the State's Attorney's Office had the first successful county-level prosecutions of police officers for using excessive force. At the same time, crime dropped from record highs (173 murders in 2003) to historic lows during Ivey's eight years in office. That trend has continued since.

Mr. Ivey helped to pioneer accountable and constitutional policing in Prince George's County. His office helped implement the roll-out of cameras on squad cars and on cameras in interrogation rooms. Mr. Ivey worked to persuade officers that cameras would both aid legitimate police work and build trust within the community.

Although Mr. Ivey developed a reputation for prosecuting excessive use of force cases by police, he maintained a strong working relationship with police and earned the endorsement of the Fraternal Order of Police when he ran for reelection in 2006. He also regularly toured stationhouses and met with patrol officers for feedback and dialogue on how his office handled cases that they had concerns about, such as assaults on police officers or police use of force cases.

Mr. Ivey has relevant experience implementing and monitoring police department consent decrees in Maryland. He successfully oversaw the implementation of DOJ's 2004 consent decree with Prince George's County, which called for broad police reforms, including internal investigations into every incident in which a police officer shoots someone; a board of police commanders to review such shootings; a prohibition on officers investigating any incident in which they themselves used any kind of force; and an improved computer database to flag officers who use force multiple times. In 2009, DOJ recognized that PGPD had improved to the point that independent oversight was no longer needed and that, due to the reforms Mr. Ivey helped implement, the county had developed a system of accountability and demonstrated a commitment to constitutional policing and fairness in the jurisdiction.

Mr. Ivey also has an extensive record of community involvement and service. He currently serves as Chairman of the Maryland Legal Services Corporation, which provides grants to nonprofit organizations for the provision of legal services to low-income Marylanders. He has also served on the Board of Governors for the District of Columbia Bar Association (elected by DC Bar membership) (2011-2014), the Judicial Nominations Commission of Prince George's County Courts (2011-2015), the Board of Directors of the Joint Center for Political and Economic Studies (2008-2009), and the Board of Directors of United Way Capital Area (2013-present).

Mr. Ivey is a graduate of Princeton University and Harvard Law School. He is an Adjunct Professor at Harvard Law School and has also served as an Adjunct Professor at the University of Maryland, Carey School of Law in Baltimore for almost twenty years.

Team Members

Professor Charles Wellford

Professor Charles F. Wellford, Emeritus Professor of Criminology and Criminal Justice at the University of Maryland College Park, is a renowned expert in policing and criminal justice.

In 2011, Professor Wellford was awarded the University of Maryland's Presidents Medal. He was the founding director of the Office of International and Executive Programs and has served as the Director of the Maryland Justice Analysis Center. He was Chair of the Department of Criminology and Criminal Justice (formerly Institute of Criminal Justice and Criminology) from 1981 to 1995, 1999 to 2004, and in 2012. Professor Wellford was appointed Director of the Office of Academic Computing Services in the College of Behavioral and Social Sciences and later served as the Associate Provost and Dean of Continuing and Extended Education. He also was Interim Associate Provost for Research and Dean of the Graduate School. He serves on numerous state and federal advisory boards and commissions. Professor Wellford is a past President of the American Society of Criminology (ASC), was elected a Fellow of the ASC, and he was selected to be a lifetime National Associate of the National Academy of Sciences (NAS). He chaired the National Academy of Sciences Committee on Law and Justice, and recently chaired the NAS panels on pathological gambling, panel on research on firearms, and the panel to assess the National Institute of Justice. In Maryland, he currently serves on the Maryland Police Training Commission and the Police Leadership Advisory Committee. Professor Wellford served in the Office of the United States Attorney General where he directed the Federal Justice Research Program. The author of numerous publications on criminal justice issues, Professor Wellford's most recent research has focused on the determinants of sentencing, and the correlates of homicide clearance.

Professor Wellford is intimately familiar with BPD, having served as an auditor for the BPD from 2010 through 2014. He also served on the Police Training Commission from 1985 to

2004 and he has published numerous scholarly works, detailed in the attached CV, on effective policing.

Professor Wellford served as a consultant to many federal agencies, including the National Institute of Justice, Bureau of Justice Statistics, Bureau of Justice Assistance, HHS, NIH, NIDA, and GAO. He has also served as chair or director of numerous Maryland organizations, with a particular focus on juvenile justice, including as Chair, Correctional Options Advisory Board; Chair, Advisory Board for Corrections, Probation and Parole; Director, Maryland Incident Based Crime Reporting Project; and Chair, Ad Hoc Committee on Juvenile Fingerprinting.

At the University of Maryland, Professor Wellford has been active in a variety of efforts. He has served on and chaired numerous academic review committees. He chaired the Campus Security Committee, has been a member of the Athletic Council, served on the Campus Human Subjects Committee, served on campus drug committees, chaired the review of the Campus Admissions Office, served on the President's Committee on Freedom of Expression, been a member of the Graduate Council and Chair of its PCC, and served on or chaired a number of recruitment committees. He is Past-chair of the Campus Senate and served on the campus Academic Policy Advisory Committee and campus promotions committee. Professor Wellford has served as the campus Faculty Athletic Representative, President of the Atlantic Coast Conference and served on the Leadership Council of the NCAA. Professor Wellford chaired the recruitment committees for the Provost and Vice President for Academic Affairs.

He holds a B.A., with honors, and an M.A. from the University of Maryland and a Ph.D. from the University of Pennsylvania.

Professor Cynthia Lum

Professor Cynthia Lum is Professor of Criminology, Law and Society at George Mason University and Director of its Center for Evidence-Based Crime Policy at George Mason University. She served as a police officer and a detective in Baltimore City Police Department from 1997 – 2003. She researches primarily in the area of policing, security, and evidence-based crime policy. Her work in this area includes evaluations of policing interventions and police technology, understanding the translation and receptivity of research in policing, and assessing security efforts of federal agencies. Professor Lum is the author of four books and over 80 articles, scientific publications, and government reports in her areas of expertise. Her new book, with Christopher Koper, is entitled: Evidence-Based Policing: Translating Research into Practice (Oxford University Press).

Dr. Lum is the recipient of the 2017 Inaugural GMU President’s Medal for Social Impact, the recipient of a Fulbright Specialist Grant to the University of St. Andrews), the Scottish Police Service James Smart Memorial Medal, the George Mason University Emerging Scholar Award, and the United States Attorney General’s Citizen Volunteer Service Award. She holds numerous

positions at the American Society of Criminology, and has served as a visiting scholar at Cambridge University. Professor Lum was appointed to the Committee on Proactive Policing for the National Academy of Sciences, the Standing Committee on Traffic Law Enforcement for the National Academy of Sciences, is a member of the Research Advisory Committee of the IACP, the International Advisory Committee of the Scottish Institute for Police Research (SIPR), and the Board of Trustees for the Pretrial Justice Institute. She was elected a fellow of the Academy of Experimental Criminology. She is the founding editor of Translational Criminology Magazine and the Springer Series on Translational Criminology, and served as the first North American Editor for the Oxford Journal Policing: A Journal of Policy and Practice. Professor Lum implemented the first International Summer School for Policing Scholarship at the University of St. Andrews in Scotland with colleagues from SIPR. She has served as advisor to numerous police departments and research groups, most recently as member of John Jay's National Research Advisory Board for its Misdemeanor Justice Project, and is a member of the LEADs Agencies Coordinating Counsel for the National Institute of Justice. Professor Lum served on the Independent Review Board for the Police Involved Shooting in Baltimore City of January 9, 2011. She has developed numerous tools to facilitate evidence-based policing in local law enforcement agencies.

Professor Lum holds a Ph.D. in Criminology and Criminal Justice from the University of Maryland, a M.Sc. in Criminology from the London School of Economics, a Bachelors of Arts in Political Science from UCLA, and a Bachelors of Arts in Economics from UCLA.

Reverend S. Todd Yeary, Ph.D.

Dr. S. Todd Yeary serves as the senior pastor of the Douglas Memorial Community Church ("DMCC"), a Covenant Congregation, in Baltimore, and is an adjunct professor in the College of Public Affairs at the University of Baltimore. Additionally, Dr. Yeary serves as the chief executive officer of DMCC's two community development corporations – Douglas Memorial Community Church Village and Camp Farthest Out.

A former air traffic controller with the Federal Aviation Administration, Dr. Yeary served as associate director of the Center for Black Studies at Northern Illinois University. Dr. Yeary's social justice work includes serving on the national board of National Action Network, as special advisor to Rev. Jesse L. Jackson, Sr. and Rainbow PUSH; immediate past Political Action Co-Chair for the Maryland State Conference NAACP; and as co-founding principal of Community Churches for Community Development, Inc. Additionally, Dr. Yeary is a founding principal of SALT (Strategic Advocacy and Legislative Thinktank), a faith-based public policy collaborative that works on regional and national empowerment strategies impacting the African-American community. He has served as a steering committee member of OneBaltimore, Baltimore City's collaborative public-private coordinating organization which is working to strengthen and rebuild neighborhoods and communities in the aftermath of the recent disturbances surrounding

the death of Freddie Gray, as well as on the Governor's Commission to Reform Maryland's Pretrial Justice System.

Dr. Yeary is often called upon to facilitate creative conversations that solve challenging problems and has spoken in a variety of policy and leadership forums, including providing regular testimony on policy issues before the Congressional Black Caucus and the Joint Economic Committee of the U.S. House of Representatives and the Maryland General Assembly, the Faith Leader's Roundtable at the CBC Annual Legislative Conference, and as a panelist at the 2014 Color of Wealth Summit at the U.S. Capitol.

Dr. Yeary believes honest dialogue creates opportunities to form strategic partnerships that strengthen families and communities. He models his partnership commitment through public participation as he has served as the chair of the board of trustees of Baltimore City Community

College, and currently serves as interim chair of the Community Relations Commission of Baltimore City, which works to promote civil rights and combat discrimination in Baltimore; vice-chair of Behavioral Health Systems Baltimore, and an advisory board member to the College of Public Affairs at the University of Baltimore as well as a member of the President's Advisory Council at Baltimore City Community College.

Dr. Yeary holds a Bachelor's Degree in Management from National-Louis University, a Master of Divinity Degree from Garrett-Evangelical Theological Seminary, a Graduate Certificate in African Studies from Northwestern University, and a Ph.D. in the field of Religion in Society and Personality from Northwestern University. Dr. Yeary is a member of the 2012 class of the Board of Preachers of the Martin Luther King, Jr. College of Preachers and Laity of Morehouse College. He is also working on a Juris Doctor degree at the Francis King Carey School of Law at the University of Maryland.

Chief Ronal Serpas, Ph.D.

Dr. Serpas has more than 13 years of experience as a Police Chief and has successfully implemented Community Oriented Policing philosophy, innovative and successful crime fighting strategies, and achieved demonstrated success in improved citizen satisfaction and support in each of the three departments he has led. Serpas has been a successful change agent in three major law enforcement agencies and he has also been a leader in applying the concepts of Procedural Justice and Police Legitimacy, to bring transformational change to American Policing.

Dr. Serpas joined the Loyola University New Orleans Criminology and Justice Department as a Professor of Practice in August 2014. Dr. Serpas has served as an Adjunct and an Assistant Professor of Criminal Justice, Extraordinary Faculty, Loyola University New Orleans, teaching graduate and undergraduate courses. He has also taught graduate courses at Southern University New Orleans and Tennessee State University. Dr. Serpas has published

several articles including: Beyond Compstat: Accountability Driven Leadership; The Next Step in Accountability Driven Leadership: Compstating the Compstat Data; Accountability Driven Leadership: Assessing Quality versus Quantity; gun violence in America, Illegal Gun Crimes: A View from the Streets; police disciplinary systems, An Employee Disciplinary System that Makes Sense; the use of termination for police employees who are untruthful, The Untruthful Employee: Is Termination the Only Response; a co-author on the topic of crime following a disaster, Changes and Challenges in Crime and Criminal Justice after Disaster; The Future of Violent Crime Abatement in New Orleans; Implementing the Principles of Procedural Justice and Police Legitimacy; Evidenced-Based Use-Of-Force Policy: How Research Could Improve Use-Of-Force Policy Development and Training, and the need for actionable research to help guide American police executives.

Dr. Serpas is the founding Co-Chair of Law Enforcement Leaders to Reduce Crime and Incarceration, a project in cooperation with the NYU-School of Law Brennan Center, which unites nearly 200 current and former police chiefs, federal and state chief prosecutors, and Attorney's General from all 50 states to urge for a reduction in both crime and incarceration. Serpas is the Chairman of the International Association of Chiefs of Police (IACP) Community Oriented Policing Committee, the current Parliamentarian of the IACP, a member of the National Advisory Board for Cure Violence (Chicago Cease Fire) and an Executive Fellow to the Police Foundation. Serpas also serves as a National Advisory Board Member to the ground breaking, National Institute of Justice funded, National Police Research Platform (NPRP). The NPRP seeks to advance the science and practice of policing in the United States. This is achieved by introducing a new system of measurement and feedback that captures organizational excellence both inside and outside the walls of the agency. The Platform is managed by a team of leading police scholars from six universities, supported by the operational expertise of a respected national advisory board.

Dr. Serpas was a career police officer from 1980 to 2014, serving in three police agencies. From 2001 to 2014, he was appointed to office following nationwide searches, and served as the Superintendent of Police, New Orleans Police Department from May 2010 until he retired from police service in August 2014, as the Chief of Police of the Metropolitan Nashville Police Department in January 2004 and served until May 2010, and was appointed as the Chief of the Washington State Patrol in August 2001 and served until January 2004. Dr. Serpas began his police career in June 1980 with the New Orleans Police Department, rising through all civil service ranked positions and was appointed Assistant Superintendent of Police and the first Chief of Operations in October 1996, charged with implementing the COMPSTAT model in the New Orleans Police Department. Dr. Serpas utilized and expanded the COMPSTAT model of crime fighting continuously from October 1996 to August 2014 in two major American cities and one state police agency.

While Superintendent of Police in New Orleans, Dr. Serpas worked closely with the DOJ Civil Rights Team investigating allegations of patterns and practices of unconstitutional policing

and the implementation of an extensive Consent Decree in the wake of Hurricane Katrina and the years that followed. Several criminal civil rights investigations resulted in the conviction in Federal Court of numerous officers for crimes that resulted in the death of citizens and subsequent cover-up by officers and supervisors. Dr. Serpas designed and implemented a comprehensive 65-point plan to rebuild the New Orleans Police Department's crime fighting, arrest/investigation practices, community policing strategies, and employed new integrity and accountability standards including a zero tolerance for untruthfulness by officers. Eighty-six (86) officers were arrested for misconduct and eleven terminated for violating the new truthfulness standards. For decades, New Orleans has experienced one of the highest, and in many years, the highest murder rate per capita in the nation. The year 2013 ended with the lowest number of murders in 28 years, and through the first half of 2014, murder continued to decline by 8% compared to the first half of 2013. During the four years of Dr. Serpas' tenure, murder was down nearly 13%. Due to dramatic citywide budget pressures during Dr. Serpas' time as Superintendent of Police, officer staffing fell 26%. Revised arrest practices resulted in more than a 35% decrease in arrests.

Dr. Serpas led the New Orleans Police Department during a heralded series of major events held in the City of New Orleans, including the 2012 BCS National Championship Football Game, the 2012 NCAA Men's Basketball Final Four, War of 1812 Celebration, NFL Super Bowl XLVII, the 2013 NCAA Women's Final Four, and the February 2014 NBA All Star game. Each year, New Orleans hosts the eleven-day Mardi Gras season, Jazz Festival, French Quarter Festival, Essence Festival, NCAA Sugar Bowl Classic, Bayou Classic, and what is considered one of the largest attended New Year's Eve celebrations in the nation. As the Chief of Operations of the New Orleans Police Department from October 1996 to July 2001, the City of New Orleans led the nation in violent crime reduction for the years 1997, 1998, 1999, 2000 and the number of murders fell by more than 40% between 1994 and 2000. The NOPD was at the forefront of many innovations in policing, hosted millions of visitors and NFL Super Bowl XXXI.

During Dr. Serpas' tenure in Nashville, FBI UCR Part I major crime reports fell for an unprecedented sixth consecutive year during 2009 to the lowest level in 24 years, while the rate of crime fell to its lowest level in 31 years – overall major crime continued to decline throughout 2010 during his tenure in Nashville. The overall major crime rate in 2009 was the lowest since 1978, the violent crime rate was the lowest since 1989, and the property crime rate was the lowest since 1972. The Metropolitan Nashville Police Department's El Protector program, established in 2005, was recognized in 2009 as a "Best Practice" by the Vera Institute of Justice in providing police service across the language divide. In 2009, the International Association of Chiefs of Police ("IACP") recognized the MNPD as the winner in the extra-large department category for Excellence in Victim Services. The MNPD was one of the first departments to adopt, evolve and implement "Data Driven Approaches to Crime and Traffic Safety," a public safety strategy supported by the US Department of Justice - Bureau of Justice Assistance, and the National Highway Traffic Safety Administration.

While Dr. Serpas was Chief of the Washington State Patrol ("WSP"), unparalleled increases in trooper activity resulted in a 37% increase in DUI arrest and a 22% decrease in interstate fatalities, as well as evident success in detective functions and statewide Crime Lab efficiencies. The WSP was awarded the International Association of Chiefs of Police's "Chiefs Challenge" and the "Clayton J. Hall Memorial Award" (a prestigious award that can only be awarded once in the history of a law enforcement agency) during his tenure as Chief of the WSP.

Dr. Serpas participated and contributed on the national and international level of police leadership through his unopposed election as the 4th Vice President of IACP. IACP is the oldest and largest nonprofit membership organization of police executives worldwide, established in 1893 with more than 28,000 members representing 137 countries. IACP's membership consists of the operating chief executives of international, federal, state, tribal and local agencies of all sizes. When he retired from law enforcement, Dr. Serpas was the 2nd Vice President, and responsible for providing oversight to the following IACP standing Committees: Civil Rights; Diversity Coordinating Panel; Police Professional Standards, Image and Ethics; Police Administration; and the Torch Run. Serpas also served for many years as the founding Co-Chair of the Research Advisory Committee ("RAC") of the IACP. The IACP RAC Committee unites police executives and academic leaders to create and publish an annual research agenda to identify potential solutions addressing the many and significant concerns throughout the criminal justice system here in the United States and abroad. Serpas is the current Chair of the IACP's Community Policing Committee. He also serves as the Parliamentarian, IACP Board Officers.

Dr. Serpas' expert commentary on crime rates, policing and criminal justice reform has appeared in the New York Times, USA Today, The Hill, NBC News, CBS News, Fox News, The Atlantic Monthly, Wall Street Journal, The Washington Post, NPR, Governing Magazine, The Economist and MSNBC among other outlets.

Leroy K. James

Leroy K. James has extensive experience in policing and safety and security issues. He also has deep experience implementing and ensuring compliance with police department consent decrees, having served as the primary liaison in implementing the DOJ Consent Decree with the Prince George's County, Maryland, Police Department from 2004 to 2009.

From 1981 to 2008, Mr. James served in PGPD. As a captain, Mr. James was Commander of the Compliance Coordination Unit. In this capacity, he served as the Chief of Police Liaison for the Consent Decree and a Memorandum of Understanding between the Prince George's County Police Department and the Department of Justice. He was responsible for implementing the basic operating structure to enable the police department to successfully implement and demonstrate substantial compliance with the requirements of both the Consent Decree and the Memorandum of Agreement between DOJ and PGPD.

He is currently Executive Director for Campus Safety and Security at Johns Hopkins University in Baltimore. He is responsible for designing, implementing, leading, and directing the campus safety and security infrastructure for ten campuses within the Johns Hopkins University system. Previously, he was Chief of Police and Executive Director for Safety and Security at Howard University, in Washington, D.C.

While serving in PGPD, he served in numerous roles and held numerous commands: Commander of the Planning and Research Section; Commander of the Compliance Coordination Unit; Commander of the Forensic Services Division; Commander of Investigations - Hyattsville District I; Investigative Sergeant - Homicide Unit, Criminal Investigations Division; Investigator - Homicide Unit, Criminal Investigations Division; District Investigator - District III; and as Patrol Officer - District III. His last command was serving as commander of the District IV Oxon Hill Station and he held the rank of major.

He is a member of numerous professional organizations, including the International Association of Chiefs of Police (IACP), National Organization of Black Law Enforcement Executives (NOBLE), and International Association of Campus Law Enforcement Administrators (IACLEA).

Mr. James holds a Masters of Behavioral Science from Johns Hopkins University, a B.S. in Criminal Justice from the University of Maryland University College, and an A.A.S. in Police Science from the Community College of the United States Air Force.

Professor Katheryn Russell-Brown

Katheryn Russell-Brown is the Chesterfield Smith Professor of Law and Director of the Center for the Study of Race and Race Relations at the University of Florida, Levin College of Law. Professor Russell-Brown received her undergraduate degree from the University of California, Berkeley, law degree from the University of California, Hastings, and Ph.D. in criminology from the University of Maryland.

Prior to joining the University of Florida law faculty in 2003, Professor Russell-Brown taught in the Criminology and Criminal Justice department at the University of Maryland for 11 years. She has been a visiting law professor at American University and the City University of New York (CUNY). She has been a lecturer at Howard University and her first teaching position was at Alabama State University.

Professor Russell-Brown teaches, researches, and writes on issues of race, crime, and justice and the sociology of law. Her article, "The Constitutionality of Jury Override in Alabama Death Penalty Cases," was cited in the United States Supreme Court decision, *Harris v. Alabama*.[6]

[6] 513 U.S. 504 (1995).

Professor Russell-Brown has received many awards for her work, including a Soros Justice Advocacy Fellowship. Her project focused on ways to integrate criminal justice issues into the elementary education curriculum. Professor Russell-Brown was awarded the American Society of Criminology's Lifetime Achievement Award for her sustained and significant contributions to scholarship on race, crime, and justice. She also served as Program Co-Chair of the American Society of Criminology.

Professor Russell-Brown's books include Criminal Law (SAGE, 2015) an undergraduate textbook, The Color of Crime, 2d edition (New York University Press, 2009), Protecting Our Own: Race, Crime and African Americans, (Rowman and Littlefield, 2006), and Underground Codes: Race, Crime, and Related Fires (New York University Press, 2004). Her first children's book is Little Melba and Her Big Trombone, a picture book biography (Lee & Low, 2014).

B. Areas of Expertise Identified in RFA Paragraphs 26

This section details the team members' specific qualifications in the substantive areas listed in Paragraphs 26 and 27 of the RFA.

1. Monitoring, auditing, evaluating, or reviewing performance of organizations such as law enforcement agencies

Dr. Charles Wellford has completed numerous evaluations of criminal justice agencies that are mentioned on his resume. In 2011, he was selected by the parties to a Voluntary Agreement (BPD and the ACLU) to audit compliance by the BPD with the elements of the agreement. The agreement was primarily focused on first amendment rights, and the enforcement of quality of life offenses, and zero tolerance policing. He did this by analyzing data from the BPD records management system, interviewing officials in the agency, and reviewing changes in training, internal affairs and other elements of the BPD. This work was done over a three year period and was completed on time and under budget. Years earlier, he was asked by the Mayor, BPD, and the President of the City Council to audit the BPD's reporting of assault crimes. Again, this project was successfully completed.

Professor Cynthia Lum served in 2011 as a member of the Independent Review Board for the Mayor and Police Commissioner of Baltimore City, which examined the BPD Police Involved Shooting of January 9, 2011. She has also recently conducted a report for the Alexandria Police Department examining bias in traffic stops.

Chief Ronal Serpas has extensive experience auditing, evaluating, or reviewing the performance of law enforcement agencies due to his leadership of three major police departments in New Orleans, Nashville, and Washington State.

Mr. Leroy James served as PGPD's first Compliance Coordinator, where he acted as the liaison between the PGPD, the Prince George's County Government, the Independent Monitor, and DOJ for both a Memorandum of Agreement, and a Consent Decree from 2004 through 2006.

As the Compliance Coordinator, Mr. James was responsible for coordinating all of the police department's compliance and implementation activities related to the Memorandum of Agreement and the Consent Decree that were issued to the police department by the United States Department of Justice on January 22, 2004.

2. 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

Mr. Gansler, while State's Attorney for Montgomery County, implemented an innovative community prosecution model that worked in conjunction with the community policing models successfully adopted by many police departments. In this role, and in his experience as Attorney General and Assistant United States Attorney, Mr. Gansler has worked on many cases at multiple levels involving law enforcement practices.

During **Mr. Ivey's** tenure as State's Attorney, and while he was an Assistant United States Attorney in Washington, DC, Mr. Ivey gained extensive experience in law enforcement practices. As State's Attorney, for example, he personally reviewed every contact shooting made by a PGPD officer during his eight years in office, and decided whether the office should seek to bring criminal charges or decline them. This led to that Office's first convictions of police officers for using excessive force, including the conviction of former officer Keith Washington, who was sentenced to 45 years in jail. Some of these cases garnered national attention, so Mr. Ivey understands the challenges and complications that the media spotlight can impose on prosecutors, police officers, and community leaders. As a line prosecutor in the United States Attorney's Office, he reviewed countless pedestrian and vehicle stops and arrests to ensure that they were in compliance with constitutional and legal requirements, especially in making the decision as to whether a case would be declined ("no papered") or move forward. These decisions were made in real time, with the officers present who had conducted the stops and arrests. Mr. Ivey also taught criminal law and procedure at the University of Maryland School of Law for nearly twenty years, focusing heavily on Fourth, Fifth and Sixth Amendment law. Mr. Ivey's students frequently were police officers (including current Metropolitan Police Chief Peter Newsham) or future judges, prosecutors, and defense attorneys.

As a defense attorney, Mr. Ivey is currently representing a woman who was one of over 200 protesters who were arrested during the Inauguration Day protests in Washington, D.C. In the course of this representation, the protestors' right to exercise their First Amendment rights of

free speech and public assembly has become a centerpiece of the defense. Mr. Ivey has become well-versed in this area of the law as well.

Dr. Wellford's work auditing the BPD's compliance with the Voluntary Agreement between BPD and the ACLU, mentioned above, is also responsive to this item. Dr. Wellford also directed the research center that developed the State of Maryland's traffic stops data collection system and on a yearly basis analyze and report on the results. Working with a designated committee of police chiefs from Maryland, Dr. Wellford developed the system and developed the reporting structure on vehicle stops state-wide. He continued to do that for a number of years with no funding. Later the function was assumed by the Governor's Office for Crime Control and Prevention. This experience is directly relevant to the Consent Decree's requirements regarding vehicle stops.[7]

Professor Cynthia Lum has served as a member of the Independent Review Board for the Mayor and Police Commissioner of Baltimore City, which examined the BPD police involved shooting of January 9, 2011.[8] She has also recently conducted a report for the Alexandria Police Department examining bias in traffic stops.

Chief Ronal Serpas has extensive experience with law enforcement practices resulting from his career as a police officer and his leadership of three major police departments.

From August 1980 through January 2008, **Leroy James** served as a member of PGPD. He rose through the ranks of that agency retiring at the rank of Police Major after a twenty-seven year career. In his final assignment, he served as the Patrol Commander for the Oxon Hill District which encompasses 74 square miles, and served approximately 150,000 people. During his police career with Prince George's County Mr. James also served as the Executive Officer to the Chief of the Bureau of Patrol, as a Homicide Investigator and Supervisor for over five years, as well as assignments in the Internal Affairs Division, Planning & Research Division, Office of the Director of Public Safety – Office of Homeland Security, the Forensics Services Division, the Narcotics Division, and the Bureau of Patrol. He has also served as Chief of Police and Executive Director for Safety and Security at Howard University in Washington, D.C., from 2008 through 2014, overseeing safety and security for its four campuses and Level 1 Trauma Hospital. He is currently Executive Director for Campus Safety & Security at Johns Hopkins University in Baltimore and oversees safety and security for 10 campuses within the University.

Professor Katheryn Russell-Brown has experience with law enforcement practices from her work as a criminologist, most notably her study of various law enforcement practices and their impact of different demographic groups, with a particular focus on race.

[7] Consent Decree, ¶¶ 45-47.
[8] The Baltimore Police Department, Police-Involved Shooting of January 9, 2011, A report by the Independent Review Board (2011),

3. Assessing legal sufficiency and compliance with constitutional and other legal requirements

Mr. Gansler has extensive experience assessing legal sufficiency and compliance with constitutional and other legal requirements in his legal career, particularly during his service as State's Attorney and Attorney General.

Mr. Ivey has extensive experience assessing legal sufficiency and compliance with constitutional and other legal requirements in his legal career, particularly during his service as State's Attorney.

Mr. James has extensive experience in this area from his time as Compliance Coordinator for PGPD. In this role, Mr. James assessed PGPD's compliance with the constitutional and legal requirements imposed by the Consent Decree between DOJ and PGPD.

Professor Russell-Brown has extensive legal experience and is a law professor at the University of Florida, Levin College of Law. Her article, "The Constitutionality of Jury Override in Alabama Death Penalty Cases,"[9] was cited by the United States Supreme Court in *Harris v. Alabama*, a case regarding the constitutionality of certain sentencing and death penalty provisions under state law.

4. 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

Mr. Gansler worked in Baltimore during his eight-year service as Attorney General of Maryland. He also founded Charm City Youth Lacrosse, a lacrosse league that provides free league play and training for underserved youth in Baltimore. Mr. Gansler remains closely involved in the league and with other non-profit organizations in Baltimore.

Mr. Ivey lived and worked in Baltimore for many years while working at the Baltimore law firm of Gordon Feinblatt. He maintains close ties to Baltimore.

Pastor Yeary has an extremely strong understanding of local issues and Baltimore's diverse communities, and the issues and challenges facing those communities. His experience with numerous community and faith-based organizations will be beneficial in this regard, particularly through the Mayor's Office of Neighborhoods to connect with neighborhood and community organizations. Additionally, his relationships with local colleges and universities (University of Baltimore, Baltimore City Community College, Coppin State University, Morgan State University) will provide another avenue of community outreach and engagement. Specifically, through the College of Public Affairs at the University of Baltimore, as well as

[9] 46 Ala. L. Rev. 5, 9-10 (1994).

relationships with the law schools at the University of Maryland and University of Baltimore, the opportunities for extensive, multi-level community conversations will be possible. He has direct affiliations with city-wide faith-based organizations and grass-roots civic organizations. These relationships will permit a deeper penetration of conversation through strategic outreach with community stakeholders. He also served as political action chair for the Maryland State Conference of the NAACP from 2013 to 2016.

Mr. James currently serves as the Executive Director for Campus Safety & Security at Johns Hopkins University in Baltimore. In this capacity, Mr. James works with BPD – Northern District in order to build a proactive collaboration with several communities that surround the Homewood Campus including Charles Village, Waverly – Main Street, New Waverly, Remington, Station North, Old Goucher, Harwood, Abell, and the Greenmount Avenue area. Mr. James also serves as the Johns Hopkins University security representative to the Charles Village Community Business District, and the Homewood Community Partnership Initiative, and the Mid-Town Business District in order to build safe collaborative communities with the Baltimore Police Department. Mr. James also serves as the liaison for the Baltimore Consortium of Universities and Colleges – Public Safety Initiative which includes nine universities and a community college working with the BPD to establish safer environments both "on" and "off" their respective campuses within the city.

Dr. Wellford has worked extensively on criminal justice issues in the State of Maryland and Baltimore. He served on the Maryland sentencing commission for 16 years. During his work on that commission, he conducted extensive research on the role of race in sentencing. Among others, he served on the Maryland Police Training Commission for 19 years; the Justice Information Systems Advisory Board for 16 years; the State Correctional Options Board for 7 years; and directed the Maryland Statistical Analysis Center for 11 years.

Professor Lum was formerly a BPD patrol officer in the Eastern District and Detective (CID, Child Abuse).

5. Criminology and statistical analysis, including internal and external benchmarking techniques, regression analysis, and other relevant statistical methods

Dr. Wellford has a Ph.D. in sociology/criminology from the University of Pennsylvania. He taught research methods and advanced statistics at Florida State University and the University of Maryland. He has used statistical methods in his research including regression, trajectory analysis and other advanced techniques. He is a past President of the American Society of Criminology and a Fellow of that organization. He chaired the Committee on Law and Justice of the National Academy of Sciences and chaired three panels of the National Research Council (on pathological gambling, firearms and violence, and federal research). He was the first

criminologist to be selected as a Lifetime National Associate of the National Academy of Science.

Professor Cynthia Lum holds a Ph.D. in Criminology and Criminal Justice from the University of Maryland. She has analyzed large datasets from numerous police departments, has taught undergraduate and Ph.D. level courses in criminal justice, policing, crime policy, crime prevention, and law and justice. She has conducted numerous studies that include experimental, quasi-experimental, statistical, and secondary data analysis, as well as qualitative and mixed method studies. She has recently completed a benchmarking study for Alexandria Police Department. She is a fellow of the Academy of Experimental Criminology.

Professor Katheryn Russell-Brown holds a Ph.D. in criminology from the University of Maryland and has published numerous scholarly articles, books, and book chapters, particularly in the academic area of race, crime, and justice.

6. Familiarity with federal, state, and local laws

After graduating from Harvard Law School, **Mr. Ivey** began his legal career as a litigation associate at the Baltimore law firm of Gordon Feinblatt, where he handled matters that involved federal and Maryland state law. He later spent eight years as the State's Attorney for Prince George's County, enforcing Maryland criminal law in one of the most active courthouses in the state. Because his office reviewed so many allegations of police excessive force, Mr. Ivey is very familiar with the state laws that uniquely impact these cases—most notably the Law Enforcement Officers Bill of Rights (LEOBR). He also taught at the University of Maryland School of Law in Baltimore for nearly two decades, with nearly all of his classes focusing on advanced criminal procedure in a way that would prepare students to handle criminal matters in court. He continues teaching, now as an adjunct at Harvard Law School. Finally, he has handled matters as a criminal defense attorney in Maryland courts (state and federal), especially in the past seven years.

Mr. Gansler holds a J.D. from the University of Virginia School of Law. He then drafted legal opinions at a clerk on the Maryland Court of Appeals and analyzed and assessed Maryland criminal law on an almost daily basis for sixteen years as Montgomery County State's Attorney and Maryland Attorney General. He analyzed, argued, and assessed applicability of federal law for six years as an Assistant United states Attorney. He has practiced law in Maryland and the surrounding area for his entire career and has extensive knowledge of federal, state, and local law.

Dr. Wellford is familiar with the laws of Maryland through his research and professional activities, particularly his work with the Maryland Sentencing Commission.

Pastor Yeary serves as member/chair on the Baltimore City Community Relations Commission, which is the City's EEO compliance commission within the Office of Civil Rights.

Our work includes supporting the work of the agency in investigating allegations of discrimination in employment and working to mediate resolutions if probable cause is determined. The Commission's work requires a working knowledge of civil rights law and local/state/federal policies that affect investigating allegations of discrimination.

Mr. James has familiarity with federal law primarily from his time as Compliance Coordinator for the implementation of the Prince George's County Consent Decree. He also has extensive familiarity with state and local law from his experience as a police officer in Prince George's County and his positions leading campus safety and security at Johns Hopkins and Howard University.

Professor Katheryn Russell-Brown holds a J.D. from the University of California, Hastings Law School. She is also familiar with federal, state, and local law from her career as an academic focusing on criminal law and race. She holds a Ph.D. from the University of Maryland and was a professor at the University of Maryland for 11 years.

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

Dr. Wellford's work as auditor of BPD is responsive to this item.

Dr. Lum has conducted numerous evaluations of police organizations and interventions, including service on the Independent Review Board that reviewed the January 9, 2011 BPD police involved shooting.

Mr. James's work as Compliance Coordinator for the PGPD Consent Decree is responsive to this item.

Professor Russell-Brown's work as a criminologist studying the sociology of law is responsive to this item.

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

Mr. Gansler has extensive experience in this area, particularly as Attorney General, where he led the Office of the Attorney General, and regularly worked with municipalities, elected officials, civilian oversight bodies, and collective bargaining units on policing issues.

Mr. Ivey's also has experience in this area, primarily from his time serving as State's Attorney for Prince George's County.

Dr. Wellford's work as auditor of BPD is responsive to this item.

Dr. Lum has extensive experience working with numerous law enforcement agencies across the U.S. and U.K., as well as civilian and community groups, including city governments.

Pastor Yeary has served on the Governor's Task Force to review and improve Maryland's Pre-trial System, which included co-chairing a sub-committee that dealt with individual rights and collateral consequences. This included addressing concerns and considerations around applicability of 42 U.S.C § 1983. On the task force were members of the Maryland General Assembly, judicial officers, states' attorneys, corrections and law enforcement officers, and community stakeholders. The work of the task force was referenced in recent omnibus reform legislation passed by the General Assembly in 2016.

Chief Serpas has extensive experience in this area, particularly during his leadership of the New Orleans and Nashville police departments.

Mr. James's work as Compliance Coordinator for the PGPD Consent Decree is responsive to this item.

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

Mr. Gansler's work employing community prosecution, while State's Attorney for Montgomery County, is one of many examples responsive to this item.

Mr. Ivey did extensive work with Prince George's County's growing Latino community, which had few avenues for political engagement, while serving as State's Attorney for Prince George's County, Maryland. Among other examples, Mr. Ivey created a liaison for the Latino community, established regular community meetings, and led an effort to translate all materials into Spanish.

Pastor Yeary has spent considerable time opening channels of communications with BPD officers and organizations representing officers, he has spent time engaged in strategic conversations about police/community relations at the request of Commissioner Kevin Davis. These conversations included inter-departmental conversations with representatives of other police agencies, as well as other community stakeholders from different jurisdictions/states. Included in the workgroup were members of the Baltimore Lodge of the FOP. He has a good working relationship with the state president of Maryland FOP. Pastor Yeary's work with the Mayor's Office of Neighborhoods, mentioned above, is also responsive to this item.

Dr. Wellford's work as auditor of BPD is responsive to this item.

Dr. Lum has worked on Project Safe Neighborhoods with a community-oriented (non-police) working group to reduce gun violence in Washington, D.C. In her work with police agencies and advisory boards described above, she has engaged with diverse racial and ethnic communities.

Mr. James's work with Johns Hopkins University and his engagement with the surrounding communities, discussed above, is also responsive to this item.

10. Mediation and dispute resolution, especially mediation of police complaints and neighborhood mediation

Pastor Yeary's work fostering communications and conversations on police/community relations, discussed above, is also responsive to this item.

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

Dr. Wellford has extensive expertise in understanding law enforcement data and data systems, analytic tools, and information technologies in policing.

Dr. Lum has extensive expertise in understanding law enforcement data and data systems, analytic tools, and information technologies in policing.

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

Mr. Gansler is among the most accomplished trial lawyers in Maryland. He has tried over 200 cases in his career and successfully argued over 50 criminal appeals, including *Maryland v. Shatzer,* before the United States Supreme Court, resulting in a unanimous decision.

Mr. Ivey has extensive courtroom experience. In his career as State's Attorney, Assistant United Staes Attorney, and in private practice, he participated in over 50 jury trials.

Mr. James has appeared in court as a police officer, an investigator, and in administrative hearings as a Chief of Police.

Pastor Yeary has testified before congressional subcommittees and state legislative committees and workgroups, and served as a guest commissioner during the 2014 hearings on voting rights and the voting process by the National Commission on Voting Rights.

13. Writing complex reports for dissemination to diverse audiences

Mr. Gansler oversaw the writing and publication of numerous reports while States Attorney and Attorney General of Maryland. Examples of these reports on topics relevant to policing are included as appendix E and appendix F.

Dr. Wellford and his team drafted public reports for their audit of BPD, which were publicly disseminated.

Dr. Lum has extensive experience in writing materials for public, police, policy, and academic consumption.

Mr. James has extensive experience preparing various compliance reports as a part of my duties as the Compliance Coordinator for the PGPD. See Appendix A

14. Providing formal and informal feedback, technical assistance, training, and guidance to law enforcement agencies

Dr. Wellford's work as auditor of BPD is responsive to this item. In addition, Dr. Wellford has conducted reviews of units and divisions within police departments, such as homicide units, including reviewing policies, manuals, case files, and training materials and protocols. His work on the Police Training Commission is also relevant.

Dr. Lum has provided extensive training and technical assistance to police agencies through her Bureau of Justice Assistance Grant and Matrix Demonstration Projects, as well as in her general capacity as a leader in Evidence-Based Policing.

Pastor Yeary has worked on the Governor's Task Force to review and improve Maryland's Pre-Trial System, as discussed above.

Chief Serpas has gained extensive experience in this area through his career as a police chief in many municipalities.

Mr. James's work as Compliance Coordinator for the PGPD Consent Decree is responsive to this item.

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

Mr. Gansler is experienced in this area, having personally instructed police officer training numerous times, and with his work in forming the Attorney General's Task Force on Electronic Weapons being one notable example.

Dr. Wellford has experience in this area, particularly during his service on the Police Training Commission from 1985 to 2004.

Dr. Lum has reviewed these materials in the context of specific research projects, as well as from her 2011 work with the Independent Review Board for Baltimore City.

Pastor Yeary's work fostering communications and conversations on police/community relations, discussed above, is also responsive to this item.

Mr. James's work as Compliance Coordinator for the PGPD Consent Decree is responsive to this item.

16. Municipal budgets and budgeting processes

Mr. Gansler, while Attorney General, managed a staff of over 460 lawyers and an annual budget of roughly $30 million. Mr. Gansler also managed a budget of roughly $6 million while President of the National Association of Attorneys General and a $15 million budget while State's Attorney for Montgomery County.

As State's Attorney, **Mr. Ivey** managed a budget of roughly $13 million, and managed about 70 lawyers and an overall staff of about 135. His eight years in office overlapped with the a national recession, so he has extensive experience in managing an Office in which the demands for services were increasing but the budgets were frozen or shrinking. Efforts to address these budgetary challenges included mandatory leave without pay days for non-union employees, primarily the attorneys, and leaving critical positions unfilled for extensive periods of time to generate salary savings. Navigating these budgetary constraints also required extensive interaction with the County Executive and his budget director, who managed the budget on a line-by-line basis. Mr. Ivey also served as Chairman of the Maryland Public Service Commission. There, he managed a staff of 150 with a budget of about $10 million.

Chief Serpas has extensive experience with municipal budgets and the process of municipal budgeting. He managed an annual budget of $135 million while serving as Superintendent of the New Orleans Police Department. As Chief of Police of the Metropolitan Nashville Police Department, he managed an annual budget of roughly $160 million.

17. Completing projects within anticipated deadlines and budgets

Mr. Gansler's experience with managing large staffs and municipal budgets, noted above, is also responsive to this item.

Mr. Ivey's experience managing large staffs and municipal budgets, mentioned above, is also responsive to this item.

In 1999 and until 2001, **Dr. Wellford** led the State of Maryland's effort to review the computer systems of every state agency and to make changes necessary to avoid the "Y2K" crisis. He assembled and oversaw the team that did this work and no Maryland agency incurred problems resulting from the change from 1999 to 2000. Dr. Wellford has also received approximately $15 million in funding for his research and technical assistance efforts. All of these have been completed successfully.

Dr. Lum has managed over $5 million in grants and contracts, including the management and supervision of personnel, both research and administrative. These projects have strict deadlines, budgetary requirements, reporting requirements and constraints.

Chief Serpas's experience managing large police departments with considerable budgets, mentioned above, is also responsible to this item.

During **Mr. James's** tenure as the Compliance Coordinator of the PGPD Consent Decree, all projects were completed within the given timelines and budgets.

As Senior Pastor at Douglas Memorial Community Church in Baltimore, **Pastor Yeary** manages 27 employees, an operational budget of $2 million, and over $10 million in capital resources and equipment.

V. PRIOR EXPERIENCE AND REFERENCES

A. Experience Auditing, Monitoring and Evaluating Law Enforcement and State Agencies

Project	Description
Maryland Attorney General's Task Force on Electronic Weapons **2009**	Mr. Gansler formed the Electronic Weapons Task Force when he was Attorney General of Maryland. The task force reviewed current law enforcement policies regarding the use of electronic weapons. Mr. Gansler then published the results, recommended protocols and trainings.
Investigation of misuse of Commonwealth of Pennsylvania government email communications system **2015 – 2016**	Mr. Gansler conducted an independent investigation into misuse of the Commonwealth of Pennsylvania's government email communications systems, including communications involving law enforcement officials and officers and the Office of Attorney General. Mr. Gansler uncovered thousands of communications that were offensive or discriminatory based on race, sex, religion, disability, or sexual orientation or otherwise involved potential violations of state and federal law, and State government policies.
Monitor Prince George's County Police Department's compliance with a DOJ consent decree **2004 - 2006**	Mr. James successfully oversaw PGPD's implementation of the DOJ's 2004 consent decree. He worked closely with PGPD, Prince George's County and DOJ to ensure the broad police reforms were in fact made. The consent decree called for use of force investigations and an improved online database for spotting officers who repeatedly use force.
Audit the Baltimore Police Department's Voluntary Agreement **2011 to 2014**	Dr. Wellford audited the BPD's Voluntary Agreement with the ACLU after being selected by both parties for the job. Scope: First amendment rights, the enforcement of quality of life offenses and zero tolerance policing. Methodology: Analyzing data from the BPD records management system, interviewing officials in the agency, and reviewing changes in training, internal affairs and other elements of the BPD. Efficiency: The work was completed on time and under budget.

Audit of Baltimore Police Department's Reporting of Assault Crimes **1980s**	**Dr. Wellford audited the BPD's reporting of assault crimes at the request of the Mayor, the BPD and the President of the City Council.**
Evaluate the computer systems of every Maryland state agency **1999 to 2001**	Dr. Wellford led the State effort to review the computer systems of every state agency and to make changes necessary to avoid the "Y2K" crisis. He assembled and oversaw the team that did this work and no Maryland agency incurred problems resulting from the changes from 1999 to 2000.
Respond to the State of Maryland's mandate to collect certain data during traffic stops	Dr. Wellford, then director of the Maryland Statistical Analysis Center, worked with the research center and a committee of Maryland police chiefs to develop the data collection system required by the mandate. This included the reporting structure on vehicle stops state-wide. On a yearly basis, they analyzed the system and reported on the results. Dr. Wellford continued to do so for a number of years with no funding.
Independent Review Board for the Mayor and Police Commissioner of Baltimore City to Review police involved shooting that occurred January 9, 2011 at Select Lounge.	Professor Lum served on the Independent Review Board for the Mayor and Police Commissioner of Baltimore City to review the police involved shooting on January 9, 2011. The Board members were James Stewart (Chair), Cynthia Lum, Stephen H. Sachs, Darrel Stephens and Hubert Williams. Mayor Stephanie Rawlings-Blake and Police Commissioner Frederick Bealefeld, III charged the Independent Review Board with examining the related policies, procedures, and actions of the police department. The Board met seven times from March through September 2011. The Independent Review Board (IRB) reviewed the Baltimore Police Department (BPD) homicide investigation and a video of the incident; interviewed witnesses and key personnel; examined BPD policies and procedures relating to officers' use of lethal force; reviewed analysis of prior police-involved shootings; reviewed the incident reconstruction; identified policy violations that occurred; and made several recommendations for improving BPD procedures.[10]
Report for the Alexandria, Virginia Police Department examining bias in traffic stops	In conjunction with the Center for Evidence-Based Crime Policy, which Dr. Lum directs, Dr. Lum completed an analysis and report of traffic citation data for the Alexandria Police Department in 2017.

[10] The Baltimore Police Department, Police-Involved Shooting of January 9, 2011, A report by the Independent Review Board (2011),

B. Experience Reforming Law Enforcement Practices and Policies

Project	Description
Implement Community Oriented Policing in New Orleans, Washington State and Nashville, Tennessee	Dr. Serpas successfully implemented the Community Oriented Policing philosophy, innovative and successful crime fighting strategies and achieved demonstrated success in improved citizen satisfaction and support in each of the three departments he has led. New Orleans Police Department: Appointed Assistant Superintendent of Police and Chief of Operations in 1996; Superintendent of Police from 2010 to 2014. Washington State Patrol: Chief of Washington State Patrol from 2001 to 2010. Metropolitan Nashville Police Department: Chief of Police of the Metropolitan Nashville Police Department from 2010 to 2014.
Effectuate a 65-point plan at the New Orleans Police Department	While Superintendent of Police in New Orleans, Dr. Serpas worked closely with the DOJ's Civil Rights Team to investigate allegations of patterns and practices of unconstitutional policing and the implementation of an extensive Consent Decree in the wake of Hurricane Katrina and the years that followed. Dr. Serpas designed and implemented a comprehensive 65-point plan to rebuild the New Orleans Police Department's crime fighting, arrest/investigation practices, community policing strategies, and employed new integrity and accountability standards including a zero tolerance for untruthfulness by officers. Eighty-six (86) officers were arrested for misconduct and eleven terminated for violating the new truthfulness standards.

C. References

For Mr. Gansler:	**For Mr. Ivey:**
The Honorable John F. McAuliffe Judge, Maryland Court of Appeals (Retired) 11421 Staten Court Germantown, MD 20876 301-972-1785 Katherine Winfree, Esquire Former Chief, Economic Crimes Division (United States Attorney's Office) Former Chief Deputy State's Attorney for Montgomery County Former Chief Deputy Attorney General Orrick 1152 15th Street NW Washington, DC 20005 202-585-6514 Mr. Gerald Stansbury President, Maryland NAACP 2136 Mulberry Hill Road Annapolis, MD 21409 410-533-7302 Chief Tom Manger Montgomery County Police Department 2350 Research Blvd Rockville, MD 20850 240-773-5005 Torrie Cooke, President Fraternal Order of Police Lodge 35 18512 Office Park Drive Montgomery Village, MD 20886 301-948-4286 The Honorable Joan M. Pratt, CPA Baltimore City Comptroller Room 204, City Hall Baltimore, MD 21202 410-396-4755	David Kennedy Director, National Network for Safe Communities John Jay College of Criminal Justice Office: 555 W. 57th St., Ste. 1140B Mail: 524 W. 59th St., Ste. 1140B New York, NY 10019 Gerald Wilson Former Chief Prince George's County Police Department 202-249-3000 June White Dillard Former President NAACP, Prince George's County Chapter 301-292-1868

For Dr. Lum: David Weisburd Distinguished Professor George Mason University 4400 University Dr, MS 6D12 Fairfax VA 22030 dweisbur@gmu.edu Chief Ed Roessler Fairfax County Police Department 4100 Chain Bridge Rd., Fairfax, VA 22030 Edwin.RoesslerJr@fairfaxcounty.gov	**For Pastor Yeary:** Congressman Elijah Cummings 1010 Park Avenue, Suite 105 Baltimore, MD 21201 410-685-9199 Ms. Tessa Hill-Aston President, Baltimore City Branch NAACP 6 W. 26th Street Baltimore, MD 21218 410-387-1110 Rev. Dr. Alvin C. Hathaway Senior Pastor Union Baptist Church 1219 Druid Hill Avenue Baltimore MD 21217 410-905-5110
For Mr. James: Mary Pat Clarke, 14th District Baltimore City Council 550 City Hall 100 North Holliday Street Baltimore, MD 21202 410-396-4814 marypat.clarke@baltimorecity.gov Keith Hill, Vice President for Corporate Security Johns Hopkins University 550 N. Broadway Suite 503 Baltimore, MD 21205 410-614-3681 khill34@jhmi.edu	

VI. BUDGET

We have endeavored to provide a projected budget that reflects the anticipated fees and costs associated with our work. We note that making such a projection is complicated by the fact that the proposed Monitoring Team has not had the opportunity to assess whether BPD has implemented already operational and programmatic enhancements to address the matters enumerated in the consent decree.

In addition, because we are unable currently to assess the extent to which the monitoring team will be required to assist directly with BPD's implementation of the consent decree, our projected budget is an estimate and contains figures that are difficult to predict precisely. With that said, we are mindful of the need to work efficiently and to limit expenses where practicable. We anticipate directionally that monitoring fees and costs over the initial 3-year term enumerated in the consent decree will remain relatively steady but anticipate small incremental decreases in fees and costs in Year 2 and Year 3.

The consent decree provides that the monitor, in conjunction with the parties and within 90 days of selection, will prepare a monitoring plan that will enumerate, among other things, (i) how BPD will reach full and effective compliance with the consent decree within 5 years, (ii) a review and approval process for BPD actions that are subject to approval by the Civil Rights Division and/or the monitor, (iv) how the material requirements of the agreement will be assessed by the monitor, and (v) a schedule for preparing the compliance reviews and outcome assessments required under the consent decree. The preparation of the monitoring plan, in and of itself, will require significant coordination with BPD and the Civil Rights Division, as adherence to any budget will require the monitoring team to execute on a tight and clearly defined schedule.

Given the nature and scope of the consent decree, which relates to a wide range of critical community policing and engagement activities in Baltimore, the monitoring team anticipates that a proposed budget of approximately $1,116,800 is reasonable. Circumstances may require adjustment of the time allocations for different team members or slight changes to rates for legal and support staff, but the Monitoring Team is committed to operating within this budget, with the possibility of small and reasonable variances, and will provide their services either pro bono or with a significant discount from their ordinary hourly rates.

Further, we anticipate that costs will be mitigated by the fact that virtually all of our core team members, and, in particular the Co-Monitors, live and/or work within 50 miles of Baltimore, thereby reducing substantially travel expenses and other costs associated with conducting monitoring activities, including participating in community meetings and meeting with BPD and Civil Rights Division personnel.

Based on these concessions and other considerations, the monitoring team estimates a budget of $1,116,800 in Year 1, which, as noted, should decline in small increments in Year 2 and Year 3. Additional information relating to the Year 1 estimate is included below as Figure-1

Figure-1

BPD Independent Monitor Estimate Budget - Year 1						
Task	**Description**	**Team Member**	**Rate**	**Projected Hours**	**Pro Bono Hours**	**Total**
Development of Monitoring Plan	The monitoring team collectively will complete the following tasks to develop a monitorship plan: Review and analyze current BPD policies and procedures; Review and analyze relevant investigative file from Civil Rights Division and related correspondence between BPD and Civil Rights Division; Conduct initial assessment of current compliance with the terms of the consent decree; Develop metrics designed to assess BPD's current compliance with consent decree; Coordinate with Civil Rights Division and BPD regarding initial community engagement activities; Participate in hearings and/or status conferences with the Court relating to development of the monitorship plan.	Gansler	$0.00	0	150	$0.00
		Ivey	$400.00	150		$60,000.00
		Wellford	$200.00	150		$30,000.00
		Lum	$200.00	150		$30,000.00
		Yeary	$100.00	150		$15,000.00
		Serpas	$120.00	400		$48,000.00
		James	$120.00	250		$30,000.00
		Russell-Brown	$200.00	100		$20,000.00
		Legal Staff	$400.00	100		$40,000.00
		Support Staff	$100.00	250		$25,000.00
						$298,000.00
Development of Monitor's Website and Community Communications	As required under the consent decree, the monitoring team with the assistance of an approved technology vendor will develop a website and other IT infrastructure (e.g., secure transfer sites and/or document databases) that may be required to securely transfer documents and information to the monitoring team from the Civil Rights Division, BPD and other sources.	TBD	$40.00	100	(Hosting Fees per GB)	$800.00
			$300.00	20	(Technical Services)	$6,000.00
						$6,800.00
Community Experience Survey	An approved individual or entity will conduct a comprehensive community survey to assess the community's perceptions of and experience with BPD personnel.	TBD	$300.00	400		$120,000.00
						$120,000.00
Public Outreach Obligations	The monitoring team will participate in community meetings and other ad hoc meetings to assess BPD's compliance with the consent decree.	Gansler	$0.00	0	100	$0.00
		Ivey	$400.00	100		$40,000.00
		Yeary	$100.00	300	0	$30,000.00
						$70,000.00
Review and Approval of Periodic Reporting from BPD, Revisions to Policies During Collaboration Period, Compliance Reviews, and Preparation of Monitor Reports	The monitoring team will review and provide feedback with respect to BPD reporting required under the consent decree, including, among other things, reporting relating to Quality of Life Offenses, Investigatory Stops and Searches, Dispatch Policies and Protocols, Use of Force, and Transportation Practices. The monitoring team will review policies and propose revisions during the scheduled collaboration period. The monitoring team will independently conduct compliance reviews to assess BPD's compliance with the terms of the consent decree.	Gansler	$0.00	0	200	$0.00
		Ivey	$400.00	200		$80,000.00
		Wellford	$200.00	150		$30,000.00
		Lum	$200.00	150		$30,000.00
		Yeary	$100.00	50		$5,000.00
		Serpas	$120.00	350		$42,000.00
		James	$120.00	250		$30,000.00
		Russell-Brown	$200.00	150		$30,000.00
		Legal Staff	$400.00	300		$120,000.00
		Support Staff	$100.00	100		$10,000.00
						$377,000.00
Outcome Assessments	The monitoring team will conduct required statistical analyses to determine compliance with the material requirements of the consent decree.	Gansler	$0.00	0	50	$0.00
		Ivey	$400.00	50		$20,000.00
		Wellford	$200.00	250		$50,000.00
		Lum	$200.00	250		$50,000.00
		Yeary	$100.00	20		$2,000.00
		Serpas	$120.00	100		$12,000.00
		James	$120.00	50		$6,000.00
		Russell-Brown	$200.00	250		$50,000.00
		Legal Staff	$400.00	100		$40,000.00
		Support Staff	$100.00	150		$15,000.00
						$245,000.00
					Year 1 Total	**$1,116,800.00**

VII. COLLABORATION AND COST-EFFECTIVENESS

All members of the team have years of experience successfully working collaboratively with many diverse parties in an efficient and cost-effective manner. The team is committed to working with the parties, the diverse communities of Baltimore and all relevant stakeholders, to achieve Full and Effective Compliance under the Consent Decree and to ensure policing in Baltimore that is safe, accountable, and constitutional. The team's strong existing connections will help them effectively collaborate with the various stakeholders to find solutions that are cost-effective and tailored to the unique character of Baltimore and BPD.

The team is proposing concrete cost saving measures. Douglas F. Gansler has agreed to provide his services pro bono. Several other members of the team have agreed to rates for their services that are significantly reduced from the rates they normally charge.

In addition, the team has experience managing projects and keeping them on track and on budget. As Attorney General, Mr. Gansler managed a staff of over 700 attorneys and a budget of roughly $30 million. Mr. Gansler also managed a budget of roughly $6 million while President of the National Association of Attorneys General, and a $15 million budget while State's Attorney for Montgomery County. While State's Attorney for Prince George's County, Ivey managed 70 attorneys and a budget of $13 million. He also managed 120 employees with a $10 million budget while Chairman of the Maryland Public Service Commission. As Superintendent of Police in New Orleans, Chief Serpas oversaw an authorized staff of 1,490 (1,260 sworn) personnel and operated with an annual budget in excess of $135 million. Dr. Wellford has been the recipient of millions of dollars of grant funding. Dr. Lum has also received grants and fellowships totaling over $5 million. Pastor Yeary's administrative responsibilities at Douglas Memorial Community Church in Baltimore involve managing 27 employees, an operating budget of $2 million, and over $10 million in capital resources. All team members have proven records of completing complex projects and assignments successfully, on time, and on or under budget.

Community engagement and collaboration with relevant stakeholders is a crucial part of monitoring any consent decree. This is not a team that will be starting from scratch in attempting to engage Baltimore's diverse communities. The proposed team's deep and long-standing connections to Baltimore and Maryland will enable the team to hit the ground running, save time and money, and use their vast knowledge and connections to immediately begin engaging the community and the Parties. The proposed team members were chosen for their strong local ties and knowledge. The Co-Monitors and team members also have significant history of working with the Parties themselves, and will not be on square one in trying to establish credibility or gather sufficient local knowledge to begin this important work.

VIII. ABSENCE OF CONFLICTS OF INTEREST

The Co-Monitors do not believe that any of the Monitoring Team members have any actual conflicts of interest, as outlined in Paragraphs 39 through 42 of the Request for Applications. However, in the interest of full transparency, each monitoring team member provides the following relevant details for the purposes of public review and evaluation.

Douglas F. Gansler represents a variety of clients in criminal and civil litigation and is a partner at Buckley Sandler, LLP. He is not involved in any litigation adverse to the Civil Rights Division. He represents a small number of clients who are in litigation adverse to the United States, but does not have meaningful involvement in those matters. Mr. Gansler also currently represents a small number of clients who are the subject of investigations by Maryland State agencies. However, these matters are unrelated to policing and will not affect Mr. Gansler's independence as Co-Monitor. Other lawyers at Buckley Sandler, LLP represent clients in litigation adverse to the United States or the Civil Rights Division, but Mr. Gansler has no meaningful involvement in those matters. In the past ten years, lawyers currently working at Buckley Sandler, LLP have had litigation adverse to the City of Baltimore, but Mr. Gansler has had no meaningful involvement in those matters and they did not relate to policing.

Mr. Gansler was employed by the State of Maryland during his service as Attorney General. As Attorney General, Mr. Gansler frequently defended the State of Maryland in several types of litigation. However, Mr. Gansler's involvement in these cases ended when his term as Attorney General expired. None of these will negatively affect Mr. Gansler's independence or performance as Co-Monitor.

Glenn Ivey is a criminal defense attorney who represents some individuals whom the Department of Justice is investigating or prosecuting. None of his or his firm's clients, however, are involved in any type of litigation with DOJ's Civil Rights Division. Moreover, Mr. Ivey has and is involved with entities that have received funding from DOJ, but he is not involved with any at this time that are receiving any funds from the Civil Rights Division.

Mr. Ivey was employed by the State of Maryland when he was Chairman of the Maryland Public Service Commission (1999-2000) and when he taught as an adjunct at the University of Maryland School of Law (1995-2014). His wife, Jolene Ivey, was a member of the Maryland House of Delegates from 2007-2015. She currently is under contract with the Maryland National Capital Park and Planning Commission and Towson University. None of these are conflicts in this instance.

Dr. Charles F. Wellford retired in 2013 from the University of Maryland where he had been a professor since 1981. The University has multiple relationships with the City of Baltimore and the State of Maryland in which he was not involved. Since then, he has conducted research funded by the Arnold Foundation and the National Institute of Justice and has performed consulting work with the Police Executive Research Forum ("PERF") and the Police Foundation. One of those consulting activities for PERF involved reviewing the Homicide Unit

of the Baltimore Police Department (BPD). Funding for that effort came from the Bureau of Justice Assistance of the US Department of Justice. Dr. Wellford has no current contracts with the City of Baltimore or the State of Maryland. There is one small contract pending with the State of Maryland to do work with the Prince George's County Police Department.

Dr. Wellford has had two funded projects with the City of Baltimore. The first was an award of $10,000 to audit the assault reporting in the BPD. This work was completed in the 1980's. In 2011, Dr. Wellford was selected by BPD and the Maryland ACLU to audit a voluntary agreement concerning the enforcement of quality of life offenses and the use of zero tolerance policing. This work was completed in 2014 and was performed under budget. Dr. Wellford also worked with BPD in the early 1970's with funding from the National Institute of Justice to test the feasibility of using community surveys to assess police performance. He has been a recipient of numerous grants and contracts from the State of Maryland and the federal government. None of these present a conflict of interest with the work to be performed under this contract.

He has not been involved in any claim or lawsuit against the City of Baltimore for the BPD, the State of Maryland or the United States or any of their officers, agents or employees. Other than the contracts noted above, he does not have any close, familial or business relationship with the City of Baltimore or BPD, the State of Maryland, the United States, or any of their officers, agents, or employees. He has not been the proponent or subject of any complaint, claim, or lawsuit alleging misconduct.

Professor Cynthia Lum does not have any conflicts of interests related to this project. She served as a patrol officer and detective in Baltimore City Police Department from 1997 to 2003. She served on an ad hoc Independent Review Board for Baltimore City in 2011. She is currently not employed by BPD or Baltimore City, nor has any personal or professional ties with either. She does not have any financial conflicts of interest related to this project.

Pastor S. Todd Yeary has no conflicts of interest.

Ronal Serpas does not have any conflicts of interests related to this project. He served as a contract consultant to the Police Executive Research Forum's study of the Homicide Unit of the Baltimore Police Department making one two-day site visit in late 2015 and one two-day site visit in early 2016. Each visit involved interviews with Baltimore Police Department officers, detectives, supervisors and leadership regarding the policies and procedures of the homicide investigative practices of the agency. Serpas has not had any financial relationship with the City of Baltimore, now or in the past. Serpas was a member of the Major City Police Chiefs organization from January 2004 through August 2014 and came to know, in this professional context, several Police Commissions, including Commissioner Davis. Serpas lives in New Orleans, Louisiana and does not have any financial conflicts of interest.

Leroy James does not have any conflicts of interest. Although he does work with BPD as part of his current work as Executive Director for Campus Safety and Security of Johns Hopkins University in Baltimore, this work does not represent a conflict. He has no conflicts with the Civil Rights Division of the Department of Justice and does not have any financial conflicts of interest related to this project.

Professor Katheryn Russell-Brown was employed by the University of Maryland as a professor from 1992 to 2003. She has no conflicts of interest related to the matter.

IX. APPENDICES

APPENDIX A

Prince George's County Police Department

&

U.S. Department of Justice

Consent Decree
1st. Status Report

July 9, 2004

Jack B. Johnson
County Executive

Melvin C. High
Chief of Police

Table of Contents

Prince George's County Police Department
Consent Decree 1st. Status Report

Introduction

In July 1999, the U.S. Department of Justice initiated an investigation of alleged misconduct by the Canine Section of the Prince George's County Police Department. In October 2000, the Department of Justice initiated an investigation of an alleged pattern or practice of excessive force throughout the Prince George's County Police Department. Both investigations were commenced pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, and the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d.

Upon assuming office on December 5, 2002, Prince George's County Executive Jack B. Johnson sought to resolve the issues regarding the two Department of Justice investigations. The County Executive met with Department of Justice officials to facilitate Prince George's County's cooperation with the Department of Justice investigations and craft agreements addressing all the parties' concerns. The Memorandum of Agreement, along with the separate Consent Decree regarding the Canine Section investigation, is the result of a cooperative effort which evinces a commitment to constitutional policing on the part of the U.S. Department of Justice; Prince George's County, Maryland; and the Prince George's County Police Department.

The work involved in meeting the expectations of both the Consent Decree and the Memorandum of Agreement began on January 22, 2004. The goal of the Police Department is to ensure full compliance with the mandates of both the Consent Decree and the Memorandum of Agreement. The men and women of the Prince George's County Police Department will rise to the challenges that are confronting them. They are committed to making the Department truly one of the finest in the nation, "dedicated to serving the citizens and residents with excellence". The Department is continuing to develop new strategies, policies and procedures, and making systematic changes that will allow them to do good police work, and be held accountable for their actions. The safety and security of the citizens and residents of Prince George's County is dependent on the success of the Department in fulfilling the requirements in the Memorandum of Agreement and the Consent Decree.

Compliance Coordination Team

In order to meet its goal of achieving substantial compliance with both the Memorandum of Agreement and the Consent Decree, the Police Department established a Compliance Coordination Team (CCT). This team was formed at the direction of the Chief of Police for Prince George's County, and is made pursuant to the authority and mandates of paragraph #97 of the Memorandum of Agreement, and paragraph(s) 69 – 75 of the Consent Decree.

An Executive Committee established by the Chief of Police provides the CCT with senior level leadership and guidance on all matters affecting the implementation of, and compliance with both the Consent Decree and the Memorandum and Agreement. The Executive Committee is comprised of the following; the Chief of Police, the Assistant Chief of Police, the Deputy Police Chief(s); of the Patrol Services Bureau, the Support Services Bureau, the Bureau of Professional Responsibility, the Strategic Management Bureau, a representative from the County's Office of Law.

The Compliance Coordination Team (CCT) has three functional components that have been organized under the Strategic Management Bureau. The three components are; *the Compliance Coordination Team – Leadership Component, the Select-Workgroups, and the Subject Matter Teams.*

The Compliance Coordination Team (CCT) Leadership Component:
The CCT Leadership consists of a core group of individuals whose primary duties involve ensuring the department's compliance with the Consent Decree and the Memorandum of Agreement. The CCT is responsible for coordinating all aspects of the Department's mandates with both documents. The CCT will consist of at least 3 - 5 persons, who will meet/confer on a daily basis.

The Select-Workgroups:
Select-Workgroups are task-oriented groups that have been established to accomplish specific tasks outlined within the Consent Decree and the Memorandum of Agreement documents. Three such work-groups have been designated as follows; the *Consent Decree Workgroup*, the *Memorandum of Agreement Workgroup*, and the *EIS/Risk Management System Workgroup*. Each group is comprised of members from various units across the Department with a vested stake in the entire process. Members of these workgroups are also considered subject-matter practitioners, and have been embedded within the various workgroups to complete specific tasks, based on their level of expertise. Additional Select-Workgroups may be formed as necessary.

Subject Matter Teams:
Subject Matter Teams consist of members of the Department that possess expertise in areas affected by the Consent Decree and the Memorandum of Agreement. These members serve "as-needed" depending on the specific topic presented in either document related to their area of expertise. Some of these teams have been embedded within the various Select – Workgroups.

Compliance Coordination Team Organizational Structure.

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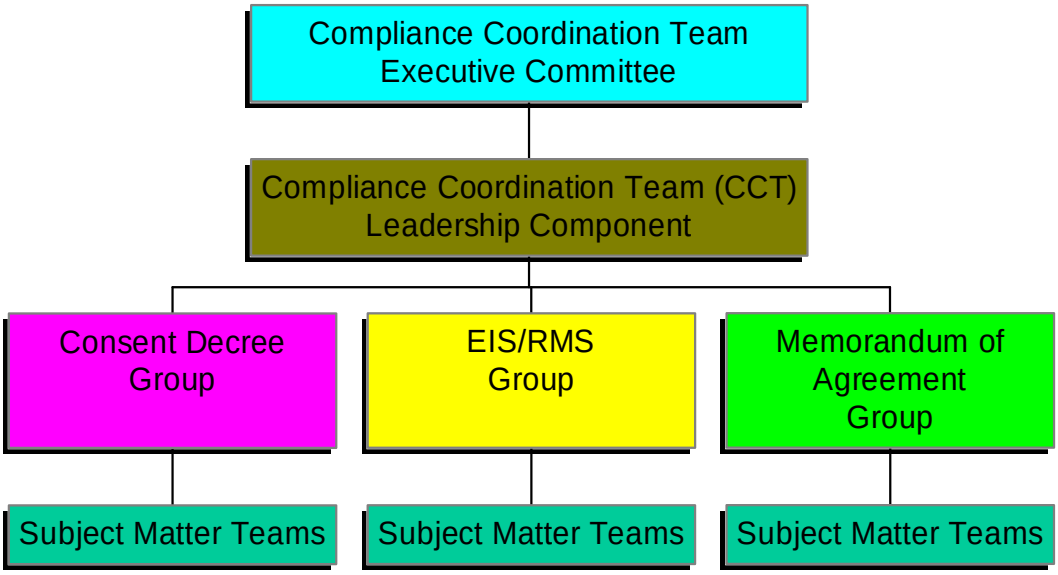

For the purposes of this "*Consent Decree 1st. Status Report*", it should be noted that, Consent Decree Workgroup members and Subject Matter Team members from the following Departmental units, components, and external organizations are represented on the Consent Decree Select-Workgroup:

- Patrol Services Bureau
- Support Services Bureau
- Bureau of Professional Responsibility
- Strategic Management Bureau
- Community Policing Institute (CPI)
- Policy Research, Management & Accreditation Division (PRMA)
- Information Technology Division (Technology Integration Section)
- Office of Information Technology & Communications (OITC)

Compliance Coordination Team – Action Plan.

The Compliance Coordination Team – Action Plan outlines the methodology used by the CCT which specifies implementation tasks, roles and responsibilities, establishes timelines and priorities, tracking, and reporting requirements for implementation of the Consent Decree. These guidelines are necessary to ensure the successful completion of assignments in an effective and efficient manner. For further information on these strategies refer to the CCT- Action Plan, which is available upon request from the Compliance Coordinator.

Community Outreach Initiative

Communication is a key ingredient for success in reaching our goal of achieving full compliance with the mandates of the Consent Decree and the Memorandum of Agreement. In order for the CCT to operate efficiently, it must communicate its efforts between all groups and organizations. The CCT uses various communication mediums to publicize the Departments efforts and progress on a regular basis.

In order to effectively achieve our communications goal, the CCT has initiated a bi-lateral (internal and external) Community Outreach Initiative to effectively publicize the Departments efforts in implementing the requirements mandated by the U.S. Department of Justice. Internally, this initiative is designed to inform all members of the rank and file, the Command Staff, as well as all civilian personnel of the Department's progress. The CCT also realizes the importance of consulting and coordinating with the Executive Board of Fraternal Order of Police, Lodge #89. Accordingly, the CCT shall keep the Fraternal Order of Police apprised of the activities and progress of the CCT, as well as invite FOP representatives to participate in policy development meetings.

Externally, this initiative is designed to communicate our efforts and progress to community groups, civil rights organizations, the business and professional community, and other external stakeholders with a vested interest in this process. Although this initiative was not a mandated task/requirement in either the Consent Decree nor the MOA, it is vital to the Department's success. The Police Department must make every possible effort to inform its members and the citizens and residents of this jurisdiction of its continuing efforts to reform the agency, and to establish a professional law enforcement organization dedicated to protecting the constitutional rights of the citizens they serve.

Paragraph #74 of the Consent Decree requires the Prince George's County Police Department to report its progress on implementing the provisions of this document. The remainder of this report will focus on the progress made during the first 120 days that the CD has been in effect.

Department of Justice – Prince George's County
Consent Decree Implementation Progress Matrix

Section I – INTRODUCTION.

CD Item #	CD Paragraph	Status
1	The United States and Prince George's County, a chartered governmental corporation in the State of Maryland, share a mutual interest in promoting effective and respectful policing. They join together in entering this Agreement in order to promote police integrity and prevent conduct that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
2	In its Complaint, Plaintiff United States alleges that Prince George's County and the Prince George's County Police Department (collectively, "the County Defendants") are violating 42 U.S.C. § 14141 by engaging in a pattern or practice of excessive force by officers of the Prince George's County Police Department Canine Section (the "Canine Section") and by the failure of the County Defendants to adopt and implement proper management practices and procedures.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
3	The County Defendants deny the allegations in the Complaint. Nothing in this Agreement, the United States' Complaint, or the negotiation process shall be construed as an admission or evidence of liability under any federal, state or local law.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
4	This Court has jurisdiction of this action under 28 U.S.C. §§ 1331 and 1345. The United States is authorized to initiate this action pursuant to 42 U.S.C. § 14141. Venue is proper in the District of Maryland pursuant to 28 U.S.C. § 1391, as the Defendants reside in and the claims arose in the District of Maryland.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
5	This Agreement resolves all claims between the United States and Prince George's County, Maryland involving the Canine Section of the Prince George's County Police Department in the United States' Complaint filed in this case. This Agreement also constitutes a full and complete settlement of any and all claims the United States may have against the County Defendants and their officers, employees, or agents, regarding any alleged pattern or practice of conduct by Canine Section officers in carrying out their law enforcement responsibilities, in violation of 42 U.S.C. § 14141. This Agreement does not apply to the United States' broader investigation under 42 U.S.C. § 14141 of allegations that the Police Department engages in a pattern or practice of excessive force.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
6	The parties enter into this settlement jointly for the purpose of avoiding the burdens of litigation, and to partner in support of vigorous and constitutional law enforcement. Moreover, joint entry of this Agreement is in the public interest since it provides for expeditious remedial activity, promotes the use of the best available policing practices and procedures, and avoids the diversion of federal and County resources to adversarial actions by the parties.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
7	Nothing in this Agreement is intended to alter the lawful authority of Canine Section officers to use force, effect arrests and file charges, or otherwise fulfill their law enforcement obligations in a manner consistent with the requirements of the Constitutions and laws of the United States and the State of Maryland, including the Maryland Law Enforcement Officers' Bill of Rights ("LEOBR"), Md. Code Ann., Public Safety §§ 3-101 to -113 (2003).	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
8	Nothing in this Agreement is intended to: (a) alter the existing collective bargaining agreements between the County (as defined in paragraph 17 infra) and Canine Section employee bargaining units; or (b) impair the collective bargaining rights of employees in those units under state and local law. The parties acknowledge that the County's implementation of this Agreement may require compliance with the consulting process. The County shall comply with any such requirement under its collective bargaining agreements and shall do so with a goal of concluding any such processes in a manner that will permit the County's timely implementation of this Agreement. The County shall give appropriate notice of this Agreement to affected employee bargaining units to allow such processes to begin as to the affected provisions of this Agreement. The County agrees to consult with the United States in regard to the positions it takes in any consulting processes connected with this Agreement.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
9	This Agreement shall constitute the entire integrated agreement of the parties with respect to the Canine Section of the Prince George's County Police Department. With the exception of correspondence resulting from technical assistance the United States has provided to the County regarding the Canine Section's Standard Operating Procedures, no prior drafts or prior or contemporaneous communications, oral or written, shall be relevant or admissible for purposes of determining the meaning of any provisions herein in any litigation or any other proceeding.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
10	This Agreement is binding upon the parties hereto, by and through their officials, agents, employees, and successors. This Agreement is enforceable only by the parties. No person or entity is intended to be a third-party beneficiary of the provisions of this Agreement for purposes of any civil, criminal, or administrative action, and accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under this Agreement. This Agreement is not intended to impair or expand the right of any person or organization to seek relief against the County Defendants for their conduct or the conduct of Canine Section officers; accordingly, it does not alter legal standards governing any such claims. This Agreement does not authorize, nor shall it be construed to authorize, access to any County or Police Department documents, except as expressly provided by this Agreement, by persons or entities other than the United States and the County Defendants.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
11	The County is responsible for providing necessary support and equipment to the Police Department, the Chief of Police, and the Canine Section to enable each of them to fulfill their obligations under this Agreement.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
12	The County, by and through its officials, agents, employees, and successors, is enjoined from engaging in a pattern or practice of conduct by law enforcement officers of the Canine Section that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States. This paragraph does not apply to the County's employment policies, practices, or procedures.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
13	The term "bite ratio" means the number of canine apprehensions accomplished by means of a dog bite divided by the total number of canine apprehensions (both with and without a bite).	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
14	The term “canine apprehension” means any time the canine is deployed and plays a clear and well-documented role in the capture of a person. The mere presence of a canine at the scene of an arrest shall not be counted as an apprehension.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
15	The term "canine deployment" means any situation in which a canine is brought to the scene and either 1) the canine is released from the police car or 2) the suspect surrenders to the police immediately after an announcement is made that if he or she does not surrender the canine will be released.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
16	The term “CCOP” means the Prince George’s County Civilian Complaint Oversight Panel.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
17	The term “County” means Prince George’s County, Maryland.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
18	The term "discipline" means a written reprimand, suspension, demotion or dismissal, fine, or loss of leave.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
19	The term “DOJ” means the United States Department of Justice and its agents and employees.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
20	The term “EIS” means the Early Identification System.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
21	The term “force” means any physical coercion used to effect, influence or persuade an individual to comply with an order from an officer. The term shall include the use of chemical irritant and the deployment of a canine.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
22	The term “BPR” means the Prince George’s County Police Department Bureau of Professional Responsibility.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
23	The term “including” means “including, but not limited to.”	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
24	The term "LEOBR" means the Maryland Law Enforcement Officers' Bill of Rights, Md. Code Ann., Public Safety §§ 3-101 to -113 (2003).	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
25	The term “non-disciplinary corrective action” refers to action other than discipline taken by a PGPD supervisor to enable or encourage an officer to modify or improve his or her performance.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
26	The term “PGPD” means the Prince George’s County Police Department.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
27	The term “police officer” or “officer” means any law enforcement officer employed by PGPD, including supervisors.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
28	The term “Canine Section supervisor” means a sworn PGPD employee at the rank of sergeant or above (or anyone acting in those capacities) and non-sworn personnel with oversight responsibility for other officers in the Canine Section.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

Section II – CANINE SECTION POLICIES AND PROCEDURES

A. GUARD AND BARK METHODOLOGY

CD Item #	CD Paragraph	Status
29	Within 30 days of entry of this Agreement, the PGPD shall prepare revisions to its Canine Section policies and procedures to ensure that they are consistent with applicable law. As part of these revisions, the PGPD shall ensure that all terms in its Canine Section Standard Operating Procedures (SOPs) shall be clearly defined in accordance with the definitions in this Agreement. Once the DOJ has reviewed and approved these revisions, the PGPD shall immediately implement the revisions.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: On February 23, 2004, the PGPD submitted the first revised and updated draft of the SOP to DOJ. On April 21, 2004 DOJ provided PGPD with a letter of recommendations for additional revisions to the SOP. On June 14, 2004, PGPD submitted the updated and revised SOP based on the recommendations contained in the April 21, 2004 letter. A request for technical assistance in finalizing the SOP with DOJ's expert consultant was also submitted on June 14th. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP).

CD Item #	CD Paragraph	Status
30	The Prince George's County Police Department represents that the exclusive method of deployment of its Canine Section is the methodology known as “guard and bark”. This method mandates the handler give a “revere” command requiring canines to hold the suspect at bay and bark rather than bite suspects in situations in which such force is not necessary to effect an arrest or protect the safety of officers or civilians.	Due Date: 04/11/04 Compliance Status: Pending Assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP). A definition for the “Guard and Bark Methodology” was added to Chapter 2. Language was added to Section(s)3.12 and 8.1 procedures indicating that the exclusive method of canine utilization is the guard and bark methodology, including cross-trained canines.

CD Item #	CD Paragraph	Status
31	The SOPs shall continue to require that in all circumstances in which a canine is permitted to bite or apprehend a suspect by biting, the handler shall remove the canine at the first possible moment when the canine can be safely released.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP). The language in Section 8.10 has been changed and now requires removal of the canine at the first possible moment of safe release.

CD Item #	CD Paragraph	Status
32	The PGPD represents that all canines are currently properly functioning within a guard and bark methodology. The PGPD shall, in the future, continue to ensure that all canines properly function within a guard and bark methodology.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP). A definition for the "Guard and Bark Methodology" was added to Chapter 2. Language was added to Section(s)3.12 and 8.1 procedures indicating that the exclusive method of canine utilization is the guard and bark methodology.

CD Item #	CD Paragraph	Status
33	As set forth in more detail infra in Part IV, the PGPD shall provide appropriate training, to include new guard and bark methodology training, to the Canine Section officers and all PGPD Canine Section supervisors. All field supervisors shall be given in-service training on the Standard Operating Procedures for canine deployment and guard and bark methodology.	Due Date: 07/09/04 Compliance Status: Pending Assessment by the USDOJ. Implementation Summary: On 02/01/04 the Commander of the Special Operations Division initiated efforts to ensure the Canine Section was working to ensure the requirements of this paragraph were implemented. The Canine Section has developed an outline for training the canine unit personnel. Training for all field supervisors will commence upon approval of the Standard Operating Procedure (SOP) by the USDOJ. Compliance Documentation: PGPD Canine Training curriculum.

B. DEPLOYMENTS

CD Item #	CD Paragraph	Status
34	The SOPs shall limit canine deployments, searches, and other situations in which there is a significant risk of a canine bite to instances in which the suspect is wanted for a serious felony or is wanted for a misdemeanor and is either known to be armed or is reasonably believed to be armed based upon particularized, specific facts.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP).

CD Item #	CD Paragraph	Status
35	The SOPs shall require canine handlers to have approval from a Canine Section supervisor before a canine can be deployed. The PGPD shall make every reasonable effort to ensure that a Canine Section supervisor supervises searches and deployments and responds as appropriate. In any case, the approving supervisor shall not serve as a canine handler in the course of the deployment.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP). Language has been added to Section 8.2 to clarify that the handler will obtain approval from a canine supervisor before deployment.

CD Item #	CD Paragraph	Status
36	When a deployment or search is permitted, a canine handler shall not allow a canine to bite or to apprehend a suspect by biting except in those circumstances in which: **a.** the suspect poses a risk of imminent danger to officers or others; **b.** the suspect is actively fleeing from officers (as contrasted to hiding); **c.** the suspect is hiding and presents a specific, known, and articulable risk of death or serious bodily injury to officers or others, such as a hostage or barricade situation; or **d.** other reasonable alternatives for apprehending the suspect that involve a lesser use of force have been exhausted or would clearly be ineffective.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP). All references to "imminent threat" have been changed to "imminent danger" in the SOP. See Section(s) 8.7, 8.8, 8.9.

CD Item #	CD Paragraph	Status
37	For these purposes, "imminent danger" is limited to situations in which the suspect, whether armed or not, is attempting to inflict serious bodily injury upon another person. This includes situations in which: **a.** the suspect has assaulted, or has attempted to assault, or is assaulting or attempting to assault officers or others with a weapon or other instrumentality capable of producing serious bodily injury; or **b.** the suspect has threatened or is threatening to make such an assault or the suspect is attempting to inflict serious bodily injury to another person (example strangulation).	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP). All references to "imminent threat" have been changed to "imminent danger" in the SOP. See Section(s) 8.7, 8.8, 8.9.

CD Item #	CD Paragraph	Status
38	The SOPs shall require that whenever a canine-related injury occurs, the handler is responsible for ensuring that the injured individual or individuals receive immediate medical treatment through transportation to an emergency room or admission to a hospital.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP). The amended revisions are located in the Canine SOP – Section 7.2.

C. WARNINGS

CD Item #	CD Paragraph	Status
39	The SOPs shall require that canine officers loudly and clearly announce a warning that a canine will be deployed. The announcement shall be made sufficiently in advance of the canine deployment to afford the suspect an opportunity to surrender and to allow bystanders to exit the area safely. Amplified announcements via a public address system shall be made when necessary to produce a loud and clear warning, giving consideration to noise, perimeter size, and structural barriers. Announcements shall be made in English and Spanish. The Major in charge of the Canine Section shall, on a semi-annual basis, contact the head of each patrol district in the County to determine if other languages are used in that district. When a language is frequently used in any district, the PGPD shall create a warning tape in that language and distribute a copy of the tape to all Canine Section handlers, who shall then use these tapes in appropriate circumstances.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP). Revisions made in the Canine Section SOP – Section(s) 8.11, 8.12, 8.14.

CD Item #	CD Paragraph	Status
40	The SOPs shall require the announcement and time interval prior to deployment to be recorded via the mobile video system by the canine officer.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP), Section 8.12.

D. RECORDING AND EVALUATING CANINE BITES

CD Item #	CD Paragraph	Status
41a	The SOPs shall require a report to be completed for all apprehensions and bites, regardless of whether an injury occurred or an arrest was made. For each such use of a canine, the handler shall ensure that all relevant data, including the following information, are recorded: **i.** the date, time, police district, and address at which the use of the canine occurred; **ii.** any crime involved, and whether the suspect was armed; **iii.** the names of all officers, including supervisors, and witnesses present; **iv.** the basis for the deployment; **v.** whether a supervisor approved the deployment, and if not, the reason why the deployment proceeded without supervisory approval; **vi.** whether a search announcement was given, and if not, the name of the supervisor who approved the exception; and **vii.** a thorough narrative description of the use of the canine, including the distance of the dog from the handler at the point of apprehension, and any physical contact between the canine and the subject (including the subject's clothing) and the duration of any such contact, including the subject's estimate of the duration of contact if that estimate differed from the handler's estimate.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP), Section 7.7a-g.

CD Item #	CD Paragraph	Status
41b	The SOPs shall require a report to be completed for all canine deployments regardless of whether an injury occurred or an arrest was made. For each deployment, the handler shall ensure that all relevant data, including the information set forth in paragraph 41a, with the exception of **41a (iii) and 41a (vii)**, are recorded.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP), Section 7.8.

CD Item #	CD Paragraph	Status
42	The SOPs shall require that whenever a canine-related injury occurs, regardless of whether an arrest is made and regardless of whether the injury was accidental, a canine-related injury report shall be completed. For each such injury, the Canine Section supervisor shall ensure that all relevant data, including the following information, is recorded: **a.** the data required in paragraph 41a and 41b above; **b.** a full and complete description of the person injured, including name, address, telephone, gender, race and/or ethnicity, date of birth, height, and weight; **c.** complete identifying information regarding the treating physician, hospital, or emergency room to which the injured person was taken; **d.** a full and complete narrative of how the injuries occurred and their nature and extent; **e.** a full and complete description of any medical treatment for the injuries; and **f.** copies of any witness statements.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP), Section 7.9a-e.

CD Item #	CD Paragraph	Status
43	The SOPs shall require the Canine Section to compute a bite ratio at monthly, quarterly, and annual intervals for the Canine Section as a whole and for each individual handler and canine team. The numerator of this ratio (number of bites) shall include accidental bites.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP). Paragraph 7.10 has been rewritten to clarify that a bite ratio must be computed monthly, quarterly, and annually for the Canine Section as a whole and for each handler and team. The Monthly Activity Report (P.G.C. Form #5087) was created and is designed to capture the information necessary for computation of the bite ratio.

E. ACCOUNTABILITY

CD Item #	CD Paragraph	Status
44	The PGPD shall use the records in paragraphs 41a, 41b, 42, and 43 to evaluate the Performance of the entire Canine Section and individual handler and canine teams, and to ensure compliance with PGPD policies, procedures, and training.	Due Date: 07/09/11 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: This paragraph was assigned to the Patrol Services Bureau for implementation. The completion and implementation of an appropriate policy is pending. Compliance Documentation: Pending.

CD Item #	CD Paragraph	Status
45	The PGPD shall monitor and investigate all complaints regarding canine deployments and bites.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: This paragraph was assigned to the Bureau of Professional Responsibility (BPR) for implementation. The BPR task-holder submitted documentation indicating that the Department has implemented this requirement through the existence of two (2) General Order policies. One general order policy addresses the reporting and investigation of Canine related incidents, and the responsibilities of the Special Investigative Response Team (SIRT) unit of BPR. The second general order policy addresses the critiques of Canine Deployments. Compliance Documentation: General Order Manual Vol. 3/908.55 General Order Manual Vol. 3/908.60

CD Item #	CD Paragraph	Status
46	The SOPs shall require the Canine Section to produce a monthly report for the Commander of the Special Operations Division based on the records in paragraphs 41a, 41b, 42, and 43, displaying the performance of individual handler and canine teams in comparison with other teams and with their own past performance. The report shall also display the overall performance of the Canine Section in comparison with past performance.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP), Section 7.10 has been rewritten. The Monthly Activity Report (P.G.C. Form #5087) was created and captures all the information required by the consent decree.

SECTION III – REVIEW OF CANINE DEPLOYMENTS

CD Item #	CD Paragraph	Status
47	Canine Section officers shall notify their supervisors following any canine deployment or other use of force or upon the receipt of a verbal allegation of excessive force. After this notification, supervisors will respond to the scene, examine the subject for injury, and ensure that the subject receives needed medical attention. A supervisor will not be required to respond to the scene in situations where a deployment has occurred without an apprehension, and there has been no other use of force or allegation of excessive force.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP). Section 7.1 was rewritten and outlines a handler's responsibilities, including the notification to a supervisor of any canine deployment. Section 7.3 was rewritten and outlines a supervisor's responsibilities in detail.

CD Item #	CD Paragraph	Status
48	Canine Section supervisors will review, evaluate, and document each canine apprehension or other use of force, and will prepare a Commander's Information Report ("CIR"). The CIR will include a precise description of the facts and circumstances that either justify or fail to justify the officer's conduct. In addition to the CIR, the Canine Section supervisor will conduct a Canine Section use of force review. As part of the Canine Section supervisor's use of force review, the supervisor will examine the basis for the canine apprehension or other use of force, and determine whether the officer's actions were within PGPD and Canine Section policy. Incidents will not be reviewed by any officer who used force during the incident, whose conduct led to an injury, or who authorized conduct leading to the use of force or allegation of excessive force.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP).

CD Item #	CD Paragraph	Status
49	The BPR will respond to the scene of all canine bites which cause serious injury or hospital admission. The BPR will be required to examine and evaluate in writing the Canine Section's use of force reviews of all canine bites and apprehensions and will be required to submit the written evaluations to the Chief of Police every three months.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: This paragraph was assigned to the Bureau of Professional Responsibility (BPR) for implementation. The BPR task-holder has provided documentation on this paragraph indicating specific duties and responsibilities to be performed by the BPR – SIRT team regarding Canine incidents. Compliance Documentation: BPR Special Investigative Response Team (SIRT), Standard Operating Procedure (SOP).

CD Item #	CD Paragraph	Status
50	The parties agree that it is improper interview procedure to ask officers or other witnesses leading questions during Canine Section use of force reviews that improperly suggest legal justifications for the officer's conduct when such questions are contrary to appropriate law enforcement techniques. In each investigation, the PGPD shall train and require supervisors and other investigators to use proper interview procedure, consider all relevant evidence including circumstantial, direct and physical evidence, as appropriate, and make credibility determinations, if feasible. The PGPD will make all reasonable efforts to resolve material inconsistencies between witness statements. The PGPD shall train all of its Canine Section supervisors and other investigators on factors to consider when evaluating credibility.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: This paragraph was assigned to the Bureau of Professional Responsibility (BPR) – Subject Matter Team and the Community Policing Institute – Subject Matter Team for implementation. These teams have designed a training curriculum to address this paragraph. The curriculum is 95% completed. Compliance Documentation: BPR/CPI Joint Training curriculum. (DRAFT)

CD Item #	CD Paragraph	Status
51	PGPD shall interview all witnesses to a use of force or an injury resulting from a use of force. Consistent with the requirements of LEOBR, PGPD shall ensure that all officer witnesses provide a statement regarding the incident. Canine Section Supervisors shall ensure that all use of force reports identify all officers who were involved in the incident or were on the scene when it occurred. Canine Section Supervisors shall ensure that all reports indicate whether an injury occurred, whether medical care was provided, and whether the subject refused medical treatment. Canine Section Supervisors shall ensure that all reports include contemporaneous photographs or videotapes taken at the earliest practical opportunity both before and after any treatment, including cleansing of wounds.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP).

CD Item #	CD Paragraph	Status
52	The Canine Section Commander will evaluate each review conducted by Canine Section supervisors, identify any deficiencies in those reviews, and require supervisors to correct any deficiencies. Canine Section supervisors will be held accountable for the quality of their reviews. The PGPD will take appropriate non-disciplinary corrective action and/or disciplinary action when a supervisor fails to conduct a timely and thorough review, or neglects to recommend appropriate corrective action.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP).

SECTION IV - TRAINING

CD Item #	CD Paragraph	Status
53	The PGPD shall develop and implement comprehensive canine training curricula and lesson plans that specifically identify objectives of the Canine Section, consistent with the SOPs described in Part II of this Agreement. Once the DOJ has reviewed and approved these curricula and lesson plans, the PGPD shall immediately implement them.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP).

CD Item #	CD Paragraph	Status
54	The PGPD shall ensure that canine handlers are trained to maintain sufficient control of and contact with their canine partners to prevent canine bites from occurring without legal justification.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP).

CD Item #	CD Paragraph	Status
55	Within 30 days of the date of this Agreement, the PGPD shall prepare, for the review and approval of the DOJ, a protocol for obtaining certification of canines, canine handlers, and inhouse canine trainers. This protocol shall identify the training consultant and shall specify the substantive standards that shall apply in awarding certifications, including standards for certifying canines in handler-controlled alert methodology. The training consultant shall monitor the final testing of canine handlers and their canines. The PGPD shall require that all of its canines, canine handlers, and in-house canine trainers are certified pursuant to the protocol within 180 days of the final approval of the protocol.	Due Date: 04/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP).

CD Item #	CD Paragraph	Status
56	The PGPD shall ensure that the canines, canine handlers, and in-house canine trainers receive annual re-certification and periodic refresher training. Deviations from certification or training requirements shall result in the removal of the canine or officer from service until such requirements are fulfilled.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: See paragraph #29. Compliance Documentation: Version #2 of the PGPD Canine Standard Operating Procedure (SOP).

CD Item #	CD Paragraph	Status
57	The PGPD shall develop in-classroom instruction for the Canine Section, to include the following topics: canine deployment policy, canine search tactics, back-up officer tactics and responsibilities, and establishing perimeters.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: On 02/01/04 the Commander of the Special Operations Division initiated efforts to ensure the Canine Section was working to ensure the requirements of this paragraph were implemented. The Canine Section has developed an outline for training the canine unit personnel. This training will be based on the "Guard & Bark Methodology", and will be implemented upon approval of the SOP by the USDOJ. Compliance Documentation: PGPD Canine Training curriculum.

CD Item #	CD Paragraph	Status
58	The PGPD shall administer in-service training on Canine Section SOPs and the guard and bark methodology to all SWAT supervisors. Joint training between the Canine Section and SWAT will be conducted on barricades, building entries and use of canines in raids.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: On 02/01/04 the Commander of the Special Operations Division initiated efforts to ensure the Canine Section was working to ensure the requirements of this paragraph were implemented. The Canine Section has developed an outline for in-service training on the Canine Section SOP and Guard & Bark methodology for all SWAT Supervisors. This training will be based on the "Guard & Bark Methodology", and will be implemented upon approval of the SOP by the USDOJ. Compliance Documentation: PGPD Canine Training curriculum.

CD Item #	CD Paragraph	Status
59	The PGPD shall ensure that all supervisors who have the authority to authorize canine deployment are formally trained in the theory and practice of guard and bark methodology and Canine Section SOPs, with particular emphasis on the appropriateness of canine deployment, control of canines, and officer safety.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: On 02/01/04 the Commander of the Special Operations Division initiated efforts to ensure the Canine Section was working to ensure the requirements of this paragraph were implemented. The Canine Section has developed a training outline for all Canine supervisors. This training will be based on the "Guard & Bark Methodology", and will be implemented upon approval of the SOP by the USDOJ. Compliance Documentation: PGPD Canine Training curriculum.

CD Item #	CD Paragraph	Status
60	The PGPD shall maintain a secure canine training field perimeter fence**,** frequently inspecting it for holes and promptly repairing any breach in the fence. The PGPD shall ensure that routine off-lead training occurs, and shall obtain additional equipment as appropriate to aid in off-lead training.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: On 02/01/04 the Commander of the Special Operations Division initiated efforts to ensure the Canine Section was working to ensure the requirements of this paragraph were implemented. The Canine training area fence is not in need of repair at this time, however, and signs have been ordered to be posted on the perimeter fence. Twenty (20) K-9 warning signs have been obtained effective April 30, 2004. Compliance Documentation: N/A

CD Item #	CD Paragraph	Status
61	The PGPD shall ensure that all formal canine training sessions are supervised by a Canine Section trainer. The PGPD shall also ensure that Canine Section supervisors monitor all formal training and make best efforts to observe formal training.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: On 02/01/04 the Commander of the Special Operations Division initiated efforts to ensure the Canine Section was working to ensure the requirements of this paragraph were implemented. The Canine Section has developed a training outline for all Canine supervisors. This training will be based on the "Guard & Bark Methodology", and will be implemented upon approval of the SOP by the USDOJ. Compliance Documentation: PGPD Canine Training curriculum.

CD Item #	CD Paragraph	Status
62	The PGPD shall maintain adequate numbers of bite suits to ensure sufficient access and flexibility for training of all canines.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: On 02/01/04 the Commander of the Special Operations Division initiated efforts to ensure the Canine Section was working to ensure the requirements of this paragraph were implemented. On April 6, 2004, one (1) tactical bite suit had been obtained by the Canine Section. Compliance Documentation: N/A

CD Item #	CD Paragraph	Status
63	The PGPD shall provide each canine handler with a bite sleeve and a control stick to be carried in the vehicle for post-search training or patrol personnel use when appropriate to aid in controlling a canine whose handler has become incapacitated.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: On 02/01/04 the Commander of the Special Operations Division initiated efforts to ensure the Canine Section was working to ensure the requirements of this paragraph were implemented. On March 12, 2004, the control sticks had been received in the Canine Section. Additional equipment has been requisitioned to satisfy this paragraph. Compliance Documentation: N/A

CD Item #	CD Paragraph	Status
64	The PGPD shall ensure that canine training equipment is securely stored while remaining accessible for use by all canine teams.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: On 02/01/04 the Commander of the Special Operations Division initiated efforts to ensure the Canine Section was working to ensure the requirements of this paragraph were implemented. On May 7, 2004, the new storage shed had been obtained for the Canine Section. Compliance Documentation: N/A

SECTION V – MANAGEMENT & SUPERVISION
A. RISK MANAGEMENT SYSTEM

CD Item #	CD Paragraph	Status
65a	The PGPD shall implement a system for maintaining, integrating, and retrieving data necessary for supervision and management of the Canine Section within six months of entry of this Agreement. The Bureau of Professional Responsibility shall keep and maintain all investigative files. **a.** The system shall collect and record, at a minimum, the following information for Canine Section officers: **i.** incidents involving a use of force: officer name and identification number; witness officer name and identification number; description of incident with sufficient detail to permit a meaningful supervisory review of the justification for the use of force; identification of each specific use of force used and the effectiveness of each type of force used; name of the person against whom force was used; description of any injuries to the subject and/or officer resulting from the use of force; medical treatment; and whether the individual against whom force was used was arrested or issued a citation or summons, and if so, the arrest report or citation number; **ii.** each officer's investigation history: a summary of all criminal and administrative investigations of a particular officer and a summary, including a narrative description, of the allegations, and any discipline determined and imposed; and **iii.** a description of all civil or administrative claims filed against an officer arising from Canine Section operations or the actions of Canine Section personnel; a description of all other known civil or administrative claims to which the officer is a named party and which involve allegations of untruthfulness, physical force, or assault.	Due Date: 09/07/04 Compliance Status: Pending. Implementation Summary: This paragraph of the Consent Decree was assigned to the Early Identification System/Risk Management System (EIS/RMS) Select – Workgroup for implementation. This workgroup is comprised of members with subject matter expertise in technology-related issues. This group conducted an assessment of the Canine Section's current Risk Management System in order to determine the feasibility of complying with the requirements of this paragraph. The initial assessment has concluded that the current Risk Management System is not capable of meeting the requirements set forth in the Consent Decree. The workgroup has made a recommendation that the Department pursue a configuration that would result in the Department completely developing a new system, creating a centralized database and Case Management System that would be inclusive of a Canine Section – Risk Management System that would interface with the Department's Early Identification System. A copy of the Request for Proposal for such a Case Management System developed by the County and inclusive of the Consent Decree requirements was submitted to the U.S. Department of Justice on April 15, 2004 for review and comment, prior to any further action. Compliance Documentation: (PENDING)

CD Item #	CD Paragraph	Status
65b	The system shall have, at a minimum, the capability to retrieve information by any of the categories in the database, and to perform statistical analyses of such information 1) by individual officer, and by shift, district, or the entire Canine Section; and 2) by incident or group of incidents.	Due Date: 09/07/04 Compliance Status: See paragraph #65a. Implementation Summary: See paragraph #65a. Compliance Documentation: See paragraph #65a.

CD Item #	CD Paragraph	Status
65c	The County will maintain all personally identifiable information about a Canine Section officer included in the system during the officer's employment with the PGPD and for the maximum length of time permitted by the LEOBR. Information necessary for aggregate statistical analysis will be maintained indefinitely in the system. On an ongoing basis, the PGPD will enter information into the system in a timely, accurate, and complete manner, and maintain the data in a secure and confidential manner as allowed or required by law.	Due Date: 09/07/04 Compliance Status: See paragraph #65a. Implementation Summary: See paragraph #65a. Compliance Documentation: See paragraph #65a.

CD Item #	CD Paragraph	Status
66	Within three months of the effective date of this Agreement, the PGPD shall submit a written protocol governing the use of the system to the DOJ for review and approval. The protocol shall specify, at a minimum: **a.** the threshold number and type of incidents and/or complaints per officer triggering mandatory review by supervisors; **b.** the frequency of any routine reviews; **c.** the follow-up actions to be taken by PGPD supervisors based on information in the system; and **d.** quality assurance checks of data input.	Due Date: 06/11/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: This requirement was assigned to the Canine Section for implementation. An abbreviated protocol was submitted for review and is included as a separate item in the Appendix of this report. Compliance Documentation: PGPD Canine Section - Abbreviated Use Protocol with the minimum requirements.

CD Item #	CD Paragraph	Status
67	The PGPD shall provide Canine Section officers with an annual opportunity to review and propose corrections to errors in tracking system information, except regarding open or ongoing investigations or cases.	Due Date: 09/07/04 Compliance Status: See paragraph #65a. Implementation Summary: See paragraph #65a. Compliance Documentation: See paragraph #65a.

B. OVERSIGHT

CD Item #	CD Paragraph	Status
68	The PGPD will semiannually solicit in writing from local prosecutors whether the prosecutors are aware of any issues with any Canine Section individual officer or Canine Section-wide performance.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: This paragraph was assigned to the Policy Research, Management, and Accreditation Division for implementation. A new general order policy to accommodate this paragraph is being drafted. Compliance Documentation: Pending.

SECTION VI – MONITORING, REPORTING, AND IMPLEMENTATION

A. Monitoring of Agreement

CD Item #	CD Paragraph	Status
69	In order to monitor the County's implementation of this Agreement, the United States and its consultative experts and agents shall regularly conduct compliance reviews to ensure that the County and the PGPD have implemented and continue to implement all measures required by this Agreement. The United States shall make its consultative experts and agents available for technical assistance following such reviews.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
70	The United States and its consultative experts and agents shall have full and direct access to all Canine Section employees, facilities, and documents, to the extent permitted by law. The United States and its consultative experts and agents shall cooperate with the County and the PGPD to access involved personnel, PGPD facilities, and documents regarding the Canine Section in a reasonable manner that minimizes interference with daily operations. Should the County or the PGPD decline to provide access to a document based on attorney-client privilege, the County shall provide the United States with a log describing the document.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
71	The United States shall provide the County with reasonable notice of a request for copies of documents. Upon such request, the County and the PGPD shall provide the United States with copies (electronic, where readily available) of any documents that the United States is entitled to access under this Agreement.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
72	All non-public information provided to the United States, whether by the County, the PGPD, or DOJ, shall be maintained in a confidential manner. Other than as expressly provided in this Agreement, this Agreement shall not be deemed a waiver of any privilege or right the County or the PGPD may assert, including those recognized at common law or created by statute, rule or regulation, against any other person or entity with respect to the disclosure of any document.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
73	The United States shall have direct access to all documents in criminal investigation files involving Canine Section officers that have been closed by the PGPD, to the extent permitted by LEOBR. The United States shall also have direct access to all documents involving a Canine Section officer, such as arrest reports, warrants, and warrant applications, whether or not contained in open criminal investigation files; where practicable, arrest reports, warrants, and warrant applications shall be obtained from sources other than open criminal investigation files.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

B. COUNTY REPORTS AND RECORDS

CD Item #	CD Paragraph	Status
74	Within 120 days following entry of this Agreement and no later than every three months thereafter until this Agreement is terminated, the County shall file with the Court, with a copy to the DOJ, a status report delineating the steps taken by the County and the PGPD during the reporting period to comply with each provision of this Agreement. The County shall also file such a report documenting the steps taken to comply with each provision of this Agreement during the term of this Agreement 120 days before the end of the Agreement's term.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: This paragraph was assigned to the Compliance Coordination Team for implementation. Compliance Documentation: Consent Decree 1st Status Report, July 9, 2004.

CD Item #	CD Paragraph	Status
75	During the term of this Agreement, the County and the PGPD shall maintain all records necessary to document their compliance with the terms of this Agreement and all documents expressly required by this Agreement, to the extent allowed by law.	Due Date: 07/09/04 Compliance Status: Pending assessment by the USDOJ. Implementation Summary: This paragraph was assigned to the Compliance Coordination Team for implementation. The requirements of this paragraph are being carried out under the auspices of the Compliance Coordination Team. Compliance Documentation: Compliance Coordination Team – Action Plan, April 1, 2004.

C. IMPLEMENTATION

CD Item #	CD Paragraph	Status
76	This Agreement shall become effective on entry by the Court. The County shall implement immediately all provisions of this Agreement which involve the continuation of current PGPD policies, procedures, and practices. The remaining provisions shall be implemented either by the specified implementation date or, for those provisions that have no specified implementation date, as soon as is reasonably practicable and no later than 120 days after this Agreement's effective date.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
77	The Court shall retain jurisdiction of this action for all purposes during the term of this Agreement. The Agreement shall terminate three years from the effective date, or earlier if the parties have substantially complied with each of the provisions of the Agreement and have maintained substantial compliance for at least two years. The burden will be on the County to demonstrate this level of compliance. Noncompliance with mere technicalities, or temporary failure to comply during a period of otherwise sustained compliance, will 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.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
78	If there is a significant change in a state law that impairs or impedes the County's ability to implement this Agreement, then each of the parties reserves the right to seek declaratory or other relief from the Court regarding implementation of the affected provisions of this Agreement in light of the change in state law.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
79	Before the DOJ pursues any remedy with the Court based upon the County's failure to fulfill an obligation under this Agreement, DOJ shall give written notice of such failure to the County. Except as set forth below, the County shall have 30 days from receipt of such notice to cure or cause the cure of such default. If such default continues beyond 30 days following notice of default, DOJ may, upon three days' notice to the County (excluding weekends, federal or state holidays), at its election seek a remedy from the Court. The County shall have seven days, excluding weekends, federal or state holidays, to cure or cause the cure of any failure to fulfill an obligation that relates to the provisions of this Agreement regarding access to County or PGPD staff, facilities, or documents, or copies of such documents. If such default continues beyond the seven-day period following notice of default, DOJ may, at its election, immediately seek a remedy from the Court. The notice to be given under this paragraph shall be given by DOJ to the County Attorney on behalf of the County and the Office of Police Reform. The County Attorney shall provide copies to the County Executive and to the Chief of Police.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

CD Item #	CD Paragraph	Status
80	The parties agree to defend the provisions of this Agreement. The parties shall notify each other of any court or administrative challenge to this Agreement. In the event any provision of this Agreement is challenged in any local or state court, removal to a federal court shall be sought by the parties.	Due Date: **N/A** Compliance Status: Implementation Summary: Compliance Documentation:

Appendix

Prince George's County Police Department Canine Section – Standard Operating Procedure (SOP).

Prince George's County Police Department Canine Section – Training Curriculum.

Prince George's County Police Department Canine Section Monthly Activity Report P.G. C. Form # 5087.

General Order Manual (GOM) Policy – Volume (Vol.) 3, Section 3/908.55

General Order Manual (GOM) Policy – Volume (Vol.) 3, Section 3/908.60

PGPD - Bureau of Professional Responsibility (BPR) – SIRT Standard Operating Procedure.

PGPD – BPR/CPI Joint Training Curriculum

PGPD – EIS/RMS Preliminary Plan

Prince George's County Government – Request for Proposal No. S04-074 – Records Management System.

PGPD Canine Section - Abbreviated Use Protocol with the minimum requirements.

APPENDIX B

GLENN F. IVEY

2700 Valley Way, Cheverly, Maryland 20785
M: (301) 537-1451
O: (202) 434-9131
glenn@pricebenowitz.com

EDUCATION

- **Harvard Law School, Cambridge, MA, (J.D. 1986).**
- **Princeton University, Princeton, NJ (A.B. 1983, *Cum Laude*).**

EXPERIENCE

Partner, Price Benowitz, LLP, Washington, DC (2017-date)

- **Represent clients in civil and criminal litigation matters in state and federal courts, Congressional and administrative investigations, and legislative policy matters.**

Partner, Leftwich LLC, Washington, DC (2012-2017).

- **Represent clients in civil and criminal litigation matters in state and federal courts, Congressional and administrative investigations, and legislative policy matters.**

- **Chair the Maryland commission that provides funding for low-income legal services in the state.**

Candidate for Congress, Maryland's Fourth District (2015-2016)

- **Ran to replace Rep. Donna Edwards (D) in Congressional district that covers parts of Prince George's and Anne Arundel counties.**
- **Raised over $1 million dollars by making 13,000 telephone calls in a 12 month period.**
- **Received endorsements from former Attorney General Eric Holder, Rep. John Conyers, Ben Jealous, John Podesta, former Sen. Tom Daschle, key unions (IBEW, Teamsters, UFCW) and others.**
- **Focused on critical issues like the Supreme Court, Obamacare, gun control, voting rights protections, criminal justice reform and public education reform.**
- **Developed extensive voter outreach efforts using large NGP database integrated with social media and traditional outreach tools (Twitter, Facebook, LinkedIn, email blasts, website etc.).**
- **Placed second in a field of seven candidates.**

Partner, Venable LLP, Washington, D.C. and Baltimore, MD (2011-2012).

- **Handled white collar criminal litigation, Congressional and corporate investigations, regulatory matters, civil litigation and legislative matters.**
- **Served on the firm's lateral hiring committee and law school recruitment team.**

State's Attorney, Office of the State's Attorney for Prince George's County, Upper Marlboro, MD (2002-2010).

- **Served as chief law enforcement officer for a jurisdiction of 865,000, elected in 2002 and 2006, for an office that prosecuted violent crimes (homicides, sex offenses), misdemeanors and juvenile offenses.**
- **Managed an office of 75 attorneys and 50 support staff, with an annual budget of over $13 million.**
- **Launched intervention and prevention programs aimed at reducing crime without incarceration, expanded trial attorney training programs, and made final hiring decisions for attorneys and staff.**
- **Personally handled high profile trials and appeals.**
- **Created specialty prosecution units targeting domestic violence, gangs, gun violence and economic crime.**
- **Managed and shaped local and national media coverage of the Office's high-profile cases and public safety initiatives (electronic and print).**
- **Led successful efforts in state legislature to enact progressive legislative priorities (abolition of the death penalty, increased funding for diversion and intervention programs).**

Partner, Preston, Gates, Ellis & Rouvelas, Meeds, (now K&L Gates) Washington, DC. (2000-2002).

- **Handled legislative, regulatory and litigation matters for a variety of clients, including Microsoft and the Gates Foundation.**

Chairman, Maryland Public Service Commission, Baltimore, MD. (1998-2000).

- **Led state agency that regulates electricity, gas, telephone and other utilities.**
- **Chaired quasi-judicial hearings on rates, settlements and other regulatory matters.**
- **Testified before the House of Representative's Committee on Energy and Commerce.**
- **Worked with the governor, state legislature and municipal officials on legislative initiatives.**
- **Managed a staff of 150, with a budget of about $10 million. Gubernatorial appointment.**

Chief Counsel, Leadership Office of the Senate Democratic Leader (Tom Daschle), Washington, DC. (1997-1998).

- **Drafted the leadership bills for education, campaign finance reform and pension reform.**
- **Served as the Leader's liaison and adviser to Senate Democrats on the Whitewater Committee and during the campaign finance hearings.**
- **Assisted in leadership messaging, strategy development and legislative implementation. Drafted decision memos and talking points for the Leader on a variety of issues.**

Counsel, U.S. Senate Committee on Banking, Housing and Urban Affairs, Washington, DC (1994-1996).

- **Drafted legislation and handled a variety of matters including banking and insurance redlining, the Community Reinvestment Act, and Government Sponsored Enterprises (Fannie Mae and Freddie Mac).**
- **Worked on Senator Paul Sarbanes's committee staff in the Senate Whitewater investigations (Madison Guaranty, Resolution Trust Corporation, Death of Deputy White House Counsel Vincent Foster).**

Assistant U.S. Attorney, U.S. Attorney's Office, U.S. Department of Justice, Washington, DC. (1990-1994).

- **Handled over 40 criminal jury trials, 15 appeals and numerous grand jury investigations in local and federal court.**

Associate, Preston, Thorgrimson, Ellis, Rouvelas & Meeds, Washington, DC (1989).

- **Represented clients in litigation, regulatory and legislative matters.**

Senior Legislative Assistant, Congressman John Conyers, Jr., Washington, DC. (1987-1988).

- **Served as liaison to Government Operations and Small Business committees and the Congressional Black Caucus.**
- **Drafted legislation regarding voter registration, minority business contracting and development, and Africa.**
- **Drafted speeches, op-eds, floor statements and talking points for the Congressman.**

Associate, Gordon Feinblatt Rothman Hoffberger & Hollander, Baltimore, MD (1986-1987).

- **Handled civil litigation matters.**

ACADEMIC EXPERIENCE

Adjunct Professor, Harvard Law School, Cambridge, MA (2012-date)

- **Teach students in the Harvard Trial Advocacy Workshop.**

Adjunct Professor, University of Maryland, Carey School of Law, Baltimore, MD, (1996-2015).

- **Taught classes on Criminal Procedure II, Congressional Investigations, Federal Criminal Law and Constitutional Criminal Procedure.**

LEGISLATIVE PUBLICATIONS

Testimony of Glenn F. Ivey, Esq., "The Obama Administration's Investigation of IRS Targeting," Committee of Government Oversight and Government Reform, Subcommittee on Regulatory Affairs, Stimulus Oversight and Government Spending, U.S. House of Representatives, 113th Congress, Second Session (2014).

Testimony of the Honorable Glenn F. Ivey, Maryland Public Service Commission Chairman, "The Internet Freedom Act, H.R. 1686," Committee on the Judiciary, U.S. House of Representatives, 106th Congress, Second Session (2000).

***Report on the Hearings on the Death of Vincent Foster, Jr.*, Committee on Banking, Housing and Urban Affairs, U.S. Senate, S. Hrg. 103-889, 103d Congress, Second Session (1994).**

SELECTED LECTURES, PRESENTATIONS AND PANELS

Panelist, "The Trayvon Martin Tragedy," American University Washington College of Law (April 9, 2013).

Moderator, "Recent Developments--Race and Criminal Justice," Harvard Law School, Cambridge, MA (September 2011).

Panelist, "Evidence Based Decision Making in Criminal Prosecution," Bureau of Justice Administration, U.S. Department of Justice, National Conference, Alexandria, Virginia (December 7, 2010).

Speaker, "Collateral Consequences of the Criminal Justice System," Seventh Annual Wiley Branton Symposium, Howard Law Journal Symposium, Howard University Law School (October 29, 2010).

Debate with George Washington University Law Professor Paul Butler, "African Americans and the Criminal Justice System," Center for American Progress, Washington, DC (July 6, 2009).

Panelist, "The End of Mass Incarceration," American Constitution Society, Washington, DC (June 19, 2009).

Panelist, "Implementing the High Point Strategy in Other Jurisdictions," National Network for Safe Communities, John Jay College of Criminal Justice, New York, NY (June 17, 2009).

Panelist, "Best and Worst Plea Negotiating Practices," American Bar Association, Criminal Justice Section, Fall 2007 Conference, George Washington University Law School, Washington, DC (November 2, 2007).

Panelist, "Ideas for Reform: Innovative Prosecutorial Programs and Remedies for Abuse," American Constitution Society and American University's Washington College of Law, Washington DC (October 26, 2007).

Panelist, "Racial Bias and the Criminal Justice Process," Center for American Progress, Washington, DC (October 17, 2007).

Panelist, "Rising African American Leaders: Challenges for the Next Generation," Joint Center for Political and Economic Studies, Washington, DC (April 20, 2005).

Moderator, "Gun Policy Workshop: Reducing Gun Violence in Street Crime," University of Maryland, College Park, MD (May 27, 2004).

SELECTED MEDIA PUBLICATIONS

"Standing with the Smart on Crime Coalition," *The Washington Post,* August 16, 2013.

"The Path Forward on Gun Violence," *The Washington Post,* January 4, 2013 (co-authored with John McCarthy).

"A New Approach to Gun Violence," *The Washington Post,* July 17, 2008.

"Witnesses Require Protection," *The Washington Post,* November 19, 2006.

"How To Take Back Our Streets," *The Washington Post,* April 8, 2005.

"Street Smarts," *The Washington Post,* May 11, 2003.

"Safeguards for the Innocent," *The Washington Post,* June 24, 2001 (co-authored with Lou Hennessey).

MEDIA APPEARANCES

News One Now with Roland Martin (2014-date)

NPR's "Tell Me More" (2007-2013).

CNN's "Wolf Blitzer Reports" (2003)

CNN's "Burden of Proof" (1998-1999).

The Tavis Smiley Show (1999).

Numerous appearances (as subject and commentator) on a wide variety of local Washington and Baltimore television and radio news broadcasts (affiliates for ABC, CBS, NBC, NPR, Fox, WTOP-FM, WHUR-FM, Radio One).

Subject and/or commentator in the Washington Post, the Baltimore Sun, the New York Times, Vogue and the Los Angeles Times.

PROFESSIONAL AND COMMUNITY SERVICE

President, Harvard Law School Association of Washington (2010-2015).

Chairman, Maryland Legal Services Corporation (appointed by Governor O'Malley) (2011-date).

Board of Governors, District of Columbia Bar Association (elected by DC Bar membership) (2011-2014).

Judicial Nominations Commission, Prince George's County Courts (appointed by Governor O'Malley) (2011-2015).

Board of Directors, Joint Center for Political and Economic Studies (2008-2009).

Board of Directors, United Way Capital Area (2013-date).

Founding Chairman of the Board, Association of Prosecuting Attorneys (2009-2011).

BUCKLEY SANDLER

Douglas F. Gansler

Partner

Washington, DC
dgansler@buckleysandler.com
(202) 349-8058

Douglas F. Gansler, former Attorney General of Maryland and President of the National Association of Attorneys General, brings a unique perspective as he assists clients in matters involving financial services, health care, pharmaceutical, insurance, telecommunications, and other consumer-centric industries.

A Partner in the Washington, DC office of Buckley Sandler LLP, General Gansler draws on more than 20 years of public advocacy and leadership in support of his practice that focuses on advising businesses and individuals on federal and state investigations and enforcement actions and litigation matters involving state attorneys general, the Department of Justice (DOJ), and other state and federal enforcement and regulatory agencies, including individual and multi-state enforcement actions. General Gansler successfully represents national, high-profile companies on all types of matters involving state regulators and state attorneys general.

He also handles complex litigation cases involving data breaches, cybersecurity, and privacy matters and provides regulatory compliance advice. General Gansler was appointed by the Pennsylvania Attorney General as Special Deputy Attorney General to investigate the improper use of email by Pennsylvania state employees, and has conducted internal investigations for numerous national corporations.

Throughout his career, he has handled numerous civil and criminal cases involving public corruption, economic crimes, and other issues, most notably including:

- Arguing and winning a unanimous decision before the U.S. Supreme Court in *Maryland v. Shatzer*
- Acting as first chair in more than 50 jury trials
- The prosecution of John Muhammad and Lee Boyd Malvo (“Beltway snipers”)
- Arguing more than 50 cases in state and federal appellate courts

In the public sector, General Gansler’s successful record of leadership includes:

- Establishing the first statewide Internet Privacy and Safety Unit
- Implementing the first State's Attorney's Office community-based prosecution program, which became a nationwide model for effective, fair crime-fighting programs
- Establishing the first domestic violence dockets, the first Gang Unit, and the first Elder Abuse Unit in Maryland

In addition to serving as Attorney General of Maryland, he was Montgomery County's State's Attorney (1998-2006) and an Assistant United States Attorney for the District of Columbia (1992-98). A life-long community volunteer, General Gansler founded Charm City Youth Lacrosse for underserved Baltimore inner-city youth, for which he received the "Innovator of the Year" award from the *Daily Record*, Maryland's largest legal publication. He has mentored at-risk area youth, served on the Montgomery County Commission on Aging, and co-chaired the NAACP Criminal Justice Committee. General Gansler also serves as an Adjunct Professor at American University's Washington College of Law in Washington, DC. He received his J.D. from the University of Virginia and his B.A. from Yale University, with honors, where he was a four-year starter, All-Ivy, and first team All-New England lacrosse player.

Education

- J.D., University of Virginia
- B.A., Yale University (cum laude)

Admissions

- District of Columbia
- Maryland

Government Service

- Assistant U.S. Attorney, District of Columbia
- Attorney General of Maryland and President of the National Association of Attorneys General (NAAG)

Practice Areas

- Complex Civil Litigation
- Enforcement Actions & Investigations
- Privacy, Cyber Risk & Data Security
- State Attorneys General
- White Collar

In The News

- Douglas Gansler Quoted in New York Times Article, "Report Details Officials' Emails Discovered During Kathleen Kane's Tenure" (November 22, 2016)

- Renowned Trial Lawyer Preston Burton Joins Buckley Sandler (June 1, 2016)
- Douglas Gansler Interviewed on the Healthy INSIDER Podcast (May 13, 2016)
- Douglas Gansler Quoted in American Banker Article, "Four Steps Even Small Lenders Can Take to Prepare for Cyberattacks" (April 12, 2016)
- Douglas Gansler Quoted in Law360 Article, "GOP Attys Would Likely Back Srinivasan To Replace Scalia" (February 14, 2016)
- Douglas Gansler Quoted in Natural Products Insider Article, "Amid States' Scrutiny, Dietary Supplement Industry Retains Former Maryland AG" (January 22, 2016)
- Douglas Gansler Quoted in Law360 Article, "Uber Privacy Pact Shows New Enforcement Role for State AGs" (January 11, 2016)
- Douglas Gansler Quoted in Law360 Article, "Charges Against Supplement Execs Can Boost Plaintiffs Attys" (November 18, 2015)
- Douglas Gansler and Michael Zeldin quoted in the MarketWatch article, "Big Banks Weigh Halt to Taking Fantasy Cash from FanDuel, DraftKings" (November 12, 2015)
- Douglas Gansler and Michael Zeldin quoted in the Law360 article, "Banks Must Choose Whether Daily Fantasy Is Worth The Risk" (November 13, 2015)

Articles

- You Can Run, but You Can't Hide: What to Do When a State Attorney General Comes Calling (June 8, 2016) *New Hope*
- Data Risk in the Third-Party Ecosystem - Ponemon Survey Results (April 4, 2016)
- Special Alert: CFPB Enters into First Consent Order with Online Payment Platform for Misrepresenting Data Security Practices (March 3, 2016) *Buckley Sandler Special Alert*
- Tips for Fantasy Sports Cos. As State AGs Target Industry (December 21, 2015) *Law360*
- Spotlight: Q&A with Buckley Sandler's Douglas F. Gansler, Former Attorney General of Maryland (February 10, 2015)
- Special Alert: Third Circuit Gives FTC Green Light to Continue Enforcing Corporate Data Security (September 1, 2015) *Buckley Sandler Special Alert*
- Congress Could Be Coming for Dietary Supplements (May 20, 2015) *Law360*
- Recent Enforcement Trends: State Attorneys General Target the Dietary Supplements Industry (April 9, 2015) *NutraIngredients-USA*

CHARLES F. WELLFORD

Professor Charles F. Wellford is Emeritus Professor of Criminology and Criminal Justice at the University of Maryland College Park. In 2011 he was awarded the University of Maryland's Presidents Medal. He was the founding director of the Office of International and Executive Programs (2005-07). From 1984 to 2007 he was Director of the Maryland Justice Analysis Center. He was Chair of the Department of Criminology and Criminal Justice (formerly Institute of Criminal Justice and Criminology) from 1981 to 1995, 1999 to 2004, and in 2012. From 1992 to 1998 he was Director of the Office of Academic Computing Services in the College of Behavioral and Social Sciences. For 1998 he was Acting Associate Provost and Dean of Continuing and Extended Education, and in 1998-99 he was Interim Associate Provost for Research and Dean of the Graduate School. He serves on numerous state and federal advisory boards and commissions. He is a past (1995-96) President of the American Society of Criminology (ASC), in 1996 was elected a Fellow of the ASC, and in 2001 was selected to be a lifetime National Associate of the National Academy of Sciences (NAS). He chaired the National Academy of Sciences Committee on Law and Justice from 1998 to 2004 and recently chaired the NAS panels on pathological gambling, panel on research on firearms, and the panel to assess the National Institute of Justice. In Maryland he currently serves on the Maryland Police Training Commission and the Police Leadership Advisory Committee. From 1976-81 Dr. Wellford served in the Office of the United States Attorney General where he directed the Federal Justice Research Program. The author of numerous publications on criminal justice issues, Dr. Wellford's most recent research has focused on the determinants of sentencing, and the correlates of homicide clearance. At the University of Maryland, Dr. Wellford has been active in a variety of efforts. He has served on and chaired numerous academic review committees. He chaired the Campus Security Committee from 1985-1995, been a member of the Athletic Council (1986-89 and 1992-95, and 1997-2012), served on the Campus Human Subjects Committee (1983-87), served on campus drug committees, chaired the review of the Campus Admissions Office, served on the President's Committee on Freedom of Expression, been a member of the Graduate Council (1986-90) and Chair of its PCC (1986-90), and served on or chaired a number of recruitment committees. He is Past-chair of the Campus Senate and served on the campus Academic Policy Advisory Committee and campus promotions committee. Dr. Wellford has served as the campus Faculty Athletic Representative (1996 to present), President of the Atlantic Coast Conference (1999 and 2007) and served on the Leadership Council of the NCAA (2007-2010). In 1996 and 2001 he chaired the recruitment committees for the Provost and Vice President for Academic Affairs.

Curriculum Vita

April 2016

CHARLES FRANKLIN WELLFORD

Education:

1961 B.A. with honors, University of Maryland
1963 M.A. University of Maryland
1969 Ph.D. University of Pennsylvania

Current Positions:

Professor Emeritus, Department of Criminology and Criminal Justice

Prior Teaching Experience:

Professor, Department of Criminology, University of Maryland, 1981-2013

Associate Professor, School of Criminology, Florida State University, 1972-76 (Tenured 1975)

Assistant Professor, Department of Sociology, University of Maryland 1970-72

Professional Experience

Founding Director, University of Maryland Center for Applied Policy Studies, 1995-2000.

Interim Associate Provost for Research and Dean of Graduate Studies, 1999.

Acting Associate Provost and Dean of Continuing and Extended Education, 1998.

Founding Director, Maryland Justice Analysis Center, 1984-2007.
Founding Director of the Office of International and Executive Programs, College of Behavioral and Social Sciences, 2005-07
Founding Director, Office of International and Executive Programs, 2002-2009.

Founding Co-chair, Research Advisory Committee, International Association of Chiefs of Police, 2009-2013; member 2013-

Founding Chair, PERF Research Advisory Board, 2015-

Chair, Committee on Law and Justice, National Academy of Sciences, 1997 - 2004.

Director on Y2K Information Technology Program for State of Maryland, 1999-2001

Chair, Panel on Pathological Gambling, National Academy of Sciences, 1997 - 1998.

Chair, Panel of Improving Firearms Data and Research, National Academy of Sciences, 2001-2004.

Chair, Panel to assess the research program of the National Institute of Justice, 2007-2010

Co-chair, Research Advisory Committee, International Association of Chiefs of Police, 2005--

Chair, Department of Criminology and Criminal Justice, University of Maryland, 1981-1994; 1999-2004.

Director Office of Academic Computing Services, College of Behavioral and Social Sciences (1992-1998).

U.S. Department of Justice, 1976-81

Administrator, Federal Justice Research Program, Office of the Attorney General, October 1979-July 1981

Deputy Administrator, Federal Justice Research Program, Office of the Attorney General, March 1977- September 1979

Deputy Assistant Director, Office of Policy and Planning, Office of the Attorney General, November 1976-March 1977

Auditor, Baltimore City Police Department, 2010 – 2014 Member,

Maryland Commission on Criminal Sentencing Policy, 1996-1999; 1999-2001; 2002-2013.

Member, District of Columbia Sentencing Commission, 1984-1992; 1998-2004.

Chair, Alternative to Corrections Advisory Committee, 1991-92

Chair, Correctional Options Board, 1993 – 2000.

Chair, Crime Reporting Advisory Board, 1992-1996. Member, Maryland

Police Training Commission, 1985-2004.

Acting Director, Center for Substance Abuse Prevention and Control, 1990 (Founding Director)

Member, Criminal Justice Information System Advisory Board, 1988-2004.

Chair, Subcommittee on Mentally Ill Offenders, 1984

Member, Governor's Task Force on Mentally Ill Offenders, 1985

Member, Governor's Justice Assistance Board, 1988-1998

Chair, Governor's Advisory Committee for Drugs in the Workplace, 1990-91

Member, Task Force on Prison Construction, 1987

Chair, Maryland Advisory Committee on Corrections, Probation and Parole, 1984-88

Member, Governor's Committee on Drugs in the Workplace, 1987-90

Member, Board of Directors of Patuxent Institution, 1985-89

Member, Maryland Criminal Justice Coordinating Council, 1984-87

Member, Board of Directors, Institute for the Prevention and Control of Violence and Extremism, 1984

Member, Governor's Task Force on Violence and Extremism, 1984-87

Chair, Governor's Task Force on Correctional Rehabilitation, 1983

Member, National Crime Survey Advisory Board, 1982

Chair, Juvenile Justice Advisory Board, Anne Arundel County, Maryland, 1977-79

Director, Crime Prevention Programs, Urban Systems Center, Westinghouse Electric Corporation, 1976

Sociologist, National Institute for Law Enforcement and Criminal Justice, Department of Justice, 1969-70

Professional Awards and Positions:

President's Medal, University of Maryland, 2011
Lifetime Achievement Award, George Mason University, 2011
Fellow, American Society of Criminology, 1996
Editorial Consultant, Journal of Criminal Law and Criminology (1983-90); 1996 to 2015.
Vice President-elect (1990-91); Vice President (1991-92) American Society of Criminology; President-elect (1994-95); President (1995-96)
Executive Secretary, American Society of Criminology (1985-90)
Criminology Editor, Journal of Criminal Law and Criminology (1990-1996)
Assistant Editor, Criminology (1973-75) (1987-90)
Associate Editor, Criminal Justice Policy Review (1985-90)
Associate Editor, Justice Quarterly (1983-86)
Associate Editor, Criminology (1975-76) (1980-86) (2007--)
Editorial Consultant, Criminology (1976-79)
Editorial Consultant, Criminal Justice and Behavior (1975-1991)
Editorial Consultant, Law and Public Policy (1977-80)
Editorial Board, Criminal Justice Policy Review (1991-1997)
Chair, Accreditation and Standards Committee of the American Society of Criminology (1975-76)
Program Chairperson, 1977 Annual Meetings of the American

Society of Criminology
Chair, Task Force on the Future of the American Society of Criminology, (1978-79)
Member, Joint Commission on Criminology and Criminal Justice Educational Standards (1977, alternate member 1978-80)
Executive Counselor (elected), American Society of Criminology (1977-80)
Program Committee, American Society of Criminology (1983-84)
Representative of Academy of Criminal Justice Sciences to American Society of Criminology (1983-84)
National Policy Committee, American Society of Criminology (1983-85)
Attorney General Special Commendation (1979, 1980)
Outstanding Performance Award (1977, 1978, 1979, 1980)
Member, U.S. Delegation to the Sixth and Seventh United Nations Congress on the Prevention of Crime and Treatment of Offenders (1980, 1985)
Governor's Citation, State of Maryland

Associations:

Academy of Criminal Justice Sciences
American Society of Criminology
American Correctional Association
International Association of Chiefs of Police

Publications:

"Employment of Federal Probationers", 1966 Proceedings of the American Correctional Association, (with G. Pownall)

"Factors Associated with the Adoption of the Inmate Code: A Study of Normative Socialization", June 1967, Journal of Criminal Law, Criminology and Police Studies 58(2), 197-203

Delinquency Prevention: Theory and Practice, 1967, Englewood Cliffs: New Jersey Prentice-Hall, (with William Amos, Eds.)

"Age Composition and Patterns of Change in Criminal Statistics", March, 1968, Journal of Criminal Law,

Criminology and Police Studies 54(1), 29-36 (with P. Sagi)

"The Political Order" - a resource letter for Society Today (CRM Publications, 1971) (with B. Ingraham)

"Contact and Commitment in a Correctional Community", April, 1973, British Journal of Criminology 13(2), 108-120

"Typologies and Treatment", 1972, (with W. Amos), The Rehabilitation of Adult Offenders, ed. by Hardy and Cull (Charles Thomas)

"Culturally Disadvantaged Youth", 1973, Understanding Adolescence: Current Developments in Adolescent Psychology (2nd Edition) by James Adams, (with W. Amos)

"Calling the Police: An Evaluation of Police Services", Spring, 1973, Law and Society Review 7(3), 393-406, (with F. Furstenberg)

"Age Composition and Increase in Recorded Crime", May, 1973 Criminology 11(1), 61-70

"Crime and the Dimension of Nations", April 1974, International Journal of Criminology and Penology 2(1), 1-10

"Deterrence: Issues and Methodologies in the Analysis of Impact of Legal Threats in Crime Control", March 1974, Journal of Criminal Law and Criminology 65(1), 117-122

"Crime and the Police: A Multivariate Analysis", August 1974, Criminology 12(2), 195-213

"Crime, Society and Police", 1974, Police and Society (ed.) Riedel and MacNamara, New York: Praeger

"On The Measurement of Delinquency", June 1975, Journal of Criminal Law and Criminology, 66(2), 175-188 (with M. Wiatrowski)

"Labeling Theory and Criminology: An Assessment", February 1975, Social Problems, 22(3), 332-345

"Static and Dynamic Analysis of Crime and Primary Dimensions of Nations", 1977, International Journal of Criminology and

Penology, 5(1), 1-16 (with M. Krohn)

Quantitative Studies in Criminology (ed.), Sage Publication, 1978

"Towards an Integrated Model of Delinquency Causation - Empirical Analysis", Winter 1979, Sociology and Social Research, 63(2), 316-327 (with M. Aultman)

"Sentencing and Social Science", Winter 1979, Hofstra Law Review, (with B. Forst and W. Rhodes)

"Sentencing Decision Making: The Logic of Sentence Decisions and the Extent and Sources of Sentence Disparity", 1981, Journal of Criminal Law and Criminology, 72(2), 524-554 (with K. Clancy, et.al.)

"Police Contact and Delinquency: A Relevant Evaluation", 1981, Australian and New Zealand Journal of Criminology, 14(2), 110-118 (with M. Aultman)

"Deterrence and the Criminal Justice System: An Instrumental Analysis", 1981, Journal of Police Science and Administration, 9(3) 327-334 (with S. Decker)

"Punishment and Sentencing: Developing Sentencing Guidelines Empirically from Principles of Punishment", Summer 1981, Rutgers Law Review, 33(3), 799-837 (with B. Forst)

"Redesigning the Uniform Crime Reports", Fall 1982, American Journal of Police 1(2), 76-92

"Identifying and Responding to Chronic Juvenile Offenders: The Challenge of the 1980's", Spring 1983, The Journal for Vocational Special Needs Education

"Research in Criminal Justice", Winter 1983 Encyclopedia of Crime and Justice

"Law Enforcement Statistics: The State of the Art", Spring 1986, American Journal of Police 5(1), 23-45

"The Totality of Conditions Test in Eighth Amendment Prison Litigation", 1987, America's Correctional Crisis: Prison Populations and Public Policy (ed. S. Gottfredson) (with Barton Ingraham)

"Delinquency Prevention and Labelling", 1987, Children to Citizens: Families, Schools, and Delinquency Prevention, Volume 3, 257-267, (ed. by James Q. Wilson and Glenn C. Loury) New York, NY: Springer-Verlag

"Towards an Integrated Theory of Criminal Behavior", 1989, Interdisciplinary Theory (ed. A. Lizzotte, M. Krohn and S. Meissner)

"Assessing Indicators of Crime Among International Crime Data Series", 1989, (with W.S. Wilson Huang), Criminal Justice Policy Review, 3(1), 28-47

"The Future of Labeling Theory: Foundations and Promises", 1993, (with Ruth Triplett), New Directions in Criminological Theory Volume 4, 1-22, (ed. Freda Adler and William S. Laufer) New Brunswick, NJ

"Towards a National White Collar Crime Reporting System", 1994, (with B. Ingraham) Critical Issues in Crime and Justice (ed. Albert R. Roberts)

"Patterns of Interpersonal Violence", 1996, (with Susan Miller) in Interpersonal Violence (ed. A. Cardarelli)

“Employee Injuries and Convenience Store Robberies in Selected Metropolitan Areas” 1996 (with others). Journal of Occupational and Environmental Medicine (38)7 714-720.

“Changing Nature of Criminal Justice System Responses and Professions”, 1996 in 30th Anniversary Symposium of the President’s Commission and the Administration of Justice.

"Controlling Crime and Achieving Justice", February 1997, Criminology 35(1), 1-11.

Pathological Gambling: A Critical Review, edited with S. McQuade and Carol Petrie. National Academy of Sciences Press, 1997.

"Convenience Store Robberies in Selected Metropolitan Areas: Risk Factors for Employee Injury", May 1997, (with others), Journal of Occupational and Environmental Medicine 39(5), 442-447

"Victimization Rates for Domestic Travelers", June 1997, Journal of Criminal Justice 25(3), 205-210

“Sentencing Disparity and Sentencing Reform”, June 1998, Advances in Criminological Theory, (with Claire Souryal).

“Clearing Up Homicide Clearance Rates”,April, 2000, National Institute of Justice Journal Issue No. 243, (with James Cronin).

“When It's No Longer A Game: Pathological Gambling in the United States", April 2001, NIJ Journal.

“Advances in Theory Integration” in Criminology in The New Millennium: Essays in Honor of Marvin Wolfgang, Fall 2001, edited by B. Cohen, R. Silverman and T. Thornberry.

Firearms and Violence: A Critical Review. Edited with John Pepper and Carol Petrie. National Academy of Sciences Press, 2004.

Introduction to Understanding and Preventing Cybercrime. S. McQuade, 2006.

Introduction to Key Issues in Criminal Career Research. Piquero, Farrington and Blumstein. 2006.

A Research Agenda for Policing, Police Chief, Fall 2007 (co-author R. Serpas)

The History and Evolution of Criminology in 21st Century Criminology, edited by J. M. Miller, Sage, 2009.

Guns and Violence, in Handbook of Criminology edited by M. Tonry, Oxford University Press, 2010.

Strengthening the National Institute of Justice. National Academies Press, 2010, (with B. Chemers and J. Schuck).

Criminology, in Modern Sociology, edited by George Ritzer. 2011.

What Works to Reduce Gun Violence? The Police Chief, May 2016. (with Megan Collins and Carlos Acosta).

Clearing Homicides (forthcoming with T. Alexander) 2017 Homicide

Handbook, edited by Fionna Brookman and Ed Maguire, Wiley
The Epidemiology of Crime Guns under review at the Russell Sage Foundation Journal (with Megan Collins, Susan Parker and Thomas Scott)

“A Comparative Analysis of Crime Guns” 2016 under review at Russell Sage Foundation Journal.

“Are average rates enough? Using trajectory analysis to unmask population heterogeneity in longitudinal crime clearance rates." 2017 With T. Scott, C. Lum and H, Vorvak, under review at Criminology.

Published Reports (Selected)

"The Connecticut Correction System," with F. Loveland and R. Vanderweil, 1966, a survey of the entire state system with recommendations for change

"Evaluation of a Student-Volunteer Probation Program", 1971, Report on H.E.W. Grant

"Crime in Florida Projections to 1984" - report prepared for State Planning Bureau

"Elements of Crime Prevention Through Environmental Design", 1976, (with others) - report to NILECJ

"A Plan for a Bureau of Justice Statistics", 1977, (with others), Department of Justice

"Final Report: Repeat Juvenile Offenders in Anne Arundel County", January 1983, (with Karyn King and Barbara Montefel)

"Final Report: Governor's Task Force on Correctional Rehabilitation", October 1983, (with others)

"Final Report: Multivariate Analysis of Rates of Imprisonment", March 1984, (with L. Brooks)

"Final Report: Cross Designation in the Federal System", November, 1984

"Final Report: Mentally Ill Offenders" Subcommittee on Mentally Ill Offenders of Maryland Criminal Justice Coordinating Council" November 1984, (with others)

"Drug Related Violent Crime", May 1992

"Strategic Plan for Information Technology for UMCP", October 1992

Maryland Crime Survey 1992-93

Juvenile Fingerprinting in Maryland, 1993

"An Examination of Unwarranted Sentencing Disparity Under Maryland's Voluntary Sentencing Guidelines", 1997, Report to the Maryland Commission on Criminal Sentencing Policy (with Claire Souryal)

"An Analysis of Variables Affecting the Clearance of Homicides: a Multi State Study", 1999, Washington, DC: Justice Research and Statistics Association, (with James Cronin)

Community Probation in Maryland, 2000, (with N. Piquero)

Traffic Stops in Maryland, 2003, 2004, 2005 and 2006. (with C. Souryal)

Use of GPS in Community Supervision. 2006 (with T. Brown and S. McCabe).

Crime in New Orleans. (with B. bond and S. Goodison). Bureau of Justice Assictance, 2011.

University Service (Selected)

Hearing and Speech Review Committee 1983
BSOS Retention Committee 1983-84
BSOS Task Force on Advising (Chair) 1983-84
Human Subjects Review Committee (Campus) 1983-87
Senate PCC Committee 1983-85
Development Leadership Planning Committee 1983-86
Campus-wide Retention Committee 1984
Campus Security Committee (Chair) 1985-1995
Chancellor's Ad Hoc Committee on Commencement 1983
Chair, Search Committee for Assistant Vice Chancellors 1986-87
Chair, Graduate PCC 1985-90
Chair, Anthropology Chair Search Committee 1987
Member, Athletic Council 1986-89; 1992-Present. Chair 1995-
President, ACC 1999-2000
Member, Graduate Council 1986-90
Member, Task Force on Drug Policies, Education and

Enforcement 1986-87
Chair, Admissions Review Committee 1988-89
Campus Drug Policy Committee 1986-88
President's Select Commission on Freedom of Expression 1989-90
Screening Committee for Campus Police Chief 1989
Chair, BSOS Computer Policy Advisory Committee 1988-Present
Member, Executive Working Group on Drug Policies 1989
Member, Special Education Review Committee 1989-90
Chair, Planning Committee for Drug Center 1989-90

Chair, Internal Review Committee for School of Public Affairs 1990-91
Member, Graduate Dean Search Committee 1990
Member, BSOS Dean's Search Committee 1990-91
Member, Senate Governmental Affairs Committee 1990-93
Chair, Planning Committee for Survey Methods Center 1991-92
Member, Psychology Chair Search Committee 1993
Chair, Financial Aid Director Search Committee 1993
Chair, Campus Senate 1995-96
Chair, Provost Search Committee 1995 and 2000
Chair, SRC review committee, 2000-01
Chair, PSYC Chair Review, 2000-01
Chair, Academy of Leadership Review Committee
Member. Campus Senate Executive Committee, 2003-04.
Member, Campus Senate, 2010- 2013.
Chair, Plan of Organization Review Committee, Senate, 2013-2014

Selected Service for Federal Agencies

Consultant, National Institute of Justice, Bureau of Justice Statistics, Bureau of Justice Assistance, HHS, NIH, NIDA, GAO

Selected Service State of Maryland

Chair, Correctional Options Advisory Board
Chair, Advisory Board for Corrections, Probation and Parole
Director, Maryland Incident Based Crime Reporting Project
Chair, Ad Hoc Committee on Juvenile Fingerprinting
Chair and member of numerous other state and local commission, boards and committees relating to criminal and juvenile justice

External Funding of Research

Since 1981 principal investigator for externally funded awards totaling approximately fifteen million dollars.

CYNTHIA LUM
George Mason University
Department of Criminology, Law and Society
Center for Evidence-Based Crime Policy
4400 University Drive, MS 6D12, Fairfax, VA 22030
Email: clum@gmu.edu
Phone: 703-993-3421

RESEARCH AREAS

Policing, evidence-based crime policy, translational criminology, evaluation research and methods, democratization and justice systems, crime and place, counterterrorism and security

EDUCATION

PH.D.	University of Maryland, College Park, MD Criminology and Criminal Justice (August, 2003)
M.Sc.	London School of Economics, London UK Criminology (June, 1996)
B.A.	University of California, Los Angeles, CA Political Science (June, 1995) and Economics (June, 1995)

CURRENT APPOINTMENTS

Professor	Department of Criminology, Law and Society, George Mason University (Associate Professor, 2011-2017; Assistant Professor, 2005-2011)
Director	Center for Evidence-Based Crime Policy, Department of Criminology, Law and Society, George Mason University (2013 - present, [Deputy Director: 2008-2013])

PAST APPOINTMENTS

Assistant Professor	Northeastern University, School of Criminology and Criminal Justice, Boston, MA (2003 - 2005)
Patrol Officer & Detective	Baltimore City Police Department, Eastern District (1997 - 2000); Criminal Investigations Division (2000-2002)

Instructional Professor	U.S. Department of State, International Law Enforcement Academy, Roswell, NM (2001 - 2007)
Project Manager	University of Maryland, Department of Criminology and Criminal Justice, to Professor David Weisburd (2000 - 2003)
Research Assistant	University of Maryland, Department of Criminology and Criminal Justice, to Professor Lawrence Sherman (1996-1997, 1998-1999)
Instructor/Adjunct	Baltimore City Community College, Department of Criminal Justice/Public Safety (1999 – 2000)

SCIENTIFIC ADVISORY COMMITTEES AND SPECIAL APPOINTMENTS

Member, LEADs Agencies Coordinating Counsel, National Institute of Justice (2017-present)
Member, Standing Committee on Traffic Law Enforcement, Transportation Research Board, National Academy of Sciences (2017 – 2020)
Member, National Research Council, National Academy of Sciences, Committee on Proactive Policing: Effects on Crime, Communities, and Civil Liberties. (2015-present)
Advisor, The American Law Institute, Principles of Law and Police Investigations (2015-present)
Member, National Research Advisory Board Misdemeanor Justice Project, John Jay College of Criminal Justice (2015-present)
Member, Advisory Committee, Scottish Institute for Police Research (2015-present)
Member, Research Advisory Council, International Assn. of Chiefs of Police (2014-present)
Specialist, Fulbright Specialist Roster (2013-present)
Member, National Academy of Sciences, Health and Medical Division, Planning Committee, Forum on Medical and Public Health Preparedness for Catastrophic Events (2016)
Member, Board of Directors, Pretrial Justice Institute (2012-2017)
Member, Global Strategic Solutions Working Group, US Department of Justice (2013-2015)
Member, College of Policing (UK) Strategic Command Course Advisory Panel (2013)
Member, VERA Institute, Youth Stop, Question and Frisk Project Advisory Board (2012-2013)
Member, Bureau of Justice Assistance Subcommittee, Science Advisory Board, U.S. Department of Justice (2012-2013)
Member, Her Majesty's Inspectorate of Constabulary Scientific Advisory Board (UK) (2012)
Member, Center for Social Complexity Advisory Board, George Mason University (2011-2012)
Member, Institute for Social Science Research Advisory Board, University of Queensland, Australia (2011-2012)
Appointed, Mayor of Baltimore and City Police Commissioner Special Inquiry Board (2011)
Member, Research Advisory Committee, Police Foundation (2007-2009)

HONORS, AWARDS, AND FELLOWSHIPS

George Mason University Williams Presidential Medal for Excellence in Social Impact (2017)
Fulbright Specialist Grant, University of St. Andrews (2016)
Scottish Police Service James Smart Memorial Medal (2014)
George Mason University Team Excellence Award for the CEBCP (2014)
Elected Fellow of the Academy of Experimental Criminology (2014)
Emerging Scholar Award, George Mason University (2012)
University Outstanding Supervisor, George Mason University (2012)
U.S. Attorney General's Citizen Volunteer Service Award (2011)
Cambridge University, Visiting Scholar (2010-2011)
Teaching Excellence Award Finalist, George Mason University (2009)
National Institute of Justice W.E.B. DuBois Fellowship (2007-2008)
START Center, University of Maryland Fellowship (2005-2006)
Unit Citation Medal, Baltimore City Police Department (2001)
Commissioner's Commendation Medal, Baltimore City Police Department (2001)
Graduate, Baltimore Police Department Homicide School (2001)
Agent distinction, Baltimore City Police Department (2000)
University of Maryland Graduate School Fellowship (1996-2000)
Chinese American Citizens Alliance National Scholar (1995)
Phi Beta Kappa National Honors Society (1995)
Political Science Departmental Honors, College of Letters and Science Honors, UCLA (1995)
Barbara Ladd Gates Award for Outstanding Intellectual Achievement, UCLA (1995)
Chancellor's Service Distinction, UCLA (1995)
U.S. Attorney's Office, Homicide Division, Internship (1995)
Bette and Don Prell Merit Honor's Award, UCLA (1995)

COURSES TAUGHT (GEORGE MASON UNIVERSITY ONLY)

Introduction to Criminal Justice
Policing
Law and Justice around the World
Undergraduate Research Honors Seminar
Crime and Crime Policy (core graduate course)
Professionalization Seminar (co-taught with entire faculty)
Short courses for Osher Lifelong Learning (policing, crime prevention, criminology)
International Summer School for Policing Scholars (2016 – Theory, Quantitative Data Analysis)

GRANTS AND CONTRACTS AWARDED AS PRINCIPAL/CO-INVESTIGATOR ($5,217,203)

18. 2017: PRINCIPAL INVESTIGATOR (with Christopher Koper, also PI). The Proactivity Lab. Laura and John Arnold Foundation ($348,411)

17. 2016: PRINCIPAL INVESTIGATOR (with Christopher Koper, also PI, and Charlotte Gill, Co-PI). Creating a Blueprint Document to Guide Implementation of the President's Task Force on 21st Century Policing Report. Laura and John Arnold Foundation through the International Association of Chiefs of Police ($168,821).

16. 2015 – 2016: PRINCIPAL INVESTIGATOR (with Christopher Koper, also PI), A Systematic Development of a Research Agenda for Body Worn Camera Research. Laura and John Arnold Foundation ($174,552).

15. 2015 – 2017: PRINCIPAL INVESTIGATOR (with Charles Wellford, also PI), Identifying effective investigative practices: A National Study Using Trajectory Analysis. Laura and John Arnold Foundation ($579,207).

14. 2013 - 2015: PRINCIPAL INVESTIGATOR (with Christopher Koper, also PI), Evaluating the Crime Control and Cost-Benefit Effectiveness of License Plate Recognition (LPR) Technology in Patrol and Investigations. National Institute of Justice Grant #2013-IJ-CX-0017 ($553,713).

13. 2013 - 2015: PRINCIPAL INVESTIGATOR (with Christopher Koper, also PI), Violent Gang and Gun Crime Reduction Program (Project Safe Neighborhoods) FY 2013. U.S. Attorney's Office, Washington DC ($29,997).

12. 2012 - 2013: PRINCIPAL INVESTIGATOR, Evidence-Assessment for the Federal Protective Service. Contract from RTI Incorporated, funded from the Department of Homeland Security ($23,000).

11. 2011 - 2014: PRINCIPAL INVESTIGATOR (with Christopher Koper, also PI) and Dr. James Willis (Co-PI), Realizing the Potential of Technology for Policing: A Multi-Site Study of the Social, Organizational, and Behavioral Aspects of Implementing Policing Technologies. National Institute of Justice Grant #2010-MU-MU-0019 ($326,602).

10. 2011 - 2016: PRINCIPAL INVESTIGATOR (with Christopher Koper, also PI), The Evidence-Based Policing Matrix Demonstration Project. Bureau of Justice Assistance Grant #2011-DB-BX-K012 ($1,249,236).

9. 2011 - 2014: PRINCIPAL INVESTIGATOR (with David Weisburd, also PI), Evaluation of the Transportation Security Administration's Comprehensive Strategy to Security in U.S. Airports. Department of Homeland Security Grant #2010-ST-108-LR0005 ($1,000,000).

8. 2010 - 2011: PRINCIPAL INVESTIGATOR, Developing Evidence-Based Policing: Applied Research by Senior Police Executives. CEBCP-University of Cambridge, Institute of Criminology Partnership ($29,437).

7. 2010: PRINCIPAL INVESTIGATOR, License Plate Recognition Web Portal. SPAWAR (Department of the Navy)-NIJ Project. ($56,584).

6. 2009 - 2010: PRINCIPAL INVESTIGATOR, License Plate Recognition Technologies for Law Enforcement: An Outcome and Legitimacy Evaluation. SPAWAR (Department of the Navy)-NIJ Project ($256,472).

5. 2007 - 2008: PRINCIPAL INVESTIGATOR, The Impact of Racial and Ethnic Composition on Police Decision Making Pathways in African, Asian, Hispanic, and Immigrant Communities. National Institute of Justice W.E.B. DuBois Fellowship, #2007-91164-VA-IJ ($74,872).

4. 2007: PRINCIPAL INVESTIGATOR, Police Pursuits in the Age of Innovation. International Association of Chiefs ($34,425).

3. 2006: PRINCIPAL INVESTIGATOR, Does the Campbell Systematic Review Process for Counter-Terrorism Strategies Exclude Relevant Research? George Mason University Summer Research Funding for Tenure-Track Faculty ($6,000).

2. 2005 - 2007: PRINCIPAL INVESTIGATOR, Project TIPLINE: Improving Operational Intelligence-Gathering Functions for High-Intensity Law Enforcement Cases: Tip Line Information Technology. SPAWAR (Department of the Navy)-NIJ Project ($299,874).

1. 2005 - 2006: PRINCIPAL INVESTIGATOR, Police Attitudes towards Terrorism." National Center for the Study of Terrorism and Responses to Terrorism, University of Maryland Post-Doctorate Fellowship ($6,000).

PUBLICATIONS

Books and Edited Volumes

4. Lum, Cynthia and Christopher Koper. (2017). *Evidence-Based Policing: Translating Research into Practice.* Oxford, UK: Oxford University Press.

3. Weisburd, D., Eck, J., Braga, A., Telep, C., Cave, B., Bowers, K., Bruinsma, G., Gill, C, Groff, E., Hinkle, J., Hibdon, J., Johnson, S., Lawton, B., Lum, C., Ratcliffe, J. Rengert, G., Taniguchi, T., and Yang, S-M. (2016). *Place matters: Criminology for the 21st Century.* New York, NY: Cambridge University Press.

2. Alpert, Geoffrey and Cynthia Lum. (2014). *Police Pursuits Driving: Policy and Research.* New York, NY: Springer-Verlag.

1. Lum, Cynthia and Leslie Kennedy (Eds.). (2011) *Evidence-Based Counterterrorism Policy*. New York, NY: Springer-Verlag. [Edited volume, contributed three chapters]

Peer-Reviewed Journal Articles Published

38. Willis, James, Christopher S. Koper, and Cynthia Lum. (2017). The Adaptation of License-Plate Readers for Investigative Purposes: Police Technology and Innovation Re-Invention. *Justice Quarterly.* DOI: 10.1080/07418825.2017.1329936

37. Lum, Cynthia, Breanne Cave and Jordan Nichols. (2017). Are Federal Security Efforts Evidence-Based? *Security Journal*. DOI: 10.1057/s41284-017-0092-3.

36. Lum, Cynthia, Christopher Koper and James Willis. (2017). Understanding the Limits of Technology's Impact on Police Effectiveness. *Police Quarterly, 20(2)*, 135-163.

35. Lum, Cynthia and Daniel Nagin. (2017). Reinventing American Policing: A Seven-Point Blueprint for the 21st Century. *Crime and Justice 46,* 339-393.

34. Wu, Xiaoyun and Cynthia Lum. (2016). Measuring the Spatial and Temporal Patterns of Police Proactivity. *Journal of Quantitative Criminology.* DOI: 10.1007/s10940-016-9318-5.

33. Lum, Cynthia. (2016). Murky Research Waters: The Influence of Race and Ethnicity on Police Use of Force. *Criminology and Public Policy.* DOI: 10.1111/1745-9133.12197.

32. Koper, Christopher, Cynthia Lum and Julie Hibdon. (2015). The Uses and Impacts of Mobile Computing Technology in Hot Spots Policing. *Evaluation Review, 39(6),* 587-624.

31. Koper, Christopher, Jeffery Egge and Cynthia Lum. (2015). Institutionalizing Place-Based Approaches: Opening a Case on a Gun Crime Hot Spot. *Policing: A Journal of Policy and Practice, 9(3),* 242-254.

30. Lum, Cynthia and Nicholas Fyfe. (2015). Space, Place, and Policing: Exploring Geographies of Research and Practice. Editorial. *Policing: A Journal of Policy and Practice, 9(3),* 219-222.

29. Nagin, Daniel, Robert Solow and Cynthia Lum. (2015). Deterrence, Criminal Opportunities and the Police. *Criminology, 53(1),* 74-100.

28. Grieco, Julie, Heather Vovak and Cynthia Lum. (2014). Examining Research-Practice Partnerships in Policing Evaluations. *Policing: A Journal of Policy and Practice, 8 (4),* 368-378.

27. Telep, Cody and Cynthia Lum. (2014). The Receptivity of Officers to Empirical Research and Evidence-Based Policing: An examination of survey data from three agencies. *Police Quarterly, 17,* 359-385.

26. Koper, Christopher, Cynthia Lum and James Willis. (2014). Optimizing the Use of Technology in Policing: Results and Implications from a Multi-Site Study of the Social, Organizational, and Behavioral Aspects of Implementing Police Technologies. *Policing: A Journal of Policy and Practice, 8(2),* 212-221.

25. Merola, Linda, Cynthia Lum, Breanne Cave and Julie Hibdon. (2014). Community Support for License Plate Recognition. *Policing: An International Journal of Police Strategies and Management, 37(1),* 30-51.

24. Lum, Cynthia, Peter Zachary Crafton, Dale Beech, Rebecca Parsons, Tarren Smarr, and Michael Connors. (2015[online in 2013]). Discretion and Fairness in Airport Security Screening. *Security Journal, 28,* 352-373.

23. Wellford, Charles and Cynthia Lum (special issue editors). (2014). A New Era for Hot Spots Policing. *Journal of Contemporary Criminal Justice, 30,* 88-94.

22. Lum, Cynthia. (2014). *Policing* at a crossroads. *Policing: A Journal of Policy and Practice, 8(1),* 1-4.

21. Veigas, Howard and Cynthia Lum. (2013). Assessing the Evidence-Base of a Police Service Patrol Portfolio. *Policing: A Journal of Policy and Practice, 7(3),* 248-262.

20. Merola, Linda and Cynthia Lum. (2013). Predicting Public Support for the Use of License Plate Recognition Technology by Police. *Police Practice and Research*. DOI: 10.1080/15614263.2013.814906.

19. Merola, Linda and Cynthia Lum. (2012). Privacy and the impact of emerging surveillance technologies: The case of license plate recognition technology. *Judicature, 96(3)*, 119-126.

18. Lum, Cynthia and Leslie W. Kennedy. (2012). In Support of Evidence-Based Approaches: A Rebuttal to Gloria Laycock. *Policing: A Journal of Policy and Practice, 6(4)*, 317-323.

17. Lum, Cynthia, Cody Telep, Christopher Koper and Julie Grieco. (2012). Receptivity to Research in Policing. *Justice, Research and Policy, 14(1),* 61-95.

16. Lum, Cynthia, Julie Hibdon, Breanne Cave, Christopher Koper and Linda Merola. (2011). License plate reader (LPR) police patrols in crime hot spots: An experimental evaluation in two adjacent jurisdictions. *Journal of Experimental Criminology, 7(4),* 321-345.

15. Lum, Cynthia. (2011). Violence, Drug Markets and Racial Composition: Challenging Stereotypes through Spatial Analysis. *Urban Studies, 48(13),* 2717 - 2734.

14. Lum, Cynthia, Christopher Koper and Cody Telep. (2011[published online, 2010]). The Evidence-Based Policing Matrix. *Journal of Experimental Criminology, 7(1),* 3-26.

13. Lum, Cynthia. (2011[published online, 2010]). The Influence of Places on Police Decision Pathways: From Call for Service to Arrest. *Justice Quarterly, 28(4)*, 631-665.

12. Lum, Cynthia. (2009). Community Policing or Zero Tolerance? Preferences of Police Officers from 22 Countries in Transition. *British Journal of Criminology, 49,*788-809.

11. Mastrofski, Stephen and Cynthia Lum. (2008). Meeting the Challenges of Policing Governance in Trinidad and Tobago. *Policing: A Journal of Policy and Practice, 2(4),* 481-496.

10. Lum, Cynthia, Leslie Kennedy and Alison Sherley. (2008). Is Counter-Terrorism Policy Evidence-Based?: What Works, What Harms and What is Unknown. *Psicothema, 20(1),* 35-42.

9. Lum, Cynthia. (2008). The Geography of Drug Activity and Violence: Analyzing Spatial Relationships of Non-Homogenous Crime Event Types. *Substance Abuse and Misuse, 43(2),* 179-201.

8. Lum, Cynthia, Leslie Kennedy and Alison Sherley. (2006). Are Counter-Terrorism Strategies Effective? The Results of the Campbell Systematic Review on Counter-Terrorism Evaluation Research. *Journal of Experimental Criminology, 2(4),* 489-516.

7. Lum, Cynthia, Leslie Kennedy and Alison Sherley. (2006). The Effectiveness of Counter-Terrorism Strategies: A Campbell Systematic Review. *Campbell Collaboration Systematic Reviews.* http://campbellcollaboration.org/lib/download/53/

6. Weisburd, David and Cynthia Lum. (2005). The Diffusion of Computerized Crime Mapping in Policing: Linking Research and Practice. *Police Practice and Research: An International Journal, 6(5),* 419-434.

5. Lum, Cynthia and Sue-Ming Yang. (2005). Why Do Evaluation Researchers in Crime and Justice Choose Non-Experimental Methods? *Journal of Experimental Criminology, 1(2),* 191-213.

4. Weisburd, David, Shawn Bushway, Cynthia Lum and Sue-Ming Yang. (2004). Trajectories of Crime at Places: A Longitudinal Study of Street Segments in the City of Seattle. *Criminology, 42(2),* 283-322.

3. Weisburd, David, Cynthia Lum and Sue-Ming Yang. (2003). When Can We Conclude that Treatments or Programs 'Don't Work?' *Annals of the American Academy of Political and Social Sciences, 587,* 31-48.

2. Beckman, Karen, Cynthia Lum, Laura Wyckoff, and Kristine Larsen-Vander Wall. (2003). Trends in Police Research: A Cross-Sectional Analysis of the 2000 Literature. *Police Practice and Research: An International Journal, 4(1),* 79-96.

1. Weisburd, David, Cynthia Lum, and Anthony Petrosino. (2001). Does Research Design Affect Study Outcomes in Criminal Justice? *Annals of the American Academy of Political and Social Sciences, 578,* 50-70.

Book Chapters and Other Scientific Publications

16. Lum, Cynthia, Christopher S. Koper, and Daniel Nagin. (2017). Methodological Issues in Detecting Cost Benefits of the Use of License plate readers (LPRs) in Investigations. Unpublished paper for New York University Policing Project, Cost-Benefit Analysis Lab and Conference, February 9-10, 2017.

15. Koper, Christopher and Cynthia Lum. (2016). Place-Based Policing. In Fyfe, Nicholas, R. (ed.) Policing 2026: academic evidence review for 10 year strategy. Edinburgh; Police Scotland/Scottish Police Authority.

14. Mazerolle, Lorraine, Cynthia Lum and Anthony Braga. (2014). Using experimental designs to study police interventions. In M. D. Reisig and R. J. Kane (Eds.), *Oxford Handbook on Police and Policing* (pp. 497-517). New York: Oxford University Press.

13. Lum, Cynthia and Christopher Koper. (2013). Evidence-Based Policing. In G. Bruinsma and D. Weisburd (Eds.), *The Encyclopedia of Criminology and Criminal Justice* (pp. 1426-1437). Springer-Verlag. Reprinted in R. Dunham and G. Alpert (Eds.), (2015) *Critical Issues in Policing*. Seventh Edition. Waveland Press.

12. Lum, Cynthia and Lorraine Mazerolle. (2013). The History of Randomized Controlled Experiments in Criminology and Criminal Justice. In G. Bruinsma and D. Weisburd (Eds.), *The Encyclopedia of Criminology and Criminal Justice* (pp. 2227-2239). Springer-Verlag.

11. Lum, Cynthia and Christopher Koper. (2013). *Evidence-Based Policing*. Encyclopedia of Community Policing and Problem Solving (Kenneth Peak, ed.). Thousand Oaks, CA: Sage.

10. Lum, Cynthia and Christopher Koper. (April, 2013). Evidence-based policing in smaller agencies: Challenges, prospects, and opportunities. *The Police Chief, 80,* 42-47.

9. Lum, Cynthia and Leslie Kennedy. (2011). The Next Steps: A Need for a Research Infrastructure for Evaluating Counterterrorism. In C. Lum and L. Kennedy (Eds.), *Evidence-Based Counterterrorism Policy* (pp. 367-376). New York, NY: Springer-Verlag.

8. Lum, Cynthia, Charlotte Gill, Breanne Cave, Julie Hibdon, and David Weisburd. (2011). Translational Criminology: Using existing Evidence for Assessing TSA's Comprehensive Security Strategy at U.S. Airports. In C. Lum and L. Kennedy (Eds.), *Evidence-Based Counterterrorism Policy* (pp. 209-251). New York, NY: Springer-Verlag.

7. Lum, Cynthia and Leslie Kennedy. (2011). Evidence-Based Counterterrorism Policy. In C. Lum and L. Kennedy (Eds.), *Evidence-Based Counterterrorism Policy* (pp. 3-9). New York, NY: Springer-Verlag.

6. Lum, Cynthia and Christopher Koper. (2011). Is Crime Prevention Relevant to Counter-Terrorism? In Brian Forst, Jack Greene and James Lynch (Eds.), *Criminologists on Terrorism and Homeland Security* (pp. 129-149). Cambridge, UK: Cambridge University Press.

5. Lum, Cynthia. (2009). Translating Police Research into Practice. *Ideas in American Policing.* Washington, DC: Police Foundation. http://www.policefoundation.org/pdf/Ideas_Lum.pdf

4. Lum, Cynthia. (2009). Theoretical and Methodological Innovations in Terrorism Research: A Response to LaFree, Yang and Crenshaw. In Natasha A. Frost, Joshua D. Freilich, and Todd R. Clear (Eds.), *Contemporary Issues in Criminal Justice Policy* (pp. 133-138). Belmont, CA: Cengage/Wadsworth.

3. Lum, Cynthia, Maria (Maki) Haberfeld, George Fachner and Charles Lieberman. (2009) Police Activities to Counter Terrorism: What We Know and What We Need To Know. In David Weisburd, Thomas Feucht, Idit Hakimi, Lois Mock and Simon Perry (Eds.), *To Protect and to Serve: Police and Policing in an Age of Terrorism - and Beyond (*pp. 101-142). New York, NY: Springer.

2. Lum, Cynthia. (2007). Crime Analysis. In Jack Greene (Ed.) *The Encyclopedia of Police Science*, Third Edition, Volume 2 (pp. 283-292). New York: Routledge.

1. Weisburd, David, Anthony Petrosino and Cynthia Lum (Special issue editors). (2003). Assessing Systematic Evidence in Crime and Justice: Methodological Concerns and Empirical Outcomes. Special issue editors for *Annals of the American Academy of Political and Social Sciences 587* with written Preface.

Grant Reports and Government Publications

24. Lum, Cynthia and Xiaoyun Wu. (2017). *Basic Analysis of Traffic Citation Data for the Alexandria Police Department 2011-2015.* Fairfax, VA: Center for Evidence-Based Crime Policy, George Mason University.

23. Lum, Cynthia, Christopher S. Koper, James Willis, Stephen Happeny, Heather Vovak, and Jordan Nichols. (2016). *The Rapid Diffusion of License Plate Readers in U.S. Law Enforcement Agencies: A National Survey.* Fairfax, VA: Center for Evidence-Based Crime Policy, George Mason University.

22. Merola, Linda, Cynthia Lum, Christopher Koper, and Amber Scherer. (2016). *Body Worn Cameras and the Courts: A National Survey of State Prosecutors.* Report for the Laura and John Arnold Foundation. Fairfax, VA: Center for Evidence-Based Crime Policy, George Mason University.

21. Lum, Cynthia, Christopher Koper, Charlotte Gill, Julie Hibdon, Cody Telep, and Laurie Robinson. (2016). *An Evidence-Assessment of the Recommendations of the President's Task Force on 21st Century Policing: Implementation and Research Priorities.* Fairfax, VA: Center for Evidence-Based Crime Policy, George Mason University. Alexandria, VA: International Association of Chiefs of Police.

20. Lum, Cynthia, Ajima Olaghere, Christopher S. Koper, and Xiaoyun Wu. (2016). *Project Safe Neighborhoods Youth Violence and Homicide Prevention Initiative in Washington, D.C.: Outcome Evaluation Report for the U.S. Attorney's Office, Washington, D.C.* Fairfax, VA: Center for Evidence-Based Crime Policy, George Mason University. http://cebcp.org/wp-content/cpwg/PSNDC-Lumetal.pdf

19. Lum, Cynthia, Charles Wellford, Thomas Scott and Heather Vovak. (2016). *Trajectories of U.S. Crime Clearance Rates.* Report for the Laura and John Arnold Foundation. Fairfax, VA: Center for Evidence-Based Crime Policy, George Mason University.

18. Lum, Cynthia, Devon Johnson, Jordan Nichols, Julie Grieco, and Xiaoyun Wu. (2016). *Fairfax County Community Survey.* Report to the Fairfax County Police Department and Community. Center for Evidence-Based Crime Policy, George Mason University. Available at http://cebcp.org/wp-content/evidence-based-policing/matrix-demonstration-project/FCPDSurvey.pdf

17. Lum, Cynthia, Christopher Koper, Linda Merola, Amber Scherer, and Amanda Reioux. (2015). *Existing and Ongoing Body Worn Camera Research: Knowledge gaps and opportunities.* Report for the Laura and John Arnold Foundation. Fairfax, VA: Center for

Evidence-Based Crime Policy, George Mason University. Available at http://cebcp.org/wp-content/technology/BodyWornCameraResearch.pdf

16. Koper, Christopher, Cynthia Lum, James Willis, Dan Woods and Julie Hibdon. (2015). *Realizing the Potential of Technology in Policing: A Multisite Study of the Social, Organizational, and Behavioral Aspects of Implementing Police Technologies.* Final report to the National Institute of Justice. Available at http://cebcp.org/wp-content/evidence-based-policing/ImpactTechnologyFinalReport

15. Lum, Cynthia and Charlotte Gill. (2015). The Transportation Security Administration's Playbook Strategy for Security at U.S. Airports: Final Report. Washington, DC: Department of Homeland Security. NOT AVAILABLE FOR PUBLIC DISSEMINATION.

14. Lum, Cynthia, Devon Johnson, Charlotte Gill, Heather Vovak, Jaspreet Chahal, and Linda Merola. (2013). TSA's Comprehensive Strategy to Security at U.S. Airports: Assessing the Evidence-Base of the "Playbook". Phase III Report: *Playbook Implementation at 10 Airports.* NOT AVAILABLE FOR PUBLIC DISSEMINATION.

13. Lum, Cynthia, Breanne Cave and Jordan Nichols. (2013). *An evidence-assessment of the federal protective service's security criteria and countermeasures at federal buildings*. Final Report. Research Triangle Park, NC: RTI International. NOT AVAILABLE FOR PUBLIC DISSEMINATION.

12. Julie Hibdon, Cynthia Lum, Charlotte Gill, Breanne Cave, Jaspreet Chahal, and Heather Vovak. (November, 2012). TSA's Comprehensive Strategy to Security at U.S. Airports: Assessing the Evidence-Base of the "Playbook". *PARIS Data Analysis Report.* Department of Homeland Security. NOT AVAILABLE FOR PUBLIC DISSEMINATION.

11. Charlotte Gill, Cynthia Lum, Breanne Cave, Lisa Dario, Cody Telep, Zoe Vitter and David Weisburd. (2012). *Evidence-based assessment of the City of Seattle's crime prevention programs.* Fairfax, VA: George Mason University. Available at http://cebcp.org/wp-content/evidence-based-policing/seattle-assessment

10. Gill, Charlotte, Julie Hibdon, Cynthia Lum, David Weisburd, Devon Johnson, Linda Merola and Jaspreet Chahal. (January, 2012). TSA's Comprehensive Strategy to Security at U.S. Airports: Assessing the Evidence-Base of the "Playbook". *Results of a national survey of Playbook and security implementation at category X, I, and II airports. Phase II Technical Report.* Department of Homeland Security. Redacted version available at http://cebcp.org/wp-content/publications/PhaseII-Final-Report-Redacted.pdf

9. Independent Review Board for the Mayor and Police Commissioner of Baltimore City. (James Stewart [Chair], Cynthia Lum, Stephen H. Sachs, Darrel Stephens and Hubert

Williams). (October 17, 2011). *The Baltimore Police Department, Police Involved Shooting of January 9, 2011.* https://www.baltimorepolice.org/sites/default/files/IRB_BPD_Final.pdf

8. Lum, Cynthia, Charlotte Gill, Breanne Cave, Julie Hibdon, and David Weisburd (2011). TSA's Comprehensive Strategy to Security at U.S. Airports: Assessing the Evidence-Base of the "Playbook". *Phase I Final Report.* Department of Homeland Security. Redacted version available at http://cebcp.org/wp-content/publications/PhaseI-Final-Report-Redacted

7. Lum, Cynthia, Linda Merola, Julie Willis and Breanne Cave. (2010). *License Plate Recognition Technologies for Law Enforcement: An Outcome and Legitimacy Evaluation*. Final Report to SPAWAR and National Institute of Justice. http://cebcp.org/wp-content/evidence-based-policing/LPR_FINAL.pdf

6. Lum, Cynthia. (2010). *Does the 'Race of Places' Influence Police Officer Decision Making?* Final Report for the DuBois Fellowship. Washington, DC: National Institute of Justice.

5. Weisburd, David, Cody W. Telep, and Anthony A. Braga, with Elizabeth R. Groff, Joshua C. Hinkle, Cynthia Lum, Nancy A. Morris, Laura A. Wyckoff, and Sue-Ming Yang. (2010). *The Importance of Place in Policing*. Production: Swedish National Council for Crime Prevention, Information and Publications. Available at https://www.bra.se/download/18.cba82f7130f475a2f1800022104/1371914732584/2010_importance_of_place.pdf

4. Lum, Cynthia and George Fachner. (2008). *Police Pursuits in an Age of Innovation and Reform.* Alexandria, VA: International Association of Chiefs of Police. http://www.theiacp.org/LinkClick.aspx?fileticket=IlJDjYrusBc=&tabid=392

3. Lum, Cynthia. (2008). *Tip Line Development for Law Enforcement Agencies: Handbook, Protocols, Software Applications, and Instructions.* U.S. Departments of the Navy and Justice. SPAWAR (Department of the Navy)/National Institute of Justice Grant. Available at http://cebcp.org/wp-content/TIPLINE/HANDBOOK.pdf

2. Lum, Cynthia. (2005). *Tip Line Technologies: Intelligence Gathering and Analysis Systems. Phase I Executive Summary and Final Report.* SPAWAR (Department of the Navy)/National Institute of Justice Grant. Available at http://cebcp.org/wp-content/TIPLINE/Initial-Report

1. Weisburd, David, Cynthia Lum and Sue-Ming Yang. (2004). *The Criminal Careers of Places: A Longitudinal Study.* Final Report and Executive Summary. National Institute of Justice Grant. Available at https://www.ncjrs.gov/pdffiles1/nij/grants/207824.pdf

Other Publications (written testimony, magazine articles, news editorials)

18. Lum, Cynthia, Christopher S. Koper and Daniel S. Nagin. (2017). Nine Ideas from Research on Improving Police Efforts to Control Crime. *The Police Chief, July 2017.*

17. Lum, Cynthia and Christopher S. Koper. (2016). Looking Back and Forward: The Matrix and its Demonstration Projects. *Translational Criminology, Spring 2016,* 2-4*.*

16. Lum, Cynthia. RateMyPolice (Letter to the Editor). *The Economist.* January 23, 2016: 14. Print.

15. Lum, Cynthia and Daniel Nagin. (2015). Reinventing American Policing: A Seven-Point Blueprint for the 21st Century. *Translational Criminology, Fall 2015,* 2-11*.*

14. Aston, Liz and Cynthia Lum. (2015). Learning Through International Collaboration. *Scottish Justice Matters, 3(2),* 17-18.

13. Lum, Cynthia. (Spring, 2015). Director's Editorial. Body Worn Cameras—Rapid Adoption in a Low Information Environment? *Translational Criminology, Spring 2015,* 6*.*

12. Merola, Linda and Cynthia Lum. (Spring, 2015). Understanding Citizen Support for License Plate Readers. *Translational Criminology.* Center for Evidence-Based Crime Policy, George Mason University.

11. Lum, Cynthia and Christopher S. Koper. (2015). The need for more research on technology. Requested testimony for the *President's Task Force on 21st Century Policing*.

    Modified and reprinted as "Why 'more research is needed' on police technology is not simply an academic cliché." Blog for the Scottish Institute for Policing Research.

10. Braga, Anthony, Cynthia Lum, and Edward F. Davis. (August, 2014). Connecting Police Chiefs and Academic Researchers: The New Division of Policing in the American Society of Criminology." *The Police Chief 81,* 76–77.

9. Lum, Cynthia. (2013). Is crime analysis evidence-based? *Translational Criminology, Fall 2013,* 12-14*.*

8. Tate, Renee, Thomas Neale, Cynthia Lum, and Christopher Koper. (2013). Case of Places. *Translational Criminology, Fall 2013,* 18-21*.*

7. Weisburd, David, Lynette Feder, and Cynthia Lum. (September-October, 2013). The Division of Experimental Criminology: History, Purpose and Recent Developments. *The Criminologist 38(5)*, 41-44.

6. Lum, Cynthia and Christopher Koper. (Fall, 2012). Incorporating research into daily police practices: The Matrix Demonstration Project. *Translational Criminology, Fall 2012,* 16-17.

5. Lum, Cynthia and Devon Johnson. (2011). Graduate Education for Evidence-Based Crime Policy at George Mason University. *The Academy of Experimental Criminology/The Division of Experimental Criminology (American Society of Criminology) Newsletter.* http://cebcp.org/wp-content/dec/newsletters/vol6-no2.pdf

4. Lum, Cynthia. (2011). Evidence-Based Crime Policy Resources. *National Training and Technical Assistance Newsletter*. Bureau of Justice Assistance.

3. Boruch, Robert and Cynthia Lum. (Summer, 2011). Eight Lessons about Evidence-Based Crime Policy. *Translational Criminology, Summer 2011,* 4-5.

2. Lum, Cynthia. (2011). On the Pushback to Evidence-Based Policing. January 2011 Newsletter. Center for Evidence-Based Crime Policy, George Mason University.

1. Lum, Cynthia. (2010). Technology and Mythology of Progress in American Law Enforcement. *Science Progress*, February 11, 2010. http://www.scienceprogress.org/2010/02/police-technology/

Other grant participation, not as principal or co-principal investigator

2010 - Present: SUBJECT MATTER EXPERT, Evidence Assessment of Justice Programs and Practices Project (CRIMESOLUTIONS.GOV). Office of Justice Programs.

2010 - 2011: SUBJECT MATTER EXPERT, Smart Policing Initiative. Bureau of Justice Assistance, contracted through C.N.A. Corporation.

2005 - 2006: FACULTY RESEARCHER. Reducing Crime in Trinidad and Tobago: A Strategic Approach (PIs: S. Mastrofski and E. Maguire). Ministry of Justice, Government of Trinidad and Tobago.

2004: RESEARCH CONSULTANT, Explaining Developmental Crime Trajectories at Places: A Study of "Crime Waves" and "Crime Drops" at Micro Units of Geography (PI: David Weisburd). National Institute of Justice, (consultant-based funding).

2001 - 2003: PROJECT MANAGER, The Criminal Careers of Places: A Longitudinal Study (PI: David Weisburd). National Institute of Justice, Grant Number 2001-IJ-CX-0022 ($286,000).

1996 - 1997: RESEARCHER, Partnership against Crime: University of Maryland and Prince George's County Police Department University of Maryland, College Park (PI: Lawrence W. Sherman). National Institute of Justice Grant Number 1996-IJ-CX-0080.

PRACTITIONER AND/OR RESEARCH TRANSLATION TOOLS DEVELOPED

- The Evidence-Based Policing Matrix (with Christopher Koper and Cody Telep). See www.policingmatrix.org
- *Translational Criminology* Magazine. See http://cebcp.org/tcmagazine/
- The Matrix Demonstration Projects. See http://cebcp.org/evidence-based-policing/the-matrix/matrix-demonstration-project/
- The Evidence-Based Policing Playbook. See http://cebcp.org/evidence-based-policing/the-matrix/matrix-demonstration-project/playbook/
- Technology Web Portal. See http://cebcp.org/technology/
- Building Trust with Communities Web Training Resource. See http://cebcp.org/evidence-based-policing/building-trust/
- The Case of Places Tool. See http://cebcp.org/evidence-based-policing/the-matrix/matrix-demonstration-project/case-of-places/
- The eConsortium of University Centers and Researchers for Partnership with Criminal Justice Practitioners. See http://gmuconsortium.org/
- Law Enforcement Receptivity Survey. http://cebcp.org/evidence-based-policing/the-matrix/matrix-demonstration-project/receptivity-to-research/
- Field Training Transformations. See http://cebcp.org/evidence-based-policing/the-matrix/matrix-demonstration-project/transforming-field-training/
- TIPLINE Analysis Software and Handbook/Protocols for Police. See http://cebcp.org/tipline/

INVITED SPEECHES, PRESENTATIONS, OR KEYNOTES (titles available upon request)

2017: International Women and Law Enforcement Conference (Cairns, Queensland, Australia)
2017: Queensland Police Service (Brisbane, Queensland, Australia)
2017: National Institute of Justice, LEADS Workshop (Washington, DC)
2017: New York City Police Department (New York, NY)
2017: Conference on Misdemeanor Justice, John Jay College of Criminal Justice (New York, NY)
2017: Highline College and Des Moines (WA) Police Department (Des Moines, WA)
2017: U.S. Department of Justice, Office of Justice Programs, Science Advisory Board Meeting (Washington DC)
2017: New York University, Policing Project, Cost-Benefit Analysis Conference (New York, NY)
2017: National Academy of Sciences, Transportation Research Board (Washington, DC)
2016: Scottish International Policing Conference (Edinburg, Scotland)
2016: Misdemeanor Justice Project, John Jay College of Criminal Justice (New York, NY)
2016: National Conference of State Legislatures (Chicago, IL)
2016: Massachusetts Association of Crime Analysts (Hyannis, MA)
2016: Metro Richmond Analysts Association (Richmond, VA)

2016: Australia and New Zealand Society of Evidence-Based Policing (New South Wales, AUS)
2016: Hollywood, Florida, Police Department (Hollywood, FL)
2015: CATO Institute Policing in America Conference (Washington, DC)
2015: CEBCP-Police Foundation Joint Symposium Keynote (Arlington, VA)
2015: National Academy of Sciences, Roundtable on the Application of Social and Behavioral Science Research (Washington, DC)
2015: VERA Neil Weiner Research Speaker Series (New York, NY)
2015: Osher Life Long Learning Vision Series Lecture (Fairfax, VA)
2015: University of Pennsylvania, Department of Criminology (Philadelphia, PA)
2015: Arnold Foundation Capitol Hill Briefing on Body Worn Cameras (Washington, DC)
2015: Provided testimony for the President's Task Force on 21st Century Policing
2014: James Smart Memorial Lecture (Edinburgh, Scotland)
2014: Department of Homeland Security, Science and Technology Directorate (Washington, DC)
2014: Swedish National Police Service (Stockholm, Sweden)
2014: Milwaukee Police and Regional Training on Evidence-Based Policing (Milwaukee, WI)
2014: College of Policing Evidence-Based Policing (London, UK)
2014: University of Edinburgh/Scottish Institute for Policing Research (Edinburgh, Scotland)
2013: Las Vegas Metropolitan Police Department (Las Vegas, NV)
2013: Missouri Attorney General Urban Crime Summit (Kansas City, MO)
2013: Federal Bureau of Investigation, National Law Enforcement Academy (Quantico, VA)
2013: 6th International Conference on Evidence-Based Policing (Cambridge University, UK)
2013: Northern Ohio Violent Crime Consortium Meeting (Cleveland, OH)
2013: 13th Annual Jerry Lee Symposium, Police Education and Standards (Washington, DC)
2013: CEBCP-SIPR Joint Symposium on Evidence-Based Policing (Arlington, VA)
2013: 8th Annual John Jay/Harry Frank Guggenheim Symposium (New York City, NY)
2012: Federal Bureau of Investigation, National Law Enforcement Academy (Quantico, VA)
2012: International Association of Law Enforcement Planners (Charlotte, NC)
2012: International Association of Crime Analysts (Las Vegas, NV)
2012: Edinburgh Police Executive Sessions (Edinburgh, Scotland)
2012: Scottish Govt. and Scottish Institute for Policing Research (Edinburgh, Scotland)
2012: The Jerry Lee Lecture at the Campbell Collaboration Colloquium (Copenhagen, Denmark).
2012: Bureau of Justice Assistance, Evidence-Based Policing Matrix (Washington, DC)
2012: Tennessee Innovation in Evidence-Based Programming Conference (Chattanooga, TN)
Prior to 2012 available upon request

OTHER PRESENTATIONS (NOT AS INVITED SPEAKER)

American Society of Criminology Conference: 2002 - 2003, 2005 - 2017
American Criminal Justice Society Conference: 2010, 2012

International Association of Chiefs of Police: 2010, 2013, 2016
Stockholm Criminology Conference: 2006, 2010, 2014
Law and Society Conference: 2007
Western Society of Criminology Conference: 2009
World Congress of Criminology: 2005
World Societies Conference: 2004
National Institute of Justice, MAPS Conference: 2001

SYMPOSIA, CONGRESSIONAL BRIEFINGS, AND WORKSHOPS ORGANIZED

June 2017: CEBCP Annual Symposium
September 2016: CEBCP-WestEd Congressional Briefing on Violence and Prevention
May 2016: International Policing Summer School, University of St. Andrews with SIPR
August 2015: CEBCP-Police Foundation Joint Symposium
February 2015: CEBCP-WestEd Congressional Briefing on School Safety and Violence Prevention
October 2014: SIPR-CEBCP 2nd Joint Symposium on Evidence-Based Policing
June 2014: CEBCP Annual Symposium (with the IDB) on Evidence-Based Crime Policy
April 2014: CEBCP-PJI Congressional Briefing on Pretrial Justice
January 2014: CEBCP-CJLM Joint Workshop on Evidence-Based Policing for first line supervisors
April 2013: CEBCP and Scottish Institute for Policing Research Joint Symposium
April 2013: CEBCP and Scottish Institute for Policing Research Sixth Congressional Briefing
August 2012: CEBCP Symposium on Evidence-Based Crime Policy
August 2012: CEBCP Evidence-Based Policing and Systematic Reviews Workshops
February 2012: CEBCP Congressional Briefing on Gun Violence
August 2011: CEBCP and Campbell Colloquium Joint Symposium
October 2010: CEBCP and Cochrane College for Policy Congressional Briefing on Juvenile Justice
August 2010: CEBCP Symposium on Evidence-Based Crime Policy
October 2009: CEBCP Congressional Briefing on Evidence-Based Crime Policy
April 2009: CEBCP Symposium on Evidence-Based Crime Policy
February 2009: CEBCP Congressional Briefing on Research on Violence
September 2007: Congressional Briefing on Counterterrorism
May 2003: University of Maryland Washington Sniper Debriefing
April 2002: Jerry Lee Crime Prevention Symposium

PROFESSIONAL ACTIVITIES AND SERVICE

Journal Service

Editor
Policing: A Journal of Policy and Practice, Oxford (North American Editor, 2013-2017)

Translational Criminology Briefs, Springer-Verlag (Founding Editor, 2012-present)
Translational Criminology Magazine, CEBCP (Founding Editor, 2011-present)

Associate Editor
Journal of Experimental Criminology, Springer-Verlag (2013-2016)
Encyclopedia of Criminology and Criminal Justice, Springer-Verlag (2010-2014)

Book Review Editor
Crime, Law and Social Change, Springer-Verlag (2004-2008)

Editorial Board
Policing: A Journal of Policy and Practice, Oxford (2017-present)
Journal of Experimental Criminology, Springer-Verlag (2017-present)
Justice Quarterly, Routledge (2016-present)
Evidence and Policy, Policy Press (2015-present)
Criminal Justice Review, Sage (2011-present)
Crime, Law and Social Change, Springer-Verlag (2011-present)

Positions held in the American Society of Criminology

Executive Counselor, Executive Board of the ASC (11/2016 – 11/2019)
Vice Chair, Division of Policing (11/2016 – 11/2018)
Program sub-area chair, Translational Criminology (2017)
Member, Ruth Cavan Award Committee (2016)
Member, interim start-up group initiating the Division on Terrorism and Bias Crimes (2015)
Executive Counselor, Division of Policing (2014-2016)
Member, interim start-up group initiating the Division of Policing, ASC (2014)
Vice Chair, Division of Experimental Criminology (2014-2015)
Sub-Area Chair for ASC Conference, Advances in Evaluation Research Panels (2013-2014)
Member, ASC Fellows Awards Committee (2013-2014)
Sub-Area Chair for ASC conference, Advancing Experimental Methods Panels (2012-2013)
Secretary-Treasurer, Division of Experimental Criminology (2012-2013)
Member of Policing Area Committee for ASC Conference (2009)
Area Chair for ASC conference, Democracy Panels (2006)

University and College Service (George Mason University)

2014-2017: University Faculty Handbook Committee (and UPTRAC liaison)
2014-2016: CHSS Promotion and Tenure Committee
2013: Ad Hoc Inquiry Committee, Office of Research Integrity and Assurance
2012 - 2013: Presidential Vision Committee and Research Working Group

2011 - 2013: University Non-Traditional, Interdisciplinary and Adult Learning Committee
2007 - 2010: CHSS Long Term Planning Committee
2007: Graduate Certificate in Terrorism Ad Hoc Committee
2006 - 2008: Reviewer for Provost Faculty Research Funding Awards

Departmental Service (George Mason University)

2016: Ad Hoc Committee on GRA Funding
2015 - present: Performance Review Committee
2014 - present: PHD Curriculum Committee
2012 - present: Criminology Journal Ranking Committee
2011 - present: Police Research Group faculty member
2007 - present: Crime and Crime Policy Comprehensive Exam Committee (Chair, 2012- present)
2009 - 2015: Recruitment Committee
2007; 2013: Faculty Search Committee
2011 - 2013: Graduate Admissions Committee
2011 - 2012: Students as Scholars, Quality Enhancement Program Committee
2010 - 2012: Comprehensive Exam Policy Committee
2009 - 2013: Undergraduate WEAVE and SCHEV assessments
2007 - 2009: Justice Organizations Comprehensive Exam Committee
2007: Curriculum Committee
2006: JLCP Statistics Sequence Committee
2006 - 2007: ADJ Security/Terrorism Undergraduate Concentration Committee
2005 - present: Thesis and Dissertation Committee Chair and Member for GMU students
2005 - present: Teaching Development/Peer Evaluations

PHD Dissertation Involvement (Master's thesis involvement available upon request)

Salih Alexander (CLS*), George Mason University (MEMBER, PHD defense TBD)
Breanne Cave (CLS), George Mason University (MEMBER, PHD received January 2016)
Jennifer Embrey (Bailey) (CLS), George Mason University (CO-CHAIR, PHD defense TBD)
Julie Grieco (CLS), George Mason University (CHAIR, PHD received August 2016)
Cory Haberman (Criminal Justice), Temple University (MEMBER, PHD received May 2015)
Stephen Happeny (CLS), George Mason University (MEMBER, PHD defense TBD)
Krista Heim (Statistics), George Mason University (MEMBER, PHD received August 2014)
Greg Jones (CLS), George Mason University (CHAIR, PHD defense TBD)
Marthinus Koen (CLS), George Mason University (MEMBER, PHD defense May 2016)
Anne Kringen (Criminal Justice), Texas State University (MEMBER, PHD received August 2015)
Brian Lawton (Criminal Justice), Temple University (MEMBER, PHD received May 2006)
Kimberly Mehlman (CLS), George Mason University (MEMBER, PHD received August 2012)

Shana Mell (Criminal Justice) Virginia Comm. Univ. (MEMBER, PHD received December 2016)
Ajima Olaghere (CLS), George Mason University (CHAIR, PHD received May 2015)
Sang Jun Park (CLS), George Mason University (CHAIR, PHD defense TBD)
Amanda Reioux (CLS), George Mason University (MEMBER, PHD defense TBD)
Cody Telep (CLS), George Mason University (MEMBER, PHD received May 2013)
Heather Vovak (CLS), George Mason University (CHAIR, PHD received August 2016)
** CLS: Criminology, Law and Society*

Community Service:

2015 - present: Osher Lifelong Learning Institute Instructor
2008 - 2010: Ashburn Public Library, Loudon County Volunteer
2006: Red Cross of America

The Reverend S. Todd Yeary, Ph.D.
Senior Pastor, Douglas Memorial Community Church
Baltimore, Maryland

Dr. S. Todd Yeary serves as the senior pastor of the Douglas Memorial Community Church, a Covenant Congregation, and is an adjunct professor in the College of Public Affairs at the University of Baltimore. Additionally, Dr. Yeary serves as the chief executive officer of DMCC's two community development corporations – Douglas Memorial Community Church Village and Camp Farthest Out. A former air traffic controller with the Federal Aviation Administration, Dr. Yeary served as associate director of the Center for Black Studies at Northern Illinois University from 2000-2010.

Dr. Yeary's social justice work includes serving on the national board of National Action Network, as special advisor to Rev. Jesse L. Jackson, Sr. and Rainbow PUSH, immediate past Political Action Co-Chair for the Maryland State Conference NAACP, as co-founding principal of Community Churches for Community Development, Inc. Additionally, Dr. Yeary is a founding principal of SALT (Strategic Advocacy and Legislative Thinktank), a faith-based public policy collaborative that works on regional and national empowerment strategies impacting the African American community. He has served previously as a steering committee member of OneBaltimore, Baltimore City's collaborative public-private coordinating organization which is working to strengthen and rebuild neighborhoods and communities in the aftermath of the recent disturbances surrounding the death of Freddie Gray, as well as on the Governor's Commission to Reform Maryland's Pretrial Justice System. Dr. Yeary is often called upon to facilitate creative conversations that solve challenging problems and has spoken in a variety of policy and leadership forums, including providing regular testimony on policy issues before the Congressional Black Caucus and the Joint Economic Committee of the U.S. House of Representatives and the Maryland General Assembly, the Faith Leader's Roundtable at the CBC Annual Legislative Conference, and as a panelist at the 2014 Color of Wealth Summit at the U.S. Capitol.

Dr. Yeary believes honest dialogue creates opportunities to form strategic partnerships that strengthen families and communities. He models his partnership commitment through public participation as he has served as the chair of the board of trustees of Baltimore City Community College, and currently serves as interim chair of the Community Relations Commission of Baltimore City, vice-chair of Behavioral Health Systems Baltimore, and an advisory board member to the College of Public Affairs at the University of Baltimore as well as a member of the President's Advisory Council at Baltimore City Community College.

Dr. Yeary holds a Bachelor's Degree in Management from National-Louis University, a Master of Divinity Degree from Garrett-Evangelical Theological Seminary, the Graduate Certificate in African Studies from Northwestern University, and the Doctor of Philosophy Degree (Ph.D.) in the area of Religion in Society and Personality from Northwestern. Dr. Yeary is a member of the 2012 class of the Board of Preachers of the Martin Luther King, Jr. College of Preachers and Laity of Morehouse College. He is also working on a Juris Doctor Degree at the Francis King Carey School of Law at the University of Maryland.

Dr. Yeary is currently writing two books – "The Black Church and HIV/Aids", and *"Protecting Blackness: Faith, Pilgrimage and the Resilience of the African American Self."* He is married to the Rev. Rhonda S. Boozer-Yeary. They are the proud parents of four wonderful children.

Ronal W. Serpas, Ph.D. **6363 St. Charles Ave. Box 55 New Orleans, LA 70118**
rserpas@loyno.edu **Office 504-865-2665**

Biographical Sketch

Dr. Serpas joined the Loyola University New Orleans Criminology and Justice Department as a Professor of Practice in August 2014. Dr. Serpas has served as an Adjunct and an Assistant Professor of Criminal Justice, Extraordinary Faculty, Loyola University New Orleans, teaching graduate and undergraduate courses from 1993 to 2001. He has also taught graduate courses at Southern University New Orleans and Tennessee State University. Dr. Serpas has published several articles including: *Beyond Compstat: Accountability Driven Leadership; The Next Step in Accountability Driven Leadership: Compstating the Compstat Data; Accountability Driven Leadership: Assessing Quality versus Quantity*; gun violence in America, *Illegal Gun Crimes: A View from the Streets*; police disciplinary systems, *An Employee Disciplinary System that Makes Sense*; the use of termination for police employees who are untruthful, *The Untruthful Employee: Is Termination the Only Response;* a co-author on the topic of crime following a disaster, *Changes and Challenges in Crime and Criminal Justice after Disaster; The Future of Violent Crime Abatement in New Orleans; Implementing the Principles of Procedural Justice and Police Legitimacy; Evidenced-Based Use-Of-Force Policy: How Research Could Improve Use-Of-Force Policy Development and Training*, and the need for actionable research to help guide American police executives.

Dr. Serpas is the founding Co-Chair of *Law Enforcement Leaders to Reduce Crime and Incarceration*, a project in cooperation with the NYU-School of Law Brennan Center, which unites nearly 200 current and former police chiefs, federal and state chief prosecutors, and attorney's general from all 50 states to urge for a reduction in both crime and incarceration. Serpas is the Chairman of the International Association of Chiefs of Police (IACP) *Community Oriented Policing Committee*, the current *Parliamentarian* of the IACP, a member of the National Advisory Board for *Cure Violence* (Chicago Cease Fire) and an *Executive Fellow* to the Police Foundation. Serpas also serves as a National Advisory Board Member to the ground breaking, National Institute of Justice funded, *National Police Research Platform* (NPRP). The NPRP seeks to advance the science and practice of policing in the United States. This is achieved by introducing a new system of measurement and feedback that captures organizational excellence both inside and outside the walls of the agency. The Platform is managed by a team of leading police scholars from six universities, supported by the operational expertise of a respected national advisory board.

Dr. Serpas was a career police officer from 1980 to 2014, serving in three police agencies. From 2001-2014 he was appointed to office following nationwide searches, and served as the Superintendent of Police, New Orleans Police Department from May 2010 until he retired from police service in August 2014, as the Chief of Police of the Metropolitan Nashville Police Department in January 2004 and served until May 2010, and was appointed as the Chief of the Washington State Patrol in August 2001 and served until January 2004. Serpas began his police career in June 1980 with the New Orleans Police Department rising through all civil service ranked positions and was appointed Assistant Superintendent of Police and the first Chief of Operations in October 1996, charged with implementing the COMPSTAT model in the New Orleans Police Department. Serpas utilized and expanded the COMPSTAT model of crime fighting continuously from October 1996 to August 2014 in two major American cities and one state police agency.

Dr. Serpas has more than 13 years of experience as a Police Chief and has successfully implemented the Community Oriented Policing philosophy, innovative and successful crime fighting strategies and achieved demonstrated success in improved citizen satisfaction and support in each of the three departments he has led. Serpas has been a successful change agent in three major law enforcement agencies and he has also been a leader in applying the concepts of Procedural Justice and Police Legitimacy, to bring transformational change to American Policing.

While Superintendent of Police in New Orleans, Dr. Serpas worked closely with the United States Department of Justice Civil Rights Team investigating allegations of patterns and practices of unconstitutional policing and the implementation of an extensive Consent Decree in the wake of Hurricane Katrina and the years that followed. Several criminal civil rights investigations resulted in the conviction in Federal Court of numerous officers for crimes that resulted in the death of citizens and subsequent cover-up by officers and supervisors. Serpas designed and implemented a comprehensive 65-point plan to rebuild the New Orleans Police Department's crime fighting, arrest/investigation practices, community policing strategies, and employed new integrity and accountability standards including a zero tolerance for untruthfulness by officers. Eighty-six (86) officers were arrested for misconduct and eleven terminated for violating the new truthfulness standards. For decades, New Orleans has experienced one of the highest, and in many years, the highest murder rate per capita in the nation. The year 2013 ended with the lowest number of murders in 28 years, and through the first half of 2014, murder continued to decline by 8% compared to the first half of 2013. During the four years of Serpas' tenure murder was down nearly 13%. Due to dramatic citywide budget pressures during Serpas' time as Superintendent of Police, officer staffing fell 26%. Revised arrest practices resulted in more than a 35% decrease in arrest.

Dr. Serpas led the New Orleans Police Department during an unheralded series of major events held in the City of New Orleans to include the 2012 BCS National Championship Football Game, the 2012 NCAA Men's Basketball Final Four, War of 1812 Celebration, NFL Super Bowl XLVII (February 2013), the 2013 NCAA Women's Final Four and the February 2014 NBA All Star game. Each year New Orleans hosts the eleven-day Mardi Gras season, Jazz Festival, French Quarter Festival, Essence Festival, NCAA Sugar Bowl Classic, Bayou Classic, and what is considered one of the largest attended New Year's Eve celebrations in the nation. As the Chief of Operations of the New Orleans Police Department from October 1996 to July 2001, the City of New Orleans led the nation in violent crime reduction for the years 1997, 1998, 1999, 2000 and the numbers of murders fell by more than 40% between 1994 and 2000. The NOPD was at the forefront of many innovations in policing, hosted millions of visitors and NFL Super Bowl XXXI.

During Dr. Serpas' tenure in Nashville, FBI UCR Part I major crime reports fell for an unprecedented sixth consecutive year during 2009 to the lowest level in 24 years, while the rate of crime fell to its lowest level in 31 years – overall major crime continued to decline throughout 2010 during his tenure in Nashville. The overall major crime rate in 2009 was the lowest since 1978, the violent crimes rate was the lowest since 1989, and the property crime rate was the lowest since 1972. The Metropolitan Nashville Police Department's *El Protector* program, established in 2005, was recognized in 2009 as a "*Best Practice*" by the Vera Institute of Justice in providing police service across the language divide. In 2009, the International Association of Chiefs of Police (IACP) recognized the MNPD as the winner in the extra-large department category for Excellence in Victim Services. The MNPD was one of the first departments to adopt, evolve and implement "Data Driven Approaches to Crime and Traffic Safety," a public safety strategy supported by the US Department of Justice - Bureau of Justice Assistance, and the National Highway Traffic Safety Administration.

While Chief of the Washington State Patrol unparalleled increases in trooper activity resulted in a 37% increase in DUI arrest and a 22% decrease in interstate fatalities, as well as evident success in detective functions and statewide Crime Lab efficiencies. The WSP was awarded the International Association of Chiefs of Police's "Chiefs Challenge" and the "Clayton J. Hall Memorial Award" (a prestigious award that can only be awarded once in the history of a law enforcement agency) during his tenure as Chief of the WSP.

Dr. Serpas participated and contributed on the national and international level of police leadership through his unopposed election as the 4th Vice President of the International Association of Chiefs of Police (IACP) in October 2011. The IACP is the oldest and largest nonprofit membership organization of police executives worldwide, established in 1893 with more than 28,000 members representing 137 countries. IACP's membership consists of the operating chief executives of international, federal, state, tribal and local agencies of all sizes. When he retired from law enforcement, Serpas was the 2nd Vice President, and responsible for providing oversight to the following IACP standing Committees: Civil Rights; Diversity Coordinating Panel;

Police Professional Standards, Image and Ethics; Police Administration; and the Torch Run. Serpas also served for many years as the founding Co-Chair of the Research Advisory Committee (RAC) of the IACP. The IACP RAC Committee unites police executives and academic leaders to create and publish an annual research agenda to identify potential solutions addressing the many and significant concerns throughout the criminal justice system here in the United States and abroad. Serpas is the current Chair of the IACP's Community Policing Committee. He also serves as the Parliamentarian, IACP Board Officers, until October 2017.

Dr. Serpas' expert commentary on crime rates, policing and criminal justice reform has appeared in the *New York Times, USA Today, The Hill, NBC News, CBS News, Fox News, The Atlantic Monthly, Wall Street Journal, The Washington Post, NPR, Governing Magazine, The Economist and MSNBC* among other outlets.

Areas of Interest and Expertise

Homicide and Violent Crime Reduction
Community Policing
Police Legitimacy and Procedural Justice
Police Media Relations
Police Leadership and Management
Change and Crisis Management
Criminal Investigations, Patrol Operations, Technology and Policing
Internal Investigations - Administrative, Criminal, and Use of Force
Police Response to Major Public Events – Planned and Unplanned
COMPSTAT Policing Strategy
Reducing the Use of Incarceration and Simultaneously Reducing Crime

Recent Publications - Professional Service – Presentations (2015-2017)

- 2017, June. Panelist. "*Forum on 21st Century Policing in the Digital Age.*" Garda Siochana of Ireland and the International Association of Chiefs of Police, Dublin, Ireland.
- 2017, May. Keynote Speaker. "A Path Towards Solutions: A Summit on Curbing Violence in Chicago." Chicago Bar Association, Chicago, IL.
- 2017, April. Panelist. *"Policing in the Age of President Trump."* Yale Law School. New Haven, CT.
- 2017, April. Robin Engel and Ronal Serpas, "Evidenced-Based Use-of-Force Policy: How Research Could Improve Use-of-Force Policy Development and Training." *The Police Chief*, Volume 84, Number 4 (April 2017): 28-38.
- 2017, March. James Fox, Ronal Serpas, Kathleen Kelly, "Building Solid Relationships Through Community Policing: Promises Practices from the Field. *The Police Chief*, Volume 84, Number 3 (March 2017): 24-28.
- 2017, March. Member – Standing Committee on Law Enforcement – Transportation Research Board - National Academy of Sciences, Engineering and Medicine. Three-year term, April 15, 2017 – April 14, 2020. Washington, DC
- 2017, March. Keynote Speaker – Local Initiatives Support Corporation (LISC) and US Department of Justice Bureau of Justice Assistance, "*Building Partnerships for Crime Reduction.*" Washington, DC
- 2017, March. Site visit, South Dakota Highway Patrol, Sioux Falls, SD, International Association of Chiefs of Police – 21st Century Policing Initiative – US Department of Justice Community Oriented Policing Services
- 2017, March. Site visit, Indio, CA, International Association of Chiefs of Police – 21st Century Policing Initiative – US Department of Justice Community Oriented Policing Services
- 2017, February. Site visit, Lowell, MA, International Association of Chiefs of Police – 21st Century Policing Initiative – US Department of Justice Community Oriented Policing Services
- 2017, February. Site Visit, "Identifying Effective Police Investigative Practices: A National Study using Trajectory Analysis," Detroit, MI

- 2017, January. Investigator-Participant. Police Executive Research Forum and US Department of Justice Bureau of Justice Assistance, *Homicide Investigations Project Site Convening.*" Studied sites: Baltimore, Cleveland. Washington, DC
- 2017, January. Site visit, Tucson, AZ, International Association of Chiefs of Police – 21st Century Policing Initiative – US Department of Justice Community Oriented Policing Services
- 2016, November. Participant – Author, "New Orleans' Success and Challenges in Implementing a Comprehensive Approach to Violence," American Society of Criminology, New Orleans, LA
- 2016, November. Discussant, "The Post-Election Outlook for Criminal Justice," American Society of Criminology, New Orleans, LA.
- 2016, November. Discussant, "Identifying Effective Police Investigative Practices: A National Study using Trajectory Analysis," American Society of Criminology, New Orleans, LA.
- 2016, November. Participant – Author, "The Future of Lethal Violence Abatement in New Orleans," American Society of Criminology, New Orleans, LA.
- 2016, November. Participant – Presidential Plenary, "Voices on the Ground: Justice Organizations in New Orleans," American Society of Criminology, New Orleans, LA.
- 2016, November. Presenter - Co-Author, "Neighborhood Correlates of Violent Crime in New Orleans Since Katrina," American Society of Criminology, New Orleans, LA.
- 2016, October. Parliamentarian, Board of Officers – International Association of Chiefs of Police. One-year appointment.
- 2016, October. Member, Executive Leadership Advisory Council of the Council for a Strong America - Fight Crime: Invest in Kids - Police Training Institute. Three-year appointment.
- 2016, October. Speaker, "Leeuwenhoek Lecture – How to Create More Guardians and Less Warriors in American Policing." University of Illinois at Chicago. Chicago, IL.
- 2016, September. Panelist, "Progress and Promise: Momentum in the Reform of Justice Debt and Bail Practices – Widening the Lens: Additional Justice System Stakeholders." United States Department of Justice, Washington, DC.
- 2016, August. Instructor, "City Roles in Reducing the Overuse of Jails for Young Adults Leadership Academy." The MacArthur Foundation's Safety and Justice Challenge and the National League of Cities, Denver, CO.
- 2016, July. Facilitator, "Compstat 2.0." The Police Foundation, the Vera Institute of Justice and the US Department of Justice Office of Community Oriented Policing Services, Washington, DC.
- 2016, May. Panelist, "Realities of Implementing Change in Police Culture Plenary." Safety and Justice Challenge supported by the John D. and Catherine T. McArthur Foundation, Chicago, IL.
- 2016, April. Panelist/Participant, "Police Practitioners Roundtable," the National Research Council's Committee on Law and Justice – the National Academy of Sciences, Engineering and Medicine.
- 2016, March. Ronal W. Serpas and Remi A. Braden, "Reply to Community Policing Revisited: Implementing the Principles of Procedural Justice and Police Legitimacy," Ideas and Insights, *The Police Chief* 83 (March 2016): 46-47.
- 2016, March. Panelist, "Justice and Legitimacy: Building Trust and Mutual Respect," State Legislative Leaders Foundation & Loyola University, New Orleans, LA
- 2016, March. Panelist, "Driving Behavioral Change in Traffic Safety – Examining Core Strategies: the Current Status of Behavioral Safety Countermeasures," The National Highway Traffic Safety Administration – Department of Transportation, Washington, DC
- 2016, February. Panelist, "The Case for Federal Sentencing Reform: A Perspective from Law Enforcement," Dirksen Senate Office Building, United States Senate, Washington DC.
- 2016, January. Panelist, Atlanta Bar Association – Equal Justice In Law Enforcement Symposium
- 2015, December. Ronal Serpas, "The Future of Lethal Violence Abatement in New Orleans." In Voigt., L, Harper, D., and Thornton, W., Editor (Ed.) *Preventing Lethal Violence in New Orleans, a Great American City*. University of Louisiana at Lafayette Press.
- 2015, December, "Homicide Investigations Enhancement and Training Project," Bureau of Justice Assistance and the Police Executive Research Forum, publication pending.

- 2015, October, DOJ-COPS and International Association of Chiefs of Police, "Officer Involved Shootings: A Guide for Law Enforcement Leaders." Advisor/ co-editor, publication pending
- 2015, October, IACP Community Policing Committee Annual meeting, Chair, Chicago, IL
- 2015, October, IACP Conference panelist. "Police Enforcement Against Gun Violence," reporting on a joint research project with the University of Chicago Crime Lab, Chicago, IL. Publication pending
- 2015, October, Co-Chair, "Law Enforcement Leaders to Reduce Crime and Incarceration," a collaboration with the NYU School of Law-Brennan Center. National Launch at the Press Club, Washington DC, with a presentation to Barack Obama, President of United States.
- 2015, August, "Procedural Justice and Police Legitimacy," presentation, National Black Police Officers Association Annual Training Seminar
- 2015, June, "Applying Procedural Justice and Police Legitimacy," John Jay College of Criminal Justice National Network of Safe Cities, panelist, New York, NY
- 2015, April, "Procedurally Fair Policing," presentation Sam Houston State University LEMIT
- 2015, March, "Safety and Justice Challenge – The Role of Law Enforcement in Reducing Unnecessary Use of Jails," Plenary Session Co-Chair, sponsored by the MacArthur Foundation, Washington, DC
- 2015, March, Mid-Year Meeting of the IACP Community Policing Committee, Chair, Phoenix, AZ
- 2015, March, "Police Community Relations Town Hall Meeting," American Universality, panelist
- 2015, February, "President's Task Force on 21st Century Policing – 5th Public Listening Session on the Topic of Training and Education," presenter, Washington, DC
- 2015, Frailing, K., Harper, D., and Ronal Serpas. "Changes and Challenges in Crime and Criminal Justice After Disaster." American Behavioral Scientist, September, Vol 59 1278-1291
- 2015, Patrick Walsh and Ronal Serpas. "Changes in the Illegal Drug Market in New Orleans After Hurricane Katrina and the Law Enforcement Response." In Harper, D., and Frailing, K., Editor (Ed.) *Crime and Criminal Justice in Disaster*. Carolina Academic Press, Durham, NC
- 2014, October-December. Stakeholder representative to the "Comprehensive Law Enforcement Review Project" authorized by U.S. Attorney General Eric Holder, publication pending.
- National Advisory Board Member - *Cure Violence* (formerly known as Cease Fire).
- Executive Fellow – *Police Foundation, Washington, DC*
- Top Secret/Special Scope Background Investigation designation, FBI, valid through March 7, 2018
- National Advisory Board Member - National Police Research Platform (NPRP)
- Board Member - "Eden House" New Orleans. Residential program to help women end the cycle of dependence and violence of human trafficking and the sex trade industry.

EXPERIENCE

LOYOLA UNIVERSITY NEW ORLEANS August 2014 - Present

Department of Criminology and Justice
6363 St. Charles Ave – Box 55
New Orleans, LA 70118

Professor of Practice

Dr. Serpas joined the Loyola University of New Orleans Criminal Justice Department as a Professor of Practice in the fall of 2014, teaching graduate and undergraduate courses. Dr. Serpas has also served as an Adjunct and an Assistant Professor of Criminal Justice, Extraordinary Faculty, Loyola University New Orleans, teaching graduate and undergraduate courses from 1993 to 2001. He has also taught graduate courses at Southern University New Orleans and Tennessee State University.

Dr. Serpas has published several articles including: *Beyond Compstat: Accountability Driven Leadership; The Next Step in Accountability Driven Leadership: Compstating the Compstat Data; Accountability Driven Leadership: Assessing Quality versus Quantity*; gun violence in America, *Illegal Gun Crimes: A View from the Streets*; police disciplinary systems, *An Employee Disciplinary System that Makes Sense*; the use of termination

for police employees who are untruthful, *The Untruthful Employee: Is Termination the Only Response;* a co-author on the topic of crime following a disaster, *Changes and Challenges in Crime and Criminal Justice after Disaster; The Future of Violent Crime Abatement in New Orleans; Implementing the Principles of Procedural Justice and Police Legitimacy; Evidenced-Based Use-Of-Force Policy: How Research Could Improve Use-Of-Force Policy Development and Training* and the need for actionable research to help guide American police executives.

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NEW ORLEANS POLICE DEPARTMENT

May 2010 – August 2014

715 S. Broad Street New Orleans, LA 70119

SUPERINTENDENT OF POLICE

Following a nationwide search, appointed Superintendent of Police of the New Orleans Police Department (NOPD) by Mayor Mitchell Landrieu. The NOPD had an authorized staff of 1,490 (1,260 sworn) personnel and operated with an annual budget in excess of $135 million. Oversee the day to day management of the Field Operations Bureau, the Investigative Support Bureau, the Public Integrity Bureau, the Management Services Bureau, Consent Decree Compliance Bureau and the Chief of Staff. The City of New Orleans is one of America's oldest cities and includes the historic French Quarter, Port of New Orleans and is home to the NFL's New Orleans Saints and the NBA's New Orleans Pelicans. The city had a population of 378,715 with a land area of 170 square miles. New Orleans has been a majority African American city for more many decades. In 2014 tourist visitors numbered over 9.5 million, attending such events as the annual eleven-day Mardi Gras celebration, Jazz Festival, French Quarter Festival, annual NCAA Football Sugar Bowl, and many other events. The NOPD provided police coverage to: 2012 NCAA BCS National Championship, 2012 NCAA men's Final Four, Super Bowl XLVII (February 2013), the 2013 NCAA Women's Final Four and the February 2014 NBA All-Star game. *Travel + Leisure* magazine recently publicized that New Orleans is the best city in the United States to visit, and *National Geographic Traveler* announced that New Orleans is a "must-see" place in 2014. New Orleans continues to be one of the most visited cities in America. New Orleans is a city rebuilding from one of the worst natural disasters in the history of America, the 2005 Hurricane Katrina land fall. The post-Katrina impact on the NOPD was dramatic and far-reaching. According to an investigation by the US Department of Justice Civil Rights Team as stated in the findings letter of March 16, 2011, *"The challenges confronting the New Orleans Police Department are serious, systemic, wide-ranging and deeply rooted."* The City of New Orleans and the NOPD are in the preliminary stages of implementing a Federal Consent Decree to correct the post Katrina transgressions of the NOPD. Significant reforms had already been implemented to ensure a successful transition to a modern Community Policing oriented agency.

Problem:

- Complete implosion of NOPD leadership, policies, discipline practices, training, etc., in the five years following Hurricane Katrina
  - ✓ At least eight open Federal Criminal Civil Rights Investigations
  - ✓ Numerous officers pending federal trial in the death of Henry Glover
  - ✓ Numerous officers pending federal trial in the death of James Brissette and Ronald Madison in

the "Danziger Bridge" case
  - ✓ Two officers pending federal trial in the death of Raymond Robair
  - ✓ Two officers pending federal trial in the death of Danny Brumfield
- Per capita Murder rate 8-10 times the national average
- An out-of-date use of Compstat and crime fighting techniques had not kept up with national trends
- No community policing philosophy or strategies and significant lack of support from the community – independent survey data showed respondent's total satisfaction with NOPD at 33%
- A complete destruction of any professional relationship with local media – a policy of "no comment"
- Complete loss of confidence, internally and externally, of the legitimacy of Public Integrity Bureau (Internal Affairs) investigations
- Outdated or non-existent technology to deploy resources, analyze and fight crime or process evidence
- A bloated and fractured senior command staff, including a dysfunctional organizational alignment, of civil service classified Police Captains and Majors - overpopulated, insular, resistant to change, disruptive, significant in-fighting of the command staff
- NOPD significantly spending beyond budget authority
- Employee Evaluation System outdated and inconsistent with a customer service culture or a community policing philosophy driven agency
- Police Officer in rank career path promotions (Officer II, III and IV) stalled since December 2009 due to inability to deliver required training and lack of predictable funding to fulfill promotions
- Promotional examinations for Sergeant and Lieutenant stagnant
- No formalized outreach programs to educate and encourage citizen volunteerism with the NOPD

Response:

- Developed and implemented a comprehensive 65-point plan to rebuild department, see "Rebuilding the New Orleans Police Department 2010"
  - ✓ Crime Fighting
  - ✓ Community Outreach and Transparency
    - To advance the idea of Police Legitimacy, initiated a "sell the stop" program to encourage officers to provide more information and explanation for their interaction with citizens.
    - Ordered the purchase and use of Body Worn Cameras for all uniformed field service officers
    - Entered into contract with A&E's ***The First 48*** to advance the community's appreciation of the work of the NOPD and Homicide Detectives
  - ✓ Integrity and Accountability
    - Implemented presumptive termination for untruthfulness in the work place policies
    - Implemented presumptive termination for submitting a false or inaccurate oral or written report policies
  - ✓ Hiring Criteria
  - ✓ Training (Recruit, annual In-Service and leadership)
  - ✓ Labor Relations
  - ✓ 68% of 65-point plan would become components in the negotiated Consent Decree
- Called for the independent review of the NOPD Homicide Unit by the US-DOJ Bureau of Justice Assistance, see "BJA NOPD Homicide Assessment March 2011"
- Called for an independent review of the Sexual Assault investigative practices of the NOPD by the Louisiana Commission on Law Enforcement
- Implemented Professor David Kennedy's "Group Violence Reduction Strategy," November 2012
- Implemented an NOPD led Multi-Agency Gang Unit (local, state and federal law enforcement and prosecutors) in November 2012
- Implemented "Social Network Analysis" tools and techniques following the work of Andrew Papachristos

- Implemented a joint NOPD and State Probation/Parole weekly "Knock and Talk" to follow up on those persons in the community under court supervision for prior illegal use/possession of firearms charges
  - ✓ 2013 strategy expanded to include known or suspected Gang/Group members under active supervision of Probation/Parole
- Implemented a weekly Project Safe Neighborhood (PSN) meeting where NOPD, state and federal officials review and refine investigations of arrest of convicted felons in possession of firearms and other firearms related arrest cases
  - ✓ Increased NOPD assigned PSN detectives from one to nine
- Implemented Community Coordinating Sergeant program in all eight patrol districts
  - ✓ Began the formalized institution of Community Policing techniques and strategies
  - ✓ Extensive training in Community Policing, Problem Oriented Policing, SARA model, Neighborhood Watch development, Crime Prevention Through Environmental Design
- Secured training from the US Department of Justice Community Relation Service for all NOPD supervisors in Conflict Resolution skills and Responding to Allegations of Racial Profiling
- Secured training for 100 NOPD supervisors through the International Association of Chiefs of Police highly acclaimed, "Leadership in Police Organizations"
  - ✓ In 2013 secured philanthropic funding for 14 "train the trainers" and began offering LPO training to supervisors. The NOPD has approximately 300 supervisory officers
- Worked with the New Orleans Crime Coalition (a private organization of diverse business and community leaders) to provide for bi-annual professional surveys of residents' perception of NOPD performance to establish independent data to gauge and monitor success of new strategies implemented
- Implemented a "Sell the Stop" program to advance the ideas of Police Legitimacy and Procedural Justice
  - ✓ See PERF/US-DOJ-BJA Report, "***Legitimacy and Procedural Justice: the New Orleans Case Study,"*** March 2014 (http://www.policeforum.org/assets/docs/Free_Online_Documents/Leadership/legitimacy%20and%20procedural%20justice%20-%20the%20new%20orleans%20case%20study.pdf)
- Hired a trained and experienced professional to manage the Public Affairs Division
- Signed for the first time a Memorandum of Understanding with the Office of Independent Police Monitor
- Appointed for the first time in NOPD history a licensed attorney, with no prior NOPD experience, to be the Deputy Superintendent of Police in command of Public Integrity Bureau (PIB)
  - ✓ Partnered with the FBI to permanently assign two Special Agents to the NOPD PIB
- Appointed for the first time in NOPD history a licensed attorney, with no prior NOPD experience, to be the Deputy Superintendent of Police in command of the Consent Decree Compliance Bureau
  - ✓ The Consent Decree outlines 428 paragraphs of deliverables required of the NOPD and the City
- Purchased and implemented state-of-the-art crime analytic software, deployment analytic software and policy development/delivery system software
  - ✓ Corona Ops Force
  - ✓ Omega Crime View
  - ✓ CopLink
  - ✓ Lexipol
- Obtained grant funding through the National Institute of Justice to engage Marshall University and the Louisiana State Police Crime lab to conduct DNA testing on over 800 backlogged Sexual Assault Kits that had not been acted on since 2005 and later
  - ✓ Successfully negotiated a hiring contract with State Police Crime Lab to provide two NOPD DNA analyst, while simultaneously planning to rebuild a new NOPD Crime Lab with DNA capacity
- Revolutionized the Firearms Examination Lab
  - ✓ Secured new NIBIN firearms examination equipment
  - ✓ Secured new training opportunities to increase NOPD certified BATF Firearms examiners
- Secured external funding to install audio/video equipment in eight patrol districts for the recording of in-custody interrogations

- Petitioned and received permission from the Civil Service Commission to provide, for the first time in NOPD history, the ability to select 16 Police Commanders as the third highest ranked NOPD leadership position from the pool of existing Lieutenants, Captains and Majors
- Inherited a multi-million-dollar deficit in the General Fund, resulted in eliminating all overtime for 12 months, laying off personnel and managing a 10% furlough for the last five months of 2010. Severe budget austerity measures in place for multiple years prohibited the continual hiring of police officers
    - ✓ As of August 2014, the NOPD had lost 26% of sworn officers (1,540 vs. 1,133 a loss of 407)
- Raised $250,000 in a combination of private and public funds to contract with internationally known author David Osborn, *The Public Strategies Group,* to develop a new employee evaluation system that will measure customer service and community policing behavior. Additionally, individual and/or team performance goals created for every unit of the NOPD have been created and linked to the new employee evaluation system. Pending Civil Service Rule changes, the new evaluation system will be used to make continued employment and promotion decisions
- Working closely with the Fraternal Order of Police, created an on-line training protocol to deliver the necessary 40 hours of additional training for each rank of Police Officer (II, III and IV). Worked closely with Chief Administrative Officer of New Orleans and secured predicable funding in 2013 and 2014 operating budget to provide for Police Officer promotions
- Received support to plan and provide Sergeant's examination in 2013 and a Lieutenant's examination in 2014
- Opened the department's, and each of the eight-patrol district's, weekly COMPSTAT meetings to the public
- Created a Volunteers Can Lead (VoCal) program, rejuvenated a Citizens Police Academy and helped formed a "Krewes for Kops" which is a support group of the major Mardi Gras parade organizations

Results:

- Implemented the 65 Point Plan to Rebuild the NOPD
    - ✓ Substantial reforms of the 65-point plan in place
        - "NOPD Reform Status Report May 2010 through December 2012"
- United States Attorney General Eric Holder, *New York Times* July 24, 2012, "…*meaningful progress has already been made….and Chief Serpas did not wait for our findings to begin the reform process*," when referring to the work of the NOPD during the investigation, and subsequent Consent Decree negotiations with the Department of Justice from May 2010 until July 2012
- Implemented 82 specific DOJ-BJA recommendations to rebuild the NOPD Homicide Unit
- Sexual Assault unit leadership replaced and investigative strategies realigned with current trends
    - ✓ More than 800 Sexual Assault DNA Kit backlogged cleared
    - ✓ Since May of 2010 there has been a 62% increase in the NOPD reporting of UCR Rape cases
- 2013 Year End Homicide and Gang Member Involved (utilizing Group Violence Reduction Strategy):
    - ✓ Total Murders declined 19% in 2013 to the lowest number of murders in one year since 1985
        - Murder declined by 8% through the first half of 2014 compared to 2013
    - ✓ 2013: 156 total murders, with 52 Gang Member Involved (33.3%)
    - ✓ 2012: 193 total murders, with 114 Gang Member Involved (59.1%)
    - ✓ At the end of the 2013, Gang Member Involved murders were down 54.4% compared to 2012
- Non-fatal shooting victims through the first quarter of 2014 declined by 13% vs 2013
    - ✓ Declined 12% 2013 vs 2012
    - ✓ Declined 18% 2013 vs 2011
    - ✓ Declined 20% 2013 vs 2010
- NOPD led Multi-Agency Gang Unit identified 40 gangs/groups with approximately 600 members
    - ✓ Investigated and secured RICO type indictments on eight gangs, and more than 90 gang members in both state and federal courts during 2013
- A Social Network Analysis is completed on every victim of homicide or a non-fatal shooting which significantly advances detectives ability to solve these crimes
    - ✓ Social Network Analytics preliminary data suggests and identifies approximately 1% of the City's population is disproportionally involved in gun violence as a victim or perpetrator

accounting for 34% of the total homicide or non-fatal shooting events
    - This level of analytics advances efficient and effective investigations and provides greater clarity in the deployment of social service type responses to these offenders/victims before they become involved in a violent criminal act
- Knock and Talk strategy resulted in 1,417 visits with 246 arrest for probation violations or crimes present
- PSN weekly meetings have reviewed and refined over 1,040-gun arrest cases to be presented for prosecution
- Community Policing initiatives led by Community Coordinating Sergeants and Patrol District Commanders in all eight patrol districts and centralized detective functions (i.e., homicide unit) has led to increased public confidence in the NOPD in general, an increase in NOPD specific Crime Stoppers tips and increasing confidence in NOPD officers by the community
    - ✓ From August 2010 – July 2014, Community Coordinating Sergeants have:
        - Led more than 3,904 meetings using principles and techniques such as:
            - SARA Model
            - Community Policing
            - Crime Prevention Through Environmental Design
            - Building Neighborhood Watch
            - Quality of Life Enforcement Strategies
        - Meetings have been attended by more than 88,439 residents and business owners
    - ✓ To institutionalize government wide support for Community Policing, for the first time, directly linked the NOPD Community Coordinating Sergeants to the Chief Administrative Officer of New Orleans to have full support in fighting blight, quality of life concerns, lighting, sanitation, codes enforcement, etc.
- Independent polling data continued to show marked improvement in serving the people of New Orleans, particularly: total departmental satisfaction; police performance in neighborhoods; getting drugs off the streets; cooperating with public; honesty/integrity of officers; professionalism; attitude; overall competence; and perceptions of neighborhood safety
    - ✓ See Citizen Satisfaction Surveys (http://www.crimecoalitionnola.com/)
- Crime Stopper tips increased by 10% 2013 vs. 2012; 25%, 2012 vs. 2011; and, 11% 2011 vs. 2010
- To begin testing officer's acceptance of "Selling the Stop," in the March 2013 independent survey new questions were added. Data showed that 61% of New Orleans respondents said officers were totally clear in explaining the reason for the contact or interaction. In August 2013 respondents reported 70% of interactions with officers the officers were totally clear in explaining the reasons for the contact
- Media relations are professional and responsive, including a decentralized approach to interviews and communications strategy
    - ✓ More than 17,500 subscribers to NOPD email alert system
    - ✓ Over 2,800 postings to the NOPD *Facebook* page
    - ✓ During 2013 and 2014 NOPD PIO staff responded to more than 3,000 New Orleans area media email request for information
- Following convictions in federal trials from the Katrina era, initiated several internal investigations of personnel accused of significant administrative misconduct, resulting in the termination or forced separation of several employees of every rank from police officer up to and including a Deputy Superintendent of Police
- Combination of PIB Integrity Checks, updated in-service training and updated or new policies and training implemented since May 2010, such as: Professional Performance Enhancement Program, Complaint Avoidance, Internal Investigations, Performance Evaluation, and Job Performance Improvement Planning, Leadership in Police Organizations and enhanced confidence in PIB investigations resulted in demonstrable outcomes:
    - ✓ 86 officers arrested for criminal misconduct between May 2010 and August 2014
    - ✓ 11 sworn officers terminated for untruthfulness between May 2010 and August 2014
        - One additional officer resigned while under investigation for allegations of

untruthfulness
- ✓ A 19.6% reduction in total misconduct complaints 2013 vs 2012
- ✓ A 16.1% reduction in total misconduct complaints 2012 vs. 2011
- ✓ A 13.8% reduction in total misconduct complaints 2011 vs. 2010
- ✓ In August 2009, 53% of survey respondents who had a contact with an NOPD Officer described it as pleasant or very pleasant
- ✓ In March 2014, 68% of respondents described officer as pleasant or very pleasant
  - Asking the same question in August 2010, February 2011, August 2011, February 2012 August 2012, March 2013, August 2013 and March 2014 this response data now averages 74%

- NOPD's COMPSTAT and crime fighting practices, unchanged since 2001, were substantially updated in early 2012 (see: "Enhancement of NOPD Crime Fighting Strategy 2012") and included the use of "Data Driven Approaches to Crime and Traffic Safety" a nationally recognized accountability and data driven approach to fighting violent crime, minor crime and reducing motor vehicle accidents and accidents with injury
  - ✓ In the 50 months after May of 2010, compared to the 50 months before:
    - Total sworn actual staffing in May 2010 was 1,540
    - Total sworn actual staffing in August 2014 was 1,133 (loss of 407 officers or 26%)
    - Total Murders were down 12.9%
    - FBI UCR Part I Violent Crimes were down 4.8%
    - FBI UCR Part I Property Crimes were down 5.1%
    - Total FBI UCR Part I Crime was down 5.1%
    - Total arrests were down 41.6%
  - ✓ Significant changes in arrest and investigation practices since May 2010 have made positive improvement in the outcomes of NOPD investigations as they are presented in Criminal Court
    - ***Metropolitan Crime Commissions Excellence in Law Enforcement Award*** in recognition of establishing a more effective partnership between Police and Prosecutors resulting in significantly higher conviction rates of violent, weapons and repeat violent offenders (February 18, 2014)
    - See Metropolitan Crime Commission (http://metrocrime.org/)
  - ✓ Increased the number of BATF certified Firearms Examiners from one to three
    - Eliminated a multi-year backlog of firearms examinations – providing critical evidence
    - Negotiated successfully for a second BATF NIBIN machine to be assigned to NOPD
    - The NOPD for many months has been a top three submitting department of NIBIN acquisitions sites in America, as opposed to near the bottom of submissions in 2010
    - According to the BATF, for FY 2013 the NOPD ranked third (behind Phoenix and NYPD) in the nation for NIBIN acquisitions
  - ✓ "Operation Bloodwork," an innovative strategy to submit ten "no-suspect" property crime cases per month of Cold Case NOPD Property Crime Investigation yielded nearly 100% identification of useable DNA and/or identification of suspect
    - In 2013 the strategy expanded: monthly submissions of DNA recovered from current Property Crime investigations
      - 50% of DNA scene evidence submissions resulted in a DNA profile hit
- A reorganized NOPD of 16 Divisions/Districts led by Police Commanders, falling under five Deputy Superintendents of Police, has allowed for clearer lines of accountability and eliminated fractured chains of command, redundant and bloated NOPD staffing between Lieutenant and Superintendent
  - ✓ 16 Police Commanders chosen from all eligible Lieutenants, Captains and Majors has increased diversity of incumbents and provides for greater opportunities of effective succession planning
  - ✓ The NOPD has 20% fewer leadership positions between Lieutenant and Superintendent
- The NOPD has operated more efficiently within the 2011, 2012, 2013 and 2014 General Fund Operating budgets
- Upon successful passage of Civil Service Reform, the NOPD will implement the newly created

employee evaluation system produced in partnership with David Osborne and *The Public Strategies Group*. The new system links individual and unit goals, as well as customer service goals and community policing goals to employee performance. The NOPD will implement the use of 360 evaluations and citizen call back techniques to verify employee performance externally and internally

- Promoted over 200 Police Officer II candidates using the new on-line training in November 2012, promoted 200 Police Officer III candidates in 2013. In 2014 promoted more than 100 Police Officer IV candidates
- Secured budget authority and on-line training to provide promotions for Police Officer II, III and IV candidates, and Sergeant and Lieutenant examination in 2013, 2014 and beyond to provide for paths of success for personnel
- The VoCal program had 69 continuous volunteers each donating at least 12 hours per month assisting in units such as: Victims and Witnesses support unit, Homicide Cold Case, Mounted Unit, Patrol Districts
- The NOPD has provided 2-4 Citizens Police Academy classes each of the last three years
- The Krewes for Kops in the last two years has raised more than $50,000 to purchase a state of the art Firearms Simulation Machine for NOPD training

METROPOLITAN NASHVILLE POLICE DEPARTMENT January 2004 – May 2010
200 James Robertson Pkwy. Nashville, TN 37201

CHIEF OF POLICE

Following a nationwide search, appointed the sixth Chief of Police of the Metropolitan Nashville Police Department (MNPD) by Mayor Bill Purcell. The MNPD employed a total staff of approximately 1,800 (1,365 sworn) personnel with an annual budget in excess of $160 million. Oversee the day-to-day management of the Field Operations Bureau, Investigative Services Bureau, the Administrative Services Bureau, the Office of Professional Accountability, the Behavioral Health Services Division and the Public Information Office. The Metropolitan Government of Nashville and Davidson County was the first metropolitan form of local government in the United States when implemented in the spring of 1964. The Police Department is the chief law enforcement agency for a resident population of over 620,000 as well as a land area of 533 square miles. Nashville is the capital city of Tennessee, is known as "Music City USA," hosting over 10 million visitors per year, and is the hub of three Interstate Highway systems (I-65, I-24, I-40). Nashville is also home to Tennessee State University, Vanderbilt University, Lipscomb University and Belmont University. The NFL Tennessee Titans and the NHL Nashville Predators are home based in Nashville. Nashville was the nation's top city for business expansion and relocation for two years in a row, according to ***Expansion Management*** magazine (Jan. 2006). Nashville topped ***Kiplinger's*** magazine's list of smart places to live.

Problem:

- Highly centralized managerial philosophy – stifling creativity, risk taking, mission achievement
  - ✓ Focus of department on "reactive" style of policing
  - ✓ Focus of department on "preserving the status quo"
- Top heavy command resulting in inconsistent messaging, follow through and lack of accountability
  - ✓ Two Deputy Chiefs, five Assistant Chiefs and one Police Major
- Outmoded organizational structure of centralized functions resulted in conflict among commands and poor community support
- Lack of coordinated, focused, and accountable effort at crime reduction, crime control strategies, meeting the needs and request of the public at large regarding quality of life issues, or employee accountability
- Significant "in-fighting" of executive staff
- Attempt at COMPSTAT process flawed - monthly meetings with pre-set agendas
- Disciplinary practices seen as retaliatory and preferentially administered
- Budget office poorly supervised with little support from City Administration and Council

- Strained relationships with minority communities
- Dramatic organizational and cultural change needed to advance the agency

Response:

- Requested and received Civil Service approval to eliminate the civil service classified positions of Assistant Chief and Police Major, reallocating the five Assistant Chief incumbents to Police Captain, thus flattening out the chain of command
    - ✓ Reallocation action challenged and upheld by courts including the Tennessee Supreme Court (June 2008)
- Reduced the number of Bureaus from five to three
- Appointed executive staff representing minority and majority members
- Civilian Budget expert hired, elevated this position to a Deputy Chief of Police rank, replacing Police Captain assigned to these duties
- Continued the appointment of a civilian licensed attorney as the Commander of Office of Professional Accountability (Internal Affairs), and elevated this position to a Deputy Chief of Police rank.
- Implemented weekly departmental COMPSTAT meetings and Accountability Driven Leadership model
- Initiated department wide focus on Community Policing, Crime Fighting, and Quality of Life
    - ✓ One of the founding departments to use the concept of Data Driven Approaches to Crime and Traffic Safety (DDACTS) with the DOJ-Bureau of Justice Assistance
    - ✓ One of the first major city police department to implement the "Drug Market Intervention – *High Point, NC Model*" program successfully in East Nashville
- Initiated weekly COMPSTAT meetings at Precinct Commands and required open to public
- Departmental weekly COMPSTAT meeting opened to public with weekly local media attendance
- Initiated directed and focused growth of Neighborhood Watch Groups
- Implemented a new disciplinary process that included:
    - ✓ Zero tolerance for truthfulness and other moral or ethical violations of policy
        - Truthfulness policy challenge - upheld by the Tennessee Court of Appeals, January 2010
    - ✓ Disciplinary Matrix that provides predictability, reliability and validity in sanctions for infractions
    - ✓ Settlement agreement process that allows for employees to acknowledge error without the need for timely and costly administrative investigations and receive agreed upon sanction according to Matrix
    - ✓ A suspension practice that allows employees to stay on the job, with reduced pay, to serve these penalties
- Decentralized homicide, robbery, burglary and narcotics detectives and supervisors to Precincts
- Promoted the first African American Female to Police Captain and assigned as Commander of the North Patrol Precinct, promoted Caucasian Female to Police Captain and assigned as Commander of the Hermitage Patrol Precinct – first time in MNPD history the assignment of two females to lead a Precinct Commands
- Successfully petitioned the Civil Service Commission to eliminate a "linear" promotion rule of sergeants and lieutenants
- Reconstituted Homicide Cold Case Unit
- Created "Volunteer Chaplin Corps"
- Implemented in 2005 an expanded and specifically designed "El Protector" program for Nashville to engage and serve the Latino community
    - ✓ February 2009 – Vera Institute of Justice, under Department of Justice COPS Grant, named the MNPD ***El Protector Program*** one of ***"Six Best Practices"*** in ***"Bridging the Language Divide: Promising Practices for Law Enforcement,"*** of 200 United State Law Enforcement agencies reviewed
- Maintained and expanded victim services the MNPD provides to the community (Counselor Services, Victim Intervention Program, DV Division, Interdenominational Minister's Fellowship Peniel Project,

Volunteer Chaplin program, etc)
  - ✓ October 2009 – International Association of Chief of Police, ***Excellence in Victims Services Award***, winner for extra large police departments
- Initiated in June 2005 twice per year polling of residents and businesses to effectively gauge the support and challenges the MNPD faced, with results of the survey made public
- MNPD competed for, and was selected as one of four Regional Training Centers for the G.R.E.A.T centers for America, Summer 2009
  - ✓ Appointed a member of the G.R.E.A.T. National Policy Board
- Created a *Parental Enforcement Program - Community Contact Team* in May 2006. The program is staffed by two Juvenile Detectives who identify and meet with the families of children judged delinquent, or likely to be, and share with those families information regarding numerous government and private organizations that seek to help parents with children in delinquency type behaviors
- Initiated *Juvenile Probation Compliance Checks*, partnered with Juvenile Court Probation Officers in February 2006. This program seeks to ensure a collaborative follow up on Juvenile Offenders and their families to ensure compliance with court orders, expose PEP Detectives to families in an effort to further the Community Contact Team goals, and provide detectives with a face to face meeting with juvenile offenders
- Created shared office facilities in Precincts with Tennessee Board of Probation and Parole to enhance communications and effectiveness in released offenders into the community
- January 2010 implemented the *Leadership Circle – 360 Profile* for all Lieutenants and above, including civilian equivalents, to asses leadership development needs for the agency

Results:

- Part I Major crimes declined in each year: 2004, 2005, 2006, 2007, 2008 and 2009
  - ✓ At the end of 2009, the overall Part I Major crime rate lowest since 1978, a 31-year low
    - 2009 the number of Part I reported crimes was the lowest since 1985, a 24-year low
  - ✓ At the end of 2009, the violent crime rate the lowest since 1985, a 24-year low
    - 2009 the number of reported violent crimes was the lowest since 1990, a 19-year low
  - ✓ At the end of 2009, the property crime rate the lowest since 1972, a 37-year
    - 2009 the number of reported property crimes was the lowest since 1989, a 19-year low
  - ✓ 2009 represented six consecutive and unprecedented years of crime reduction which had never occurred in Metro Nashville's history
- Bi-annual survey data over the several years used showed dramatic and continuing support of the MNPD by residents and businesses with averages (June 2005 through December 2009) of:
  - ✓ 81% of adults and 84% of businesses are satisfied/very satisfied with competence of MNPD
  - ✓ 72% of adults and 75% of businesses are satisfied/very satisfied with MNPD cooperation with the public to address their concerns
  - ✓ 76% of adults and 76% of businesses are satisfied/very satisfied with MNPD ability to fight crime
  - ✓ Survey analysis demonstrates that 83% of Whites, 89% of African Americans and 87% of Other surveyed are satisfied/very satisfied in the MNPD fighting crime (Dec 2009 iteration)
  - ✓ 84% of adults and 87% of businesses feel safe in their neighborhood or business
  - ✓ 80% of adults and 83% of businesses are satisfied/very satisfied with the quality of service of the MNPD
  - ✓ 84% of Nashville crime victims reported their crime in the June 2009, and 78% in the December 2009 survey analysis (Businesses reporting were 81% in each iteration)
    - National Crime Victimization Data generally shows less than an average of a 50% report rate of violent and property crime in U.S. for the period 1999 – 2008
- Unprecedented and sustained employee performance for six consecutive years with static staffing
  - ✓ There had been an average annual increase in the number of monthly Self-Initiated activity actions by officers of 27.6% over seven years
  - ✓ At the end of 2003, there were 163,976 self-initiated actions versus 694,528 at the end of 2009
  - ✓ MNPD self-initiated activity had averaged a 27.5% increase per year since 2003

- Fatal Crashes and Fatalities trended down for three years, with 2009 crashes and fatalities lowest since 1991
- Injury crashes down 15% in 2009, with six consecutive years of injury crash reductions at the end of 2009
- Total auto crashes down 12% in 2009. Total auto crashes have declined five of six years
- Second Place, 2009 National Law Enforcement ***Chief's Challenge*** – Municipal Category over 1,001 officers, International Association of Chiefs of Police.
- Active Neighborhood Watch Groups had grown 68%, since January 2004, to 429 active organizations at the end of 2008 with officers sponsoring or attending 1,424 community meetings
  - ✓ In 2009 MNPD officers sponsored or attended over 1,758 community meetings, a 23% increase
  - ✓ In 2009 total Neighborhood Watch groups increased by 46, to 475 groups, an increase of 11%
- Homicide Cold Case Unit reorganized in March 2005
  - ✓ 382 cold cases reviewed
  - ✓ 38 cases cleared or solved (30 by arrest, 7 by exception, and 1 indictment issued)
- May 2007 (latest nationwide comparison data available) Nashville compared to the largest 75 counties in America:
  - ✓ 5% higher conviction rate on all offenses
  - ✓ 6% higher conviction rate violent offense arrest
  - ✓ 9% higher conviction rate on major property crimes arrest
  - ✓ 11% higher conviction rate on felony drug arrest
- Comparing 2004, 2005 and 2006 to three year period before:
  - ✓ Arrest up 27%
    - 2007 year end up 8.2%
    - 2008 year end up 2.7%
    - 2009 year end estimate up 9%
  - ✓ Warrants Served by Arrest up 241%
    - 2007 year end up 3%
    - 2008 year end up 3.6%
    - 2009 year end estimate up 3%
  - ✓ Traffic Stops up 118%
    - 2007 year end no change (warnings issued in 46% of stops)
    - 2008 year end up 11% (warnings issued in 54% of stops)
    - 2009 year end estimate down 5% (warnings issued in 64% of stops)
  - ✓ DUI Charges Up 6%
    - 2007 year end up 32%
      - Fatal accidents and deaths at 15 year low
    - 2008 year end up 9%
      - Fatal accidents and deaths maintain 15 year low
    - 2009 year end estimate up 9%
  - ✓ Narcotics charges up 34%
    - 2007 year end up 3%
    - 2008 year end down 3%
    - 2009 year end estimate up 4%
  - ✓ Calls for Service up 20%
    - 2007 year end up 8%
    - 2008 year end up 2%
    - 2009 year end estimate up 20%
      - Highest number of CFS in history of MNPD
  - ✓ 2009 maintained average of 1,330 of 1,365 authorized sworn strength
    - Awarded 50 new police officer FTE through COPS office, August 2009
- MNPD employed 2.10 officers per 1,000 residents
  - ✓ Comparable cities employ 2.74 officers per 1,000 residents

- As a result of changes requested to Civil Service Promotional Rules, MNPD Chief now has ability to consider candidates based upon full work history and diversity of experiences, replacing a linear promotion standard
- Every budget cycle finished within allocation
- To enhance employee communication implemented an anonymous "in-touch" phone call system, receiving nearly 1,200 calls
- Initiated and continued monthly meeting with all Labor organizations in the agency
- Created a Volunteer Chaplin Corps that numbers over 50 members of the Nashville area clergy who on a rotational, on-call basis provide pastoral services to the MNPD and community at scenes of violent crimes or deaths
    - ✓ Majority of members are of the African American community of churches
    - ✓ Significant increase in support and understanding between the MNPD and diverse communities
- *Parental Enforcement Program – Community Contact Team* meet with 3,394 children and parents in its first three years of existence (May 2006 – December 2009)
- *Juvenile Probation Compliance* teams visited 6,716 homes between February 2006 and December 2009
- *"Under the leadership of Chief Serpas, the MNPD has become a benchmark agency in driving operations and resource deployment based on data evaluation and mapping technologies…The MNPD epitomizes 21st century policing. Its use of state-of-the-art data analysis and mapping technologies has made it a leading example in crime and crash reduction activities."* (source: James H. Burch, II, Acting Director Bureau of Justice Assistance, U.S. Department of Justice, and Michael N. Geraci, Director, Office of Safety Programs, National Highway Traffic Safety Administration, U.S. Department of Transportation, July 2009 Police Chief, page 20)
  http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display_arch&article_id=1839&issue_id=72009
- Initiated a partnership with the TN Board of Probation and Parole to house Agents in Precinct facilities
- Secured $11.5 million in capital funding to implement an Advanced Record Management System. The ARMS investment revolutionized the MNPD's management of millions of criminal and administrative records, employee efficiency (e.g., automated field reporting) and crime fighting. Additionally secured on-going operating fund support of just under $1 million annually to support the ARMS system
- Secured $7 million in capital funds to build a complete Crime Lab with DNA/Toxicology and other scientific examinations (e.g., firearms lab) capacity. The MNPD will be the first city in the State of Tennessee to have a fully functional stand alone DNA and Toxicology Lab. Additionally secured $1.5 million for on-going operating fund expenses to support the new MNPD Crime Lab
- Secured $6.9 million in capital funds to construct a new West Patrol Precinct
- Secured necessary capital funds to build a new East Patrol and Central Patrol Precinct totaling approximately $ 4 million
- Secured $500,000 in capital planning funds to assess and determine future locations of two new additional Patrol Precincts
- Calendar years 2007 - 2009 applied for and received over $19 million in Federal and State Grants to advance the technology, equipment and staffing of the MNPD ($25 million 2004-2009)
- Calendar years 2007 - 2009 the MNPD received 11,000 applications for Police Officer employment
- Reconstituted the MNPD Drill and Ceremony Team in 2006. MNPD DCT was the 2009-10 FOP National Championship team and was the 2007-08 National Championship Team

WASHINGTON STATE PATROL August 2001 – January 2004

P.O. Box 42601 Olympia, WA 98501

CHIEF – WASHINGTON STATE PATROL

Appointed the 19th Chief of the Washington State Patrol (WSP) by Governor Gary Locke after a nationwide search, and was unanimously confirmed by the Washington State Senate. The WSP is the largest public safety,

law enforcement agency in the state. The WSP is a statewide general authority Washington law enforcement agency employing over 2,200 (1,100 sworn and 1,100 professional staff) personnel with a biennial budget of $362.4 million. Oversee the day-to-day management of the agency's six bureaus: Field Operations Bureau, Fire Protection Bureau (State Fire Marshal), Forensic Laboratory Services Bureau (Statewide Crime Lab), Investigative Services Bureau, Management Services Bureau, and Technical Services Bureau, and the Audit/Inspections, Labor Attorney/Risk Manager, Government/Media Relations, and Department Psychologist.

Problem:

- Highly centralized managerial philosophy – stifling creativity, risk taking, mission achievement
- Very little to no useful data to assess direction, success, or failure of organization
  - ✓ No accountability of budget at District/Division level
  - ✓ Overtime in Field Force overspent by $1.1 million in 99-01 biennium
    - No indication of "what was purchased with OT"
    - Lowest level of productivity in previous 10 years
- Significant discord between sworn and non – sworn staff
  - ✓ No sense of "one department or a department mission"
  - ✓ Opportunities for minorities, females, and non-sworn staff perceived as limited
- Disciplinary practices seen as retaliatory and preferentially administered
- 17 separate Collective Bargaining Units, significant discord between labor and management
- Strained relationship with Legislative members and staff
- Adopted Problem Oriented Public Safety (POPS)
  - ✓ Funded by DOJ/COPs
  - ✓ Loss of direction in core traffic law enforcement mission
  - ✓ POPS programs generally did not work in concert with citizens
  - ✓ District Captains had little to no interaction with communities
- Strained relationships with Law Enforcement agencies throughout state
  - ✓ Perception was that WSP was not on task
- Strained relationships with media (video, print, radio) statewide
- Significant budgetary shortfalls in Washington State, and reductions to WSP
- Dramatic organizational and cultural change needed to advance the agency

Response:

- Assistant Chief's position eliminated – flattened out the Executive Staff
- Certified Public Accountant hired as the newly created Management Services Bureau Director
- Accountability Driven Leadership model created and implemented agency wide through weekly "Strategic Advancement Forums (SAF)" accountability meetings led by Chief and Executive Staff, beginning in January 2002
  - ✓ The SAF meetings created a significant expansion of the ***COMPSTAT*** strategy for the first time to a statewide law enforcement, public safety mission, and the general management needs of a large and diverse agency
  - ✓ The principles of the WSP – SAF/COMPSTAT process were integrated with then Attorney General Christine Gregorie into that office; subsequently, Governor Gregorie substantially expanded and codified these principals into the "Government Management Accountability & Performance" statutes of Washington State
- Core Mission developed for Field Operations aimed at reducing collisions, injuries and death
  - ✓ DUI, Speeding, Aggressive Driving, Seat Belts, Criminal Interdiction (warrant service & narcotics enforcement)
- Decentralized budget authority and accountability to District/Divisions throughout WSP
- Three of six Executive Staff appointments were minority or female personnel, and half of the Executive Staff appointed were non-sworn personnel
- Appointed three females to Captain and assigned the first female to a District Commander position. Appointed female candidates to lead the Information Technology Division, Human Resource Division,

the Labor Attorney/Risk Manager position, and the Public Affairs Officer
  - ✓ All of these positions were formerly held by sworn personnel and were male employees
- Assistant Chief's position eliminated and replaced with career civilian professional. Human Resources and Budget/Fiscal Services Divisions civilianized with career professionals replacing sworn Patrol Captain's positions after negotiating with Collective Bargaining Unit
- Implemented changes in promotional practices for Sergeants and Lieutenants, as well as negotiated within Trooper and Sergeant Collective Bargaining Agreement an MOU allowing Chief a Rule of 5, up from a Rule of 3 when considering candidates for promotion to Sergeant and Lieutenant
  - ✓ 32% of top 25 candidates for 2003 Sergeant's exam were women or minorities
    - 16% of top 25 candidates on the 2001 Sergeant's exam; 24% for the 1999 exam
  - ✓ 32% of the top 25 candidates for the 2002 Lieutenant's exam were women or minorities
    - 8% of the top 25 candidates for the 2000 Lieutenant's exam; 8% for the 1998 exam
- Negotiated new Disciplinary process with Collective Bargaining Units
  - ✓ predictable/reliable/valid penalty schedule
  - ✓ A Settlement Agreement process created (112 completed)
    - Agreement includes a "no-appeal" proviso, dramatically reducing financial, emotional, and political cost of disciplinary actions
    - In 2002, less than ½ of 1% (11 employees) received a suspension outside of new Settlement Process, compared to 65 employees in 2001
  - ✓ See, "*An Employee Disciplinary System that Makes Sense,"* Police Chief magazine Sept 2003
- Civilian career professionals in Budget/Fiscal Services have been positively received by Legislative and Governor's budget staff personnel
- POPS refocused, linked to communities more directly
- Community Public Safety Forums (Town Hall Meetings) initiated throughout the state
- Worked closely with Law Enforcement leaders throughout the state, created joint Warrant Emphasis programs, expanded WSP support (narcotics detectives, bomb and narcotics dogs, computer forensic, criminal & administrative investigations) of local agencies
- Public Information Officers trained and assigned to each Bureau, District, and Division
- Continually meet with editorial boards, video and radio news directors
- Hired a professionally trained and experienced Public Affairs Officer

Results:

- Two full years of weekly *Accountability Driven Leadership – SAF* meetings, January 2002 – December 2003
  - ✓ Outputs or Efficiencies
    - DUI Arrest up 48%
    - Speeding citations up 36%
    - Seatbelt citations up 58%
    - Aggressive Driving citations/infractions/arrest up 192%
    - Drug Recognition Expert Evaluations up 63% (last 12 months-July 03)
    - Total traffic stops up 20%
    - Total arrest/infractions up 43%
    - Felony/Misdemeanor Warrants served from traffic stops up 38%
    - Felony/Misdemeanor Drug Arrest from traffic stops up 72%
    - Commercial Vehicle traffic stops up 32%
    - Commercial Vehicle Inspections up 80%
  - ✓ Outcomes or Effectiveness
    - Total Fatal Collisions down 4%
    - Total Interstate Fatalities down 21%
    - Total State Route Fatalities up 3%
    - Total Injury Collisions down 9%
    - Total Interstate Injuries down 11%
    - Total State Route Injuries down 7%

  - Commercial Vehicle Involved Fatalities down 23% (five year low at the end of 2003)
  - Collisions requiring seatbelt citation down 32%
  - Total speed related collisions are down 4%
  - **Total citizen initiated complaints down 34%**
  - **Total complaints of employee misconduct down 25%**
- First Place Winner for Highway Patrol/State Police agencies with more than 1,000 officers for the 2002 ***International Association of Chiefs of Police (IACP) - Chief's Challenge Award***
- Winner of the IACP 2002 ***Clayton J. Hall Memorial Award*** for the law enforcement agency that best represents what a comprehensive traffic safety program should be out of a contestant pool of 410 agencies submitting. An agency can be awarded this honor only once in its history
- "*WSP is <u>the benchmark</u> in performance management*," according to *Rene Ewing & Associates*, December 3, 2004, page 13, reporting their 2001-2004 analysis and audit findings of the WSP to the Washington State Transportation Audit Board on the question: *"What performance benchmarks have been used in other states to measure the performance of similar programs in similar agencies? How do they compare with those used by the WSP?"*
- According to *Rene Ewing & Associates* analysis of the WSP, "agency strengths were: SAF Process; data analysis; budget focus; management culture; updated measures; alignment; agility; communications; and, focus on results"
- Competed each budget cycle within appropriation
- Successfully investigated high profile criminal and administrative investigations of appointed and elected officials throughout the state
- Unprecedented and sustained employee performance
- Secured capital funding from the State Legislature to completely renovate the Seattle based Crime Lab, and new funding to build a full service Crime Lab in eastern and southwest Washington
- Year 2002 Activity compared to 2001
  - ✓ 10% increase in the number of DNA cases analyzed
    - 2003 Year End up 19%
  - ✓ Fire Marshal inspector activity up by 21%
    - 2003 Year End up 37%
    - reduced average days facility out of compliance Fire Safety codes: 90 to 49 days
  - ✓ Accounts Receivable balances have been reduced by 45%
    - 2003 YTD through October reduced 36%
  - ✓ 337,000 total Criminal History Dispositions in backlog, January 2002, with average Felony backlog of 13 months, reduced to 3 months by 2002 year end: Misdemeanor backlog of 43 months at year end 2002
    - 2003 Year End – all backlog of Misdemeanor and Felony dispositions eliminated
  - ✓ 175,000 backlog of Fingerprint Cards reduced to zero by end of 2002
    - 2003 Year End remains current with no backlog
  - ✓ SWAT opened 50 proactive Methamphetamine investigations versus 7 in 2001 while conducting 40 Tactical Operations and 226 Methamphetamine Lab investigations
    - 2003 YTD, October, arrest of major dealers/complex narcotics organizations up 88%
  - ✓ Computer Crimes Unit: 123 cases up 6%, and 57 Child Pornography Cases up 37%
  - ✓ Overtime and supply funds were placed under the control of District Commanders, under spent, and those dollars reassigned to purchase needed equipment and supplies. Efficiencies gained in FOB budget management of overtime and supplies has allowed for the purchase of new firearms for every commissioned member of the WSP –$270,000 expenditure, as well as a $211,000 investment in an agency wide T1 communication lines and email upgrades within 01-03 agency allotments.
  - ✓ According to Washington State University's 2003 Citizen's Survey: when asked, "Overall, the Washington State Patrol does a good job of performing its mission. *<u>Whites, Latinos, African Americans, Asians and Native Americans all were over 80% in the categories of agree or strongly agree</u>*…Trends in responses over time indicate that the Patrol has not suffered a decline

in ratings on these critical indicators despite a marked increase in enforcement activity…It is important to note, that in the past year enforcement activities have increased in the Patrol by over 25%. Of equal interest is a corresponding decline in the number of citizen complaints filed against troopers during the same time period."

NEW ORLEANS POLICE DEPARTMENT June 1980 – July 2001

715 South Broad Street New Orleans, LA 70119

Assistant Superintendent of Police and Chief of Operations - October 1996-July 2001

Appointed as the NOPD's first Chief of Operations. Responsible for the day-to-day leadership and command of all Patrol, Investigative, Community Policing, special response officers, etc., with a staff of over 1,520 personnel. Directly supervised fifteen senior managers (Police Captains and Majors), and managed a total Operations Bureau budget of $69 million. Overall event and field commander for all special events (e.g., Mardi Gras, Super Bowl XXXI, Sugar Bowl, etc.) Additional duties included chief disciplinarian, served as second in command of the agency and implemented agency wide reorganization to initiate Community Policing and the COMPSTAT model.

Problem:

- Murder capital of the United States
- Uncontrolled violent and property crime
- Declining personnel resources, morale of agency at an all time low
- Outmoded organizational structure of centralized functions resulted in conflict among commands
- Lack of coordinated, focused, and accountable effort at crime reduction or crime control strategies
- Significant and continuing failure to develop and foster community support
- Needed expansion of inclusion of diverse leaders in the organization

Response:

- Decentralized investigative functions to local districts
- Implemented accountability strategy, and directed the weekly COMPSTAT meetings
- Implemented weekly COMPSTAT meetings within each district and division command
- Fully incorporated Community Policing Strategies into the NOPD and all local districts
- Integrated investigative strategies of local, state, and federal law enforcement agencies to secure better cases, higher bail, longer sentences
- Dramatic organizational and cultural change needed to advance the agency
- Appointed two African American males as District Commanders, one African American and Hispanic American as Executive Officers of the Operations Bureau and Caucasian Female as a District Commander

Results:

- Murder cut by 55%, 1999 vs. 1996, and reduced by 42% 2000 vs. 1996. Violent crime cut by 53%, 2000 vs. 1996
- New Orleans led all major cities (population above 250,000) in reducing violent crime, down 24%, 1997 vs. 1996
- New Orleans led all major cities in reducing violent crime, down 37.5%, 1998 vs. 1996
- New Orleans led all major cities in reducing violent crime, down 46%, 1999 vs. 1996
- New Orleans was second in all major cities in reducing violent crime, down 53.24%, following Newark, NJ, down 53.30, 2000 vs. 1996
- Part I UCR Crime Index for 2000 cut by 37% when compared to 1996
- Part I UCR Crime Index for 2000 was the lowest in 32 years
- Part I UCR Crime Index for 1999 was the lowest in 30 years
- During the first three years that COMPSTAT was introduced by the NOPD beginning in October 1996

and ending in 1999, violent crime declined 46.2%, murder declined 55.0% and overall crime declined 33.7%. Furthermore, starting with the third quarter of 1996 and ending with the second quarter of 2001, New Orleans experienced 19 straight quarters in which violent crime decreased compared to the previous quarter; 15 of these quarters were double-digit decreases

- 1997-2000 average yearly clearance rate for Murder stood at 89% (national average 65.7%), vs. 1994-1996 average yearly clearance rate for Murder of 53.3%
- Overall arrests increased by 72%, 2000 vs. 1996; narcotics arrests up 96%; traffic arrest up 185%, traffic citations up 52%, and motor vehicle accidents down 28% (2000 vs.1997)
- Citizen complaints of Discourteousy reduced by 25%, Verbal Intimidation reduced by 66%, and Officer Involved Shootings reduced by 12%
- Successfully incorporated over 641 new officers into patrol duties
- Unprecedented and sustained employee performance
- Directed the development, funding and implementation of a DNA Lab completed by end of 2001
- Unprecedented enhancement of citizen satisfaction in performance of NOPD
    - ✓ Independent voter surveys confirmed the belief that crime was decreasing, reporting that New Orleans voters felt safer in the year 2000 than they had at any other time since 1986
    - ✓ The belief that crime was increasing dropped from 79% in 1994 to 15% in 2000
    - ✓ In 1996 only 23% of voters gave the NOPD a positive rating, but in 2000 that rating increased to 48%, with the most dramatic increase following the 1996 police reform program.

Police Major - Special Operations Commander-October 1995- October 1996

Managed 123 commissioned officers, 125 Reserve Officers, and 54 School Crossing Guards. Managed a $4.3 million annual operating budget. Special Operations includes: Tactical Division - SWAT teams (served as SWAT Commander), Tactical Street Patrol unit, Mounted/Canine Unit, Bomb Disposal Unit, Dive Team Unit, and Crisis Transportation Service. Traffic Division - Motorcycle Enforcement Unit, Hit and Run Fatality Investigations Unit, School Crossing Guards. Reserve Division - District Patrol, Tactical Platoon, Motorcycle and Mounted Units.

Police Major - Sector "I" Commander - January 1995-October 1995

Managed and supervised four of the department's eight Patrol Districts. Each district is commanded by a police captain and total Sector "I" personnel strength was 390 commissioned officers. Sector "I" command includes the following defined areas: French Quarter; Central Business District; Warehouse Renovation District, Downtown Development District; Convention Center Area; River Front Developments, and six of the city's nine low-income public housing developments. Sector "I" population approached 250,000 daily inhabitants and increased to 6-700,000 business hours citizens and tourist.

Additional Duties

Added responsibilities included direct command and accountability for the planning, preparation, and presentation of the 1996 operating budget of $87.4 million

Interim Assistant Superintendent of Police - May 1994-January 1995

Managed and supervised the Management Services Bureau. Total personnel: 237 commissioned and civilian employees. Managed a $5.5 million annual budget. Subordinate commands included: Fiscal Management and Budget Office; Personnel Services and Statistical Division; Asset Forfeiture Division; Research and Planning Division, including grants administration; Police Academy; Municipal Building Security Division; District Attorney's Investigators; and, the Community Services Division (PALS, boy scout troop, crime prevention).

Police Major - Criminal Investigations - October 1990-May 1994

Managed and supervised the Criminal Investigation Bureau. Total personnel: 294 commissioned and civilian employees. Prepared and administered $9 million annual budgets. Subordinate commands: Crimes Against Persons (homicide, robbery, sex crimes) Division, Crimes Against Property (burglary, forgery, auto theft, arson) Division, Juvenile Division, and the Specialized Investigations Division (narcotics, vice, intelligence, etc.).

Additional Duties

Supervised the investigation of all Officer Involved Shootings

Chaired the Police Officer Promotional Committee, creating a new promotional system that rewards employees and not the job assignment. Resulted in returning intrinsic and extrinsic motivational factors to field patrol units. Required the approval of the Civil Service Commission and funding commitments. Over 1,000 officers received promotions that were unavailable before this initiative, specifically patrol officers. New policies congruent with goals of Community Policing, as well as exceeding the targets rates of police officer promotions in the Affirmative Action Consent Decree

Appointed to the Major Cities Chiefs committee on urban unrest, sponsored by the FBI National Executive Institute. Co-author of the manuscript, "Prevention and Control of Civil Disturbance: A Time for Review."

Researched and presented the department's initial response to the legalization of gaming. Duties included testifying before the State Legislature, City Council, Zoning Boards, etc., and creating the plan for a new police division of 300 officers, including a 9 million dollar start up budget.

Police Captain-Commander Crime Lab - December 1989-October 1990

Managed and supervised the Scientific Criminal Investigations Division (Crime Lab). Total personnel: 40 commissioned and civilian employees. Prepared and administered a $1.3 million operating budget and a $1.5 million capital renovation project.

Police Lieutenant - September 1988-December 1989

Deputy Commander French Quarter Patrol District. Supervised three lieutenants, 12 sergeants, and 52 police officers. Commander: of Royal and Bourbon Street Promenade Units.

Platoon Commander Fourth Patrol District. Supervised three sergeants, and 17 police officers. Responsible for delivery of police service, criminal and personnel investigations.

Police Sergeant - February 1985-September 1988

Platoon Commander Motorcycle Enforcement, supervising two Sergeants and 12-15 Officers. Planned, coordinated, and supervised over 100 officers on all Presidential Motorcade Movements during the 1988 GOP Convention.

Commander: Driving While Intoxicated Unit. Realized a 20% increase in arrest after implementing new patrol strategies

Assistant Platoon Commander Sixth Patrol District responsible for supervising and scheduling 17-20 patrol officers, managed calls for service response and investigation of crimes. Four of the city's nine low-income public housing developments are within the Sixth District. Conducted investigations of personnel misconduct

Police Officer I & II - June 1980-February 1985

Performed routine patrol, investigative, and task force operations in First Police District (French Quarter, Central Business District). Mounted and Foot Beat assignments on Bourbon Street during four Mardi Gras Seasons and the 1984 World's Fair.

TENNESSEE STATE UNIVERSITY August 2009 – December 2009

College of Public Service & Urban Affairs

330 10th Ave North Box 139 Nashville, TN 37203-3401

Adjunct Faculty Member

Responsible for delivering graduate level instruction in the course titled "Leadership in Organizations"

LOYOLA UNIVERSITY NEW ORLEANS August 1993-July 2001
6363 St. Charles Ave. New Orleans, LA 70118

Assistant Professor (Extraordinary Faculty)

Responsible for the preparation and presentation of the following lecture classes: Community Policing Theory; Community Policing - Implementation/Management/Evaluation; Organizations and Administration (Behavioral Management); Introductions to Criminal Justice Systems; Introduction to Law Enforcement; Community Relations; Urban Issues and Violence.

Additional duties include developing and teaching the Criminal Justice Administration Track of the new Executive Masters in Criminal Justice. Graduate courses created and presented for the new Master's Degree include: Criminal Justice Administration I (Budgeting) and II (Leadership, Community Policing), and Seminar in Police Administration: Technology Applications.

Education

UNIVERSITY OF NEW ORLEANS NEW ORLEANS, LA
Ph.D. - Urban Studies (Specializing in Urban Crime) ***May 1998***
Dissertation: Common-Sense Approaches with
Contradictory Results: Does Defensible Space Curb Crime?

CENTRAL MICHIGAN UNIVERSITY
(New Orleans Program Center) MT. PLEASANT, MI
Master of Science in Administration ***December 1988***

OUR LADY OF HOLY CROSS COLLEGE NEW ORLEANS, LA
Bachelor of Science Applied Behavioral Sciences ***July 1987***

Publications - Professional Service – Presentations (2001-2014)

- "The Untruthful Employee – Is Termination the Only Response?" ***The Police Chief***, vol. 77, no. 8, (August 2010): 114-120.
- 2010, February. Appointed by Governor Phil Bredesen to the Governor's Criminal Justice Coordinating Council, representing Police Chiefs of Incorporated Municipalities
- 2009, November. FBI-HQ, Inaugural Speaker to the "FBI-Strategy Management System" Speaker Series
- 2009, November. Presenter at "Seminar on Transition and Leadership for Newly Elected Mayors – Keeping American Cities Safe." Harvard University John F. Kennedy School of Government
- 2009, October. Appointed - Executive Committee of the International Association of Chiefs of Police
- 2009, April. Appointed by the Director of the National Institute of Justice as a Technical Review Team member to assist and provide oversight to a first of its kind longitudinal study solicited by the NIJ entitled, *"Advancing Knowledge and Practice in Policing: A Longitudinal Platform for National Research."*
- "Accountability-Driven Leadership: Assessing Quality versus Quantity." ***The Police Chief***, vol. 75, no. 12, (December 2008): 68-75.
- "The Next Step in Accountability Driven Leadership: "Compstating" the Compstat Data." ***The Police Chief***, vol. 75, no. 5 (July 2008): 60-70.
- "IACP Launches New Committee to Guide Law Enforcement Policy Research." ***The Police Chief***, vol. 74, no. 10 (October 2007).
- "Illegal Gun Crimes: A View from the Streets." REACTION ESSAY, ***Criminology and Public Policy***, Volume 4, Number 4, pp 807-814, November 2005
- "Detroit Police Department: Comprehensive Assessment and Technical Assistance Services." Co-

Principal Investigator to the ***Police Foundation***, under the U.S. Department of Justice Office of Community Oriented Policing Services, Agreement #2002-HS-WX-K002, June 2005.

- "Beyond COMPSTAT: Accountability Driven Leadership." ***The Police Chief*** vol. 71, no. 1 (January 2004): 17-23.
- "An Employee Disciplinary System That Makes Sense." ***The Police Chief***, vol. 70, no. 9 (September 2003): 22-28.
- "Common Sense Approaches with Contradictory Results: Does Defensible Space Curb Crime?" Doctoral Dissertation, University of New Orleans, May 1998. Ann Arbor, MI: UMI Dissertation Services
- "Prevention and Control of Civil Disturbance: A Time for Review." Co-author, Department of Justice, FBI Executive Institute, Washington, DC, 1992
- Life Member of the International Association of Chiefs of Police (IACP)
  - Current Chair – Community Policing Committee
  - Parliamentarian – November 2016 through November 2017
  - Elected, unopposed, as 4th Vice President of the IACP October 2011
    - Ascended to 2nd Vice President
  - Co-Chair of the Research Advisory Committee
  - Member of the IACP Highway Safety Committee
  - Member of the IACP Resolutions Committee (term ended 2005)
- Life Member Police Executive Research Forum
- Fellow – Police Foundation
- Frequently called upon to consult with other police and government agencies on implementing and managing the COMPSTAT, Accountability Driven Leadership and Data-Driven Approaches to Crime and Traffic Safety (see: Police Chief Magazine, July 2009) models
- Frequent lecturer at several Universities and Colleges, and the FBI's National Academy
- Lecturer at the Center for Public Safety, Northwestern University, in the Executive Management Program, and Leadership Training for the Chicago Police Department on topics of Crime Control Strategies and Energizing Employees for Performance
- Lectured and consulted on the use of COMPSTAT and Accountability Leadership models styles throughout the United States and Europe (University of Innsbruck, Innsbruck Austria)
- Consultant to the *Police Foundation*, assessing needs and developing strategies to improve performance in the Detroit Police Department
- Consultant to *Linder/Maple and Associates*, the originators of the COMPSTAT model as exported from the NYPD
- Chair of the Washington Statewide Interoperability Executive Committee
- Member of the Washington *Bench Bar Review*, at the invitation of the Chief Justice of the Washington Supreme Court
- Executive Board Member of the Washington Association of Sheriffs and Police Chiefs
- Executive Board Member for the Western States Information Network
- Washington Criminal Justice Training Center Commissioner
- Washington Traffic Safety Commissioner
- Chairman of the Washington State Governor's Methamphetamine Coordinating Council
- Member Washington State Forensic Investigation Council
- Member Governor's Council on Substance Abuse
- Member Governor's Emergency Management Council
- Member the Washington Law & Justice Advisory Council
- Consultant to *The American Association of Retired Persons and Louisiana State University Medical School – Department of Psychiatry* on Work Place Violence Training, Awareness, and Response
- 1998 National Board Member – COPS' National Community Oriented Policing Resource Board – Department of Justice, Office of Community Oriented Policing Services

Awards

- Founding Board Member – Eden House New Orleans
- Public Service Award – National Highway Traffic Safety Administration
- "Lion of Zion Award" Nashville, TN
- "Freedom's Light Award" presented by the Washington Newspaper Publishers Association
- Charles E. Dunbar, Jr., Louisiana Career Civil Service Award.
- Algiers Kiwanis's Lawman of the Year
- Our Lady of Holy Cross College, Brother Andre Career Achievement Award
- Victim & Citizens Against Crime, Inc., Law Enforcement Award
- Louisiana Jaycee's State and Local Law Enforcement Man of the Year
- Numerous Departmental Medals and Letters of Commendation

Curriculum Vitae
for
Leroy K. James

CONTACT INFORMATION

Leroy K. James
12407 Crystal Pond Court
Upper Marlboro, MD 20772
(301)952-1367
(443)224-6102
cycling19@gmail.com
ljames10@jhu.edu

EMPLOYMENT HISTORY

Johns Hopkins University (2015 - Present)
Executive Director for Campus Safety and Security
Responsible for designing, implementing, leading, and directing the campus safety and security infrastructure for ten (10) campuses within the Johns Hopkins University enterprise.

L. K. James & Associates LLC (2014 - Present)
President and CEO
Founder of a consulting firm specializing in campus safety and security assessments and compliance for institutions of higher education.

Prince George's Community College (1997 - Present)
Adjunct Professor
Part-time instructor within the Criminal Justice Program.

Howard University (2008 - 2014)
Chief of Police and Executive Director for Safety and Security
Responsible for designing, implementing, managing and improving services and programs which support and respond to the safety and security needs of the university community.

Prince George's County Police Department (1981 - 2008)
Police Major - Commander of the District IV Oxon Hill Station
Police Captain - Commander of the Compliance Coordination Unit - Served as the Chief of Police Liaison for a Consent Decree and a Memorandum of Understanding between the Prince George's County Police Department and the US Department of Justice. Responsible for implementing the basic operating structure to enable the police department to successfully implement and demonstrate substantial compliance with the requirements of both the Consent Decree and the Memorandum of Agreement.

Commander of the Planning and Research Section
Commander of the Compliance Coordination Unit
Commander of the Forensic Services Division
Commander of Investigations - Hyattsville District I
Investigative Sergeant - Homicide Unit, Criminal Investigations Division
Investigator - Homicide Unit, Criminal Investigations Division
District Investigator - District III
Patrol Officer - District III

EDUCATION

Johns Hopkins University (1994-1996)
Masters of Behavioral Science M.S.
Public Safety Executive Leadership Program

University of Maryland University College (1978-1980)
Bachelor of Science (B.S.) Criminal Justice

Community College of the US Air Force (1976-1980)
Applied Associate of Science (A.A.S.) Police Science

PROFESSIONAL QUALIFICATIONS

Maryland Police and Correctional Training Commission - Special Police Officer (2015 - Present)
District of Columbia Metropolitan Police Department - Security Officers Management Branch - Special Police Officer (2008 - 2014)
Maryland Police and Correctional Training Commission - Police Officer (1980 - 2008)
Created the initial reporting documents and presentation format for the Prince George's County Police Department Consent Decree and the Memorandum of Agreement with the US Department of Justice (2004-2006)
Computer Skills - MS Word, Power-Point etc.

PROFESSIONAL MEMBERSHIPS

International Association of Chiefs of Police (IACP)
National Organization of Black Law Enforcement Executives (NOBLE)
International Association of Campus Law Enforcement Administrators (IACLEA)
Historically Black Colleges and Universities - Law Enforcement Executives and Administrators (HBCU-LEEA)
The National Center for Campus Public Safety (NCCPS)

Dr. Katheryn Russel-Brown

I. BIOGRAPHY

Katheryn Russell-Brown is the Chesterfield Smith Professor of Law and Director of the Center for the Study of Race and Race Relations at the University of Florida, Levin College of Law. Professor Russell-Brown received her undergraduate degree from the University of California, Berkeley, her law degree from the University of California, Hastings and her Ph.D. in criminology from the University of Maryland.

Prior to joining the University of Florida law faculty in 2003, Professor Russell-Brown taught in the Criminology and Criminal Justice department at the University of Maryland for 11 years. She has been a visiting law professor at American University and the City University of New York (CUNY). She has been a lecturer at Howard University and her first teaching position was at Alabama State University.

Professor Russell-Brown teaches, researches, and writes on issues of race and crime and the sociology of law. Her article, "The Constitutionality of Jury Override in Alabama Death Penalty Cases," was cited in the U.S. Supreme Court decision, *Harris v. Alabama* (1995). In 2009, Professor Russell-Brown was awarded a Soros Justice Advocacy Fellowship. Her project focused on ways to integrate criminal justice issues into the elementary education curriculum.

Professor Russell-Brown's books include *Criminal Law* (SAGE, 2015) an undergraduate textbook, *The Color of Crime*, 2d edition (New York University Press, 2009), *Protecting Our Own: Race, Crime and African Americans,* Rowman and Littlefield (2006), and *Underground Codes: Race, Crime, and Related Fires* (New York University Press, 2004). Her first children's book is *Little Melba and Her Big Trombone*, a picture book biography (Lee & Low, 2014).

II. EDUCATION

Ph.D., University of Maryland
J.D., University of California – Hastings
B.A., University of California – Berkeley

III. TEACHING AND SCHOLARSHIP

Race and Crime, Sociology of Law, Criminal Law

IV. EXPERTISE

- Campus Climate
- Criminal Law
- Race & Crime
- Sexual Violence
- Stand Your Ground Law

V. PROFESSIONAL ACTIVITIES

- University of Florida: Joined College of Law in 2003 as Professor and Director, Center for Study of Race and Race Relations.
- University of Maryland: Criminology and Criminal Justice Department: Associate Professor (1998 – 2003), Director of Undergraduate Studies (1998-2002), Assistant Professor (1992-98).
- Previous Academic Experience: American University School of Law, Visiting Associate Professor (1997); City University of New York (CUNY) Law School, Visiting Associate Professor (1994); Howard University, Instructor (1991); Alabama State University, Assistant Professor (1987-89).

VI. COURSES

RACE, CRIME & THE LAW - LAW 6237

- This course examines the interplay between race, crime and the law in the US; covers the role of history as context for understanding contemporary laws that govern the criminal justice system, and how existing laws, their applications, and justice system practices, could be restructured and re-imagined to further racial justice.

VII. PUBLICATIONS

BOOKS

- Criminal Law (SAGE Publications, 2015)
- The Color of Crime, 2d Ed. (New York University Press, 2009)
- Protecting Our Own: Race, Crime and African Americans (Rowman and Littlefield, 2006)
- Underground Codes: Race, Crime, and Related Fires (New York University Press, 2004)
- Petit Apartheid in the US Criminal Justice System: The Dark Figure of Racism (edited with Dragon
- Milovanovic) (Carolina Academic Press, 2001)

VIII. BOOK CHAPTERS

- "Go Ahead and Shoot, the Law Might Have Your Back: Race, Implicit Bias, and Justice in Florida's 'Stand Your Ground' Law. In Deadly Injustice: Trayvon Martin, Race, and the Criminal System (D. Johnson, et al., eds.). New York University Press [2015]
- "The Myth of Black Crime," in Demystifying Crime and Criminal Justice (2d ed.) (Robert M. Bohm and Jeffrey T. Walker, eds.) (Roxbury Press, 2012)
- "While Visions of Deviance Danced in Their Heads," in After the Storm: Black Intellectuals Explore the Meaning of Hurricane Katrina (David Troutt, ed.) The New Press (2006)

IX. LAW REVIEW & SOCIAL SCIENCE PUBLICATIONS

- Guest Editor, J. Criminology & Pub. Pol'y, Special issue on Race and Policing, Vol. 6(1):1-181 (2007)
- "Black Protectionism as a Civil Rights Strategy" 53 Buff. L. Rev. 1 (2005) [SSRN]
- "Racial Profiling: A Status Report of the Legal, Legislative and Empirical Literature," 3 Rutgers Race & L. Rev. 61 (2001)

APPENDIX C

The Washington Post

Alexandria Wants to Try Community Prosecution

By Ann O'Hanlon August 26, 1999

Prosecutors in Alexandria were staring at an uncomfortable statistic. Hispanic victims of crime failed to show up in court 33 percent of the time--about six times the rate of no-shows in the general population.

So in 1997, the commonwealth's attorney's office launched community forums, bringing Spanish-speaking judges, public defenders and police officers to meet the Hispanic public and to ease its anxieties. Today, the "failure to appear" rate for victims is down to 8 percent.

That success has sparked hopes at the commonwealth's attorney's office for another outreach program, one that has worked in the District and is gaining popularity across the country.

The program, called community prosecution, would detail one seasoned prosecutor in Alexandria to the Arlandria neighborhood, the city's main Latino neighborhood. Instead of being assigned to one type of crime--the traditional division of labor--this prosecutor would handle anything that occurred in Arlandria.

Admirers of the program see it as the logical extension of community policing. A prosecutor who works in a neighborhood, drops by local gathering spots and attends evening neighborhood meetings is more likely to get tips on crimes, stop them from happening and successfully prosecute them if they do happen, they say.

"With the prosecutors there, victims of crime can feel more comfortable going to the prosecutor," said Belinda Callahan, a community police officer who lives in Arlandria. "So we can be more sure there's a conviction."

Assistant Commonwealth's Attorney Erik R. Barnett made the push for the program, which will go forward if the city receives a grant next week from the U.S. attorney general's office. Barnett offered specifics of how the program might work.

Many Latinos in the community don't have bank accounts, he said, making them easy targets for larceny or burglary. If a prosecutor had the time to bring bank representatives to the community to help residents establish accounts, there would be fewer larcenies and robberies to prosecute. A typical robbery sentence is five years, he said, which costs the government about $100,000, or $20,000 annually, for each conviction.

"It costs less for the government to stop the crime than to punish it later on," he said. "It's the difference between being proactive and reactive."

Montgomery County's State's Attorney Douglas Gansler (D) launched a similar program last month, and thank-you letters are arriving daily from the community.

"It definitely is a nontraditional role of a prosecutor, but my view is that every prosecutor's office in the United States will look like this in 10 years," he said.

But Fairfax County Commonwealth's Attorney Robert F. Horan Jr. (D) promises his office won't adopt the new approach, which he said was "trendy" and made "no sense."

"Social workers have been doing that for years," Horan said. "They've now got the police on board with community policing, and the next step is to get the prosecutors on board. But there is no indication that it has succeeded prior to this. . . . If I started sending [prosecutors] out in the countryside, a lot of cases would go unprosecuted."

Alexandria is aiming its program at the Hispanic community because many Latin immigrants are fearful of government, Barnett said, and won't report crime.

"In the criminal's mind, that establishes this class of people you can victimize, and they won't report it, so you won't get in trouble," he said.

Applications have poured in for the competitive federal grants, said Nicholas Gess, associate deputy attorney general. Only $5 million is available nationwide, and the concept is so popular that President Clinton is asking Congress to allocate $200 million to the program next year.

"It's relatively new, but it's one of these things that's caught on like wildfire," Gess said. Gess works for Deputy Attorney General Eric H. Holder Jr., who launched a similar program in the District in 1996 when he was U.S. attorney there.

If Alexandria wins its grant, $180,000 will be available over 18 months to pay for a full-time prosecutor and a full-time administrator, who would work together in the community. After those 18 months, Barnett said, his office would go begging for funding, probably to the city.

Arlington County has not embraced community prosecuting per se, but last year the county created a program with some similar components. County police officers are assigned to one of four districts, and a prosecutor from the commonwealth's attorney's office is detailed to work with both the police and the community in each of the districts.

APPENDIX D

The Washington Post

Community Prosecution

July 11, 1999

Last Tuesday the Montgomery County State's Attorney's Office became the first prosecutor's office in the country to fully implement a theory and practice of law enforcement that has become known as community prosecution.

Traditionally, local prosecutors' offices have been organized according to type of crime -- i.e., homicide, sex offenses, narcotics, felonies and misdemeanors. Under community prosecution, however, prosecutors are assigned by neighborhoods and by schools.

In Montgomery, all prosecutors and support personnel will be assigned to five teams corresponding to the county's five police districts -- Bethesda, Silver Spring, Germantown, Rockville and Wheaton-Glenmont.

Under community prosecution, prosecutors will become intimate with their "turf," its police officers, business leaders, civic and community groups, faith-based organizations, government agencies and above all, its hardened criminals. Prosecutors will be assigned to every school to work with teachers and administrators identifying problems before they explode, and they will attend community meetings. Every Montgomery resident will be able to get in touch with his or her local prosecutor.

Crimes requiring specialized prosecution -- such as domestic violence, child abuse and elder abuse -- will be better handled by the family violence unit of the prosecutor's office now because of increased familiarity with the history of particular troubled homes in a district.

Community prosecution complements community policing. Prosecutors will attend police roll calls to share information and provide advice on investigations, legal issues and police training. Just as the community police officer knows the violent and repeat offenders on his or her beat, now the community prosecutor will know them as well.

Linking prosecutors with schools will help identify at-risk students who may be associated with loose-knit gangs or have a propensity for violence. Prosecutors then can work with school administrators and other government agencies to take action before disaster strikes. When criminals are sentenced, prosecutors will solicit help from the community in preparing community-impact statements to present to judges.

In conjunction with the new community prosecution, the Montgomery County State's Attorney's Office will pursue the so-called broken windows approach to crime by prosecuting quality-of-life crimes such as vandalism and graffiti that often lead to more serious crime. For people who repeatedly commit "minor" offenses, prosecutors will seek short periods of incarceration to send the strong message that the community will insist upon the rigorous enforcement of its laws.

Where community prosecution has been implemented, crime has fallen. The District is a prime example. Under the leadership of then-U.S. Attorney Eric H. Holder Jr., the 5th District, the only one of the District's seven police districts dedicated to community prosecution, saw calls for police service fall from the second highest in the city to fifth in just two years. President Clinton has recognized the effectiveness of community prosecution by including $200 million in his proposed budget to be dedicated to its implementation in communities across the United States.

By working with the community, building public trust and creating unprecedented access to our office through community prosecution, Montgomery County soon will be a less attractive target for criminals.

-- Douglas F. Gansler

is state's attorney

for Montgomery County.

APPENDIX E

REPORT OF THE MARYLAND ATTORNEY GENERAL'S

TASK FORCE ON ELECTRONIC WEAPONS

DECEMBER 2009

REPORT
OF THE
MARYLAND ATTORNEY
GENERAL'S TASK FORCE ON
ELECTRONIC WEAPONS

Foreword by Attorney General Douglas F. Gansler

The strength and integrity of our criminal justice system depend on a number of factors including our ability to protect the safety of citizens while ensuring that all citizens are treated fairly. Public confidence in the justice system cannot be maintained without making certain that safety and fairness are pillars of the system. In order to preserve safety, law enforcement personnel must have effective tools to do their jobs. In order to preserve fairness, those tools must not be used in an arbitrary or unreasonable way.

On November 18, 2007, 20-year old Jarrel Gray of Frederick died after being shocked with an electronic control weapon during an altercation with local police. As a result of the controversy surrounding the death of Gray and similar incidents across the country, I created the Attorney General's Task Force on Electronic Weapons. In general, law enforcement personnel view the device as a non-lethal way to restrain uncooperative and dangerous suspects. In contrast, civil rights groups challenge the device's safety and claim that law enforcement personnel resort to electronic control weapon use too quickly and too frequently. The Task Force was given the difficult takes of weighing all sides carefully and developing best practices for the use of electronic control weapons by law enforcement.

After a year of gathering information, holding public hearings and numerous meetings, and extensive deliberation, members of the Task Force compiled this report to document the information they received and to make recommendations to Maryland elected officials and law enforcement personnel. I appreciate the many hours the members of the Task Force spent compiling this report. It is my hope that the recommendations offered in the report will be carefully considered by the members of the General Assembly, and State and local law enforcement.

Douglas F. Gansler

Table of Contents

I. Executive Summary

Electronic control weapons ("ECWs") can be an effective law enforcement tool that often poses less risk to officers and civilians than other force options. However, it is critical that the legislature, law enforcement agencies deploying these devices, and officers on the street recognize the risks of serious injury and even death inherent in ECW use.

Only after both the risks and benefits of ECWs are understood can reasonable judgments be made about whether to adopt these devices, how to structure the deployment process, the appropriate training, the procedures for proper use (in particular, placement of this weapon in an agency's use-of-force model and use in certain situations or against certain populations), medical care following discharge, and supervision and record keeping related to these weapons.

The Task Force makes 60 specific recommendations, covering each of the issues listed above. In addition, it proposes suggestions for future research and a legislative agenda. The Task Force's complete recommendations are found below in Part XIII of this report. The Task Force's proposed suggestions for future research and a legislative agenda are found below in parts XIV and XV, respectively.

There are a high number of detailed recommendations covering a broad range of subjects because, to date, these issues have not been adequately addressed in Maryland. While a few law enforcement agencies currently have reasonable training and procedures, the majority of law enforcement agencies are inadequate across the entire range of recommendations made by this Task Force. No agency currently follows all of the best practices recommended here.

The fact that no agency in Maryland currently meets or exceeds the standards set forth here should not be taken to mean that these recommendations are overly stringent. Although reached independently, the Task Force's conclusions mirror those found by a long and distinguished list of similar bodies both in the United States and abroad, including the following: the Joint Non-Lethal Weapons Human Effects Center of Excellence (funded by the U.S. Department of Defense), the United States Army, the Police Executive Research Forum, the Potomac Institute for Policy Studies, the International Association of Chiefs of Police, the Wisconsin Law Enforcement Standards Board, the Canadian Police Research Centre, the United Kingdom's Defense Scientific Advisory Council's Subcommittee on the Medical Implications of Less-lethal Weapons, and the Braidwood Inquiry (sponsored at a national level by the Canadian government). Each of these reports was reviewed in detail and is cited where appropriate below. In addition to reviewing the work of similar bodies, the Task Force's year-long process included a careful review of the medical literature, the policy recommendations of various advocacy groups, the invited testimony and participation of all stakeholders and the testimony offered during two public hearings. The Task Force's findings and recommendations are in keeping with and supported by this extensive fact-finding process.

The consistency between the Task Force's recommendations and those of these other groups underscores the consensus about what needs to be done to ensure that ECWs are used as effectively and safely as possible. This consistency across so many organizations also demonstrates that the Task Force's recommendations can be implemented here as well.

ECWs are a new and emerging technology and the science about their effects is constantly evolving.[1] Prior to the work of this Task Force, there had been no effort in Maryland to sift through the available information and provide clear guidance. The law enforcement representatives on this Task Force both recognized the need for such guidance and were invaluable in shaping it.

Training materials provided by the manufacturer of these devices and early law enforcement training tended to significantly understate the risks associated with ECW use. This fact, coupled with the ease of use of this device, appear to have lead to over-reliance on ECWs by law enforcement nationwide, particularly in response to relatively low-level threats of harm and situations that have now been shown to involve a heightened risk of injury or death. These events, seen as abuses by many, appear to have arisen primarily from under-education of law enforcement officers regarding the risks associated with ECW use.

Although rare, serious unintended ECW injuries and deaths do occur. Even though these events are unusual, their impact can be substantial. Of course, any injury or death is a tragedy for the individual affected, his or her friends and family, and the officer who discharged the ECW.

Moreover, due in part to the novelty of the weapon, when serious ECW injuries or deaths do occur, they are often reported broadly by the media. Likewise, this same effect is seen when news of negative ECW outcomes is spread by word-of-mouth through the community. Community reaction can broaden the impact of unintended negative ECW outcomes beyond the subject and the officer who discharged the ECW, affecting community-police relations. In this way, misapplication of ECWs can impair the effectiveness of the agency and the safety of its officers. Finally, some agencies have stopped using ECWs as a result of community reaction to high-profile ECW injuries or deaths.

As a result of the potentially far-reaching consequences of even one ECW-related death or serious injury, it is critical to minimize the occurrence of these outcomes. This is accomplished through an appreciation of the risks of ECWs as well

[1] The current ECW market is dominated by a particular manufacturer. Its chief product employs technology involving darts fired from a distance which penetrate the body and through which electrical current is sent over attached wires with the intent of causing pain and muscle incapacitation. The same device can be used in pain-compliance mode by touching its probes to the body. This mode of use does not cause incapacitation, but seeks to gain compliance merely through the application of significant pain induced by electrical current. Because this is the current state of the art, it was necessary to address the specific effects of this technology in some of the Task Force's recommendations. However, the majority of the Task Force's recommendations are meant to and should apply to other types of electronic weapons which may be introduced in the future.

as the benefits, and by ensuring that ECWs are used appropriately and only against appropriate targets. The examples of injuries and deaths cited herein from the medical literature and anecdotal accounts should be carefully reviewed and incorporated, when possible, into officer training to help avoid the potential for reoccurrence.

Although a careful review of all of the recommendations of the Task Force is necessary in order to get full value from this report, and even though each recommendation is equally important, the following synopsis of 20 of its recommendations may assist in reviewing the balance of this Report:

Implementation Recommendations:

- To ensure community concerns are understood and addressed before deciding whether to implement an ECW program and, if implemented, what safety and accountability mechanisms should be put in place, the decision-making process should involve community stakeholders (*e.g.*, civil rights and mental health advocacy groups, medical professionals, lawmakers, and other interested parties).

Training Recommendations:

- The Maryland Police and Correctional Training Commission should incorporate the Task Force's recommendations into ECW training requirements for Maryland public safety agencies that use ECWs.

- An agency's training program must be mandatory for all officers authorized to use ECWs and should include provisions for certification and recertification, and have components for knowledge and proficiency testing, as well as scenario-based training.

- Officers must be trained that the ECW is a less-lethal weapon, and not a non-lethal or less-than-lethal weapon.

Use-of-Force Recommendations:

- ECWs should not be used against a passive or restrained subject, or otherwise to counter passive noncompliance, absent an imminent threat of physical harm.

- The act of fleeing or destroying evidence, in and of itself, should not justify the use of an ECW.

- Officers should be permitted to use ECWs only when individuals pose an imminent threat of physical injury to themselves or others. For the purposes of this standard, "physical injury" should have the same meaning as it does in Maryland's definition of second degree assault on a law enforcement officer. Specifically, "physical injury" means "any impairment of physical condition,

excluding minor injuries." A threat of such minor injuries ordinarily does not warrant the application of a potentially lethal force option.

- Agencies should adopt a use-of-force model that recognizes that in the following situations involving a heightened risk of serious injury or death, ECWs should only be used when deadly force is otherwise legally permitted:

  - persons in elevated positions, who might be at risk of a dangerous fall;
  - persons operating vehicles or machinery;
  - persons who are fleeing on foot;
  - persons who are already restrained in handcuffs;
  - persons who might be in danger of drowning;
  - environments in which combustible vapors and liquids or other flammable substances including but not limited to alcohol-based Oleoresin Capsicum ("OC"); or
  - similar situations involving heightened risk of serious injury or death to the subject.

- Agencies should adopt a use-of-force model that recognizes that the populations listed below may be at a heightened risk of serious injury or death. When deciding whether to discharge an ECW, the officer should consider the heightened risk of serious injury or death for these groups and be able to articulate the justification for exposing a person to increased risk:

  - persons with known heart conditions, including pacemakers;
  - elderly persons or young children;
  - frail persons or persons with very thin statures (*i.e.*, may have thin chest walls);
  - women known to be pregnant;
  - persons in mental/medical crisis; or
  - persons under the influence of drugs or intoxicated by alcohol.

- Agencies should adopt a use-of-force model that recognizes that unless articulated exigent circumstances exist justifying the increased risk, ECWs should not be discharged at sensitive areas of the body, including the head, neck, chest, or genitals.

- An individual's apparent mental health or medical crisis (including any display of symptoms that are considered by some to constitute a syndrome called "excited delirium") should not in itself justify the use of an ECW.

- Multiple ECWs should not be simultaneously discharged against a person unless there is a specific articulable reason for doing so and should be avoided when possible.

- An officer should only administer an additional ECW discharge after an initial discharge if the officer has concluded that the subject still poses an imminent

threat of significant physical harm and other options are not appropriate. Repeated or prolonged (*i.e.*, beyond the five-second standard cycle) discharges should be avoided whenever possible due to the increased risk of serious injury or death.

- ECWs should not be used in pain compliance (drive-stun) mode except when necessary to complete the incapacitation circuit, or when the probe mode has been ineffective and use of drive-stun mode is necessary to prevent imminent harm to the officer or others.

Medical Care Recommendations:

- Agency policies and training should reflect the responsibility to ensure the rapid provision of medical care, particularly where the need for medical intervention was cited as a reason for the ECW discharge.

Reporting and Investigation Recommendations:

- Comprehensive use-of-force reports should be completed when an ECW is discharged or aimed (*e.g.*, the subject is targeted with the ECW's "laser" or "red dot"). Information recorded on use-of-force reports should include data required for consistent, state-wide reporting.

- A post-discharge investigation should be conducted of all discharges, including accidental discharges. This investigation should include interviews with the participants and other witnesses, a review of the use-of-force report, and collection and review of evidence, including cartridges, ECW data, and photographs.

- When a death occurs in temporal proximity to an ECW discharge, the State Medical Examiner should specifically indicate whether the use of the ECW may have or did contribute to the death. "Excited delirium" should not be cited as the cause of death where there is a known direct cause. The Medical Examiner should explain in the autopsy and death certification the cluster of symptoms that led to the finding of "excited delirium."

Monitoring and Data Collection Recommendations:

- Agencies should maintain comprehensive data (identified in this report) regarding use of ECWs for the purpose of tracking trends over time and determining whether some officers are using ECWs at a different rate or in a different manner than similarly situated peers. This data should be considered when determining whether to recertify or decertify officers for ECW use.

Proposed Legislative Agenda for the Maryland General Assembly:

- A requirement that the Maryland Police and Correctional Training Commission ("MPCTC") incorporate through regulation this report's training recommendations into the Commission's law enforcement ECW certification and training program instituted pursuant to Chapter 320, Laws of Maryland 2009. Chapter 320 requires a law enforcement officer to complete MPCTC training before being issued an ECW and requires MPCTC to provide such training and related certification and recertification. As noted in this report, best practices reflect the need for such training to include important components to address officer safety and public safety priorities to accomplish the goals of Chapter 320. Such legislation would ensure fulfillment of the legislative intent expressed in Chapter 320.

- A requirement for state-wide collection, compilation, and analysis of uniform and comprehensive agency data regarding ECW use. The data collected should include all data listed in the report above, as well as the Medical Examiner's report for any death for which an ECW is listed as a cause of death or a contributing factor. This data should be collected, compiled and published annually by the Governor's Office of Crime Control and Prevention (or other appropriate state agency). The legislation should also require that each individual law enforcement agency make its reported data available to the public upon request to ensure that citizens can be informed about use of ECWs in their communities.

The highest and best use of this report is to provide recommendations which, if followed, will prevent unnecessary injuries and deaths. Each Task Force member has expended substantial time and effort over the course of a year because we view our work as no less than a life-or-death matter and the resulting product (not just this brief summary) should be reviewed in its entirety with the care required in such circumstances.

In conclusion, broad adoption of the full recommendations of the Task Force will save lives, prevent injury, improve community-police relations and allow the continued use of an effective law enforcement tool.

II. Introduction

Maryland Attorney General Douglas F. Gansler authorized the creation of the Task Force on Electronic Weapons ("Task Force") in October 2008 to assess issues of current and critical importance to residents of Maryland and to provide policymakers with concrete judgments and recommendations for best practices regarding the use of Electronic Control Weapons ("ECWs") within the State of Maryland. With members diverse in backgrounds and perspectives, members of the Task Force endeavored to reach a meaningful consensus on policy through private and nonpartisan deliberations. The Task Force is independent of the Attorney General and is solely responsible for the content of this report. The Task Force unanimously endorses the general policy thrust and judgments reached by the group with no dissenting opinions.

The Task Force was convened in November 2008 and its members worked diligently to fulfill the Task Force's charge. The Chair of the Task Force is Michael Higginbotham, Professor of Law at the University of Baltimore, and the Vice-Chair of the Task Force is Byron Warnken, Associate Professor of Law at the University of Baltimore. Representing Attorney General Gansler on the Task Force is Carl Snowden, the Director for Civil Rights in the Maryland Office of the Attorney General. In addition, there are twelve other members of the Task Force, including active members of Maryland's law enforcement community and civil rights organizations.[2] They are:

- Donald W. Alves, M.D., M.S., FACEP, Attending Faculty, Emergency Medicine, Johns Hopkins School of Medicine; Medical Director, Maryland State Police;
- Cindy Boersma, Legislative Director, ACLU of Maryland;
- Carol A. Crawford, First Assistant State's Attorney, Office of the State's Attorney for Montgomery County, Maryland;
- Cary J. Hansel, III, Attorney, Joseph, Greenwald & Laake, P.A.;
- Scott M. Hammack, Attorney, O'Melveny & Myers LLP;
- Christy E. Lopez, Attorney, Independent Assessment & Monitoring, LLP;
- James Johnson, Chief of Police, Baltimore County Police Department;
- George K. McKinney, United States Marshal (Retired), Baltimore, Maryland;
- Ken Meekins, Chief of Police, Town of Hampstead Police Department;
- Carl R. Pelton, B.S., NREMT-P, UMBC Graduate Student, Emergency Health Services; Consulting Paramedic and Law Enforcement;
- Vernon H. Ricks Jr., State Chair on Law Enforcement, NAACP of Maryland; and
- Mark Warren, Major, Baltimore County Police Department.

This report of the Task Force makes recommendations to Maryland law enforcement agencies and to elected officials. Each recommendation must be evaluated independently to determine its appropriate application to a particular agency.

[2] Members' affiliations are listed for identification purposes only and do not imply institutional endorsement.

While some of the recommendations should apply to all agencies, others may be more appropriately assessed on an agency-by-agency basis.

It is important at the outset to say that the Task Force recognizes that there are many constituencies that have an interest in the subject matter of this report, including active law enforcement personnel, members of civil rights organizations, segments of the medical and legal communities, individuals shocked by ECWs, and those civilians who have interacted or may interact in the future with law enforcement officers, among others. Relevant considerations regarding ECW use are not limited solely to the spheres of science, policy, community concerns, or law enforcement desires. Rather, it is important to identify the common ground shared by all of the various stakeholders and to ensure the Task Force's recommendations reflect those commonalities. The Task Force has endeavored to properly balance the legitimate concerns that all interested parties have expressed. Because of the many interests at stake, it was not easy for the Task Force to arrive at a consensus. Yet at all times the Task Force has strived to maintain an independent, inclusive, and objective process. This goal of balance has been considered throughout the process, and the Task Force hopes it is reflected in these recommendations.

Beginning in November 2008, the Task Force convened twice per month. The first two meetings were devoted to selecting, vetting, and confirming members. The Chair and Vice-Chair strove to make certain that the Task Force membership not only was diverse in terms of race and gender, but also reflected constituencies that had previously indicated interest or concern regarding the use of ECWs, such as active law enforcement personnel and civil rights organizations. The Chair and Vice-Chair also determined that the Task Force needed members with medical and legal expertise to address areas of medicine and law that might arise during the investigation and preparation of this report.

The next six meetings in January, February, and March of 2009 focused on identifying and gathering information relevant to the use and deployment of ECWs. Literature was surveyed and presentations were made by TASER International, Inc. and the Baltimore County Police Department. The presentations included demonstrations of ECWs.

In April, the Task Force held two public hearings. The Task Force sent more than 1,000 invitations to elected officials, law enforcement personnel, civil rights advocates, academics, educators, and manufacturers of ECWs. Additionally, the hearings were announced on several radio stations and on the Attorney General's website. All persons who expressed an interest in attending or testifying at the hearings were permitted to do so.

The first public hearing took place on April 23, 2009, at the Parks and Recreation Building, 6600 Kenilworth Avenue, Riverdale, Maryland 20737, and consisted of two separate panels. The first was composed of active law enforcement personnel and included: Sergeant Angelo Giafes, Elkton Police Department; Captain Alan Goldberg, Montgomery County Police Department; Captain Kenneth Hasenei, Department of

Maryland State Police; Police Officer III Joan Logan, Montgomery County Police Department; Chief William McMahon, Howard County Department of Police; and Richard Speake, Training Coordinator, Anne Arundel County Sheriff's Office.

The second panel consisted of civil rights advocates and included: Terry Bohrer, Mental Health Association of Maryland; Mike Mage, ACLU of Montgomery County; Roger Copeland, Frederick County NAACP; Elbridge James, Montgomery County NAACP; and June Dillard, Prince George's County NAACP.

The second public hearing was conducted on April 30, 2009, at the Angelos Law Center Building at the University of Baltimore, 1420 North Charles Street, Baltimore, Maryland 21201, and consisted of four separate panels. The first panel was composed of elected officials and included: Senator Delores Kelly, Maryland State Senate; Reuben Collins, Charles County Commission; Edith Patterson, Charles County Commission; Judy Cooper, Charles County Commission; and Delegate Talmadge Branch, Maryland General Assembly. The second panel consisted of active law enforcement personnel and included: Chief Deputy Douglas Dodd, Worcester County Sheriff's Office; 1st Sergeant Jason Pulliam, Maryland Transportation Authority Police Department; 1st Sergeant Timothy Eikenberg, Maryland Transportation Authority Police Department; Police Officer II Brian Brummitt, Maryland Transportation Authority Police Department; Commissioner Frederick H. Bealefeld, III, Baltimore City Police Department; and Chief Bernadette DiPino, Ocean City Police Department. The third panel was composed of civil rights advocates and included: Guy Djoken, Frederick County NAACP; Barry Kissing, Frederick County NAACP; Coleman Bazelon, ACLU of Maryland; and Mark Shmueli, Law Office of Mark Shmueli. Peter Holran, a representative of TASER International, Inc., testified for the fourth panel.

The May meeting of the Task Force focused on medical and racial aspects of ECW discharges. The meeting included a presentation by Dr. Mary Ripple, the Deputy Chief Medical Examiner for the State of Maryland. The Task Force also discussed concerns that minorities are disproportionately victims of ECW discharges by law enforcement personnel. Based upon this discussion, the Task Force requested ECW usage data from Maryland law enforcement agencies.

During the months of June and July 2009, the Task Force formed a drafting subcommittee that was tasked with proposing recommendations to the full Task Force. Once the full Task Force reached a consensus on these recommendations during meetings in September and October, the recommendations served as the foundation of this report. The drafting subcommittee then began to draft the report based on the agreed upon recommendations. In November and December, the Task Force met on a number of occasions to debate and clarify difficult issues and to finalize the report.

III. Background

Over 14,200 law enforcement agencies in over 40 countries deploy ECWs.[3] All told, over 406,000 ECWs have been sold to law enforcement agencies and over 196,000 have been sold to civilians.[4] A recent survey of Maryland law enforcement agencies found that the use of ECWs is similarly widespread in Maryland.[5] Of the 32 agencies that responded to the survey, 24 use ECWs.[6]

The growing availability of ECWs has led to countless examples of ECWs being used in lieu of lethal force to safely subdue violent individuals with no resulting significant injuries. Far less often, an individual has died or suffered serious injuries after being shocked by an ECW. One medical study quantified the rate of serious injuries associated with ECW use at 0.3%.[7] Deaths are even less frequent. An Amnesty International report identified approximately 350 deaths that occurred "proximate" to the use of ECWs,[8] which results in a rate of death of less than 0.05%.[9] In discussing deaths following ECW use, the Task Force did not determine that the medical community has concluded that the ECW's electrical impulse causes a lethal

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[3] *See* TASER Press Kit, available at http://www.taser.com/company/pressroom/Documents/TASER Press Kit 06 11 09.pdf (hereinafter "TASER Press Kit").

[4] *Id*.

[5] The ACLU of Maryland conducted the survey in conjunction with its role on this Task Force. The survey sought information from law enforcement agencies in each of Maryland's counties as well as some of Maryland's larger municipal jurisdictions. Thirty-two jurisdictions responded to the survey. *See* Appendix C.

[6] The following jurisdictions reported that they do not use ECWs: Annapolis Police Department; Anne Arundel Police Department; Baltimore City Schools Police Department; Baltimore County Sheriff's Office; Carroll County Sheriff's Office; Kent County Sheriff's Office; Talbot County Sheriff's Office; and the University of Maryland at College Park Police Department. *See* Appendix C.

[7] William Bozeman et al., "Safety and Injury Profile of Conducted Electrical Weapons Used by Law Enforcement Officers Against Criminal Suspects," [Multicenter study] 53 Annals Emergency Med. 480, Apr. 2009, available at http://download.journals.elsevierhealth.com/pdfs/journals/0196-0644/PIIS0196064408020611.pdf (hereinafter "Bozeman Study"). The Bozeman Study found the rate of minor injuries was 21.6%. The study defined minor injuries to include "superficial puncture wounds," contusions, lacerations, "superficial burn marks, a finger fracture, a nasal fracture, a case of epistaxis, and a chipped tooth." *Id*.

[8] Amnesty Int'l, "'Less Than Lethal'?, The Use of Stun Weapons in US Law Enforcement," p. 27, Dec. 2008 (hereinafter "Amnesty Int'l Report"). The Amnesty International report did not purport to find a causal relationship between the deaths and the ECW discharge, a fact that many have pointed to in arguing that the report overestimates the number of deaths actually caused by ECWs. Others have suggested that the Amnesty International report may have underestimated the number of deaths associated with ECWs. *See* http://truthnottasers.blogspot.com/2008/04/what-follows-are-names-where-known.html (listing 459 people "who died after they were tasered"). Simply put, the best available figures may understate the risk of ECW exposure in the field by including subjects shocked in sterile and controlled settings, but it may overstate the incidence of ECW-caused death by including deaths that are merely proximate to and not unequivocally caused by an ECW. There appear to be valid quarrels on both sides with these data. Nevertheless, these data are the best currently-available estimates of the incidence of death from ECW discharge.

[9] The rate of death was calculated comparing the number of "proximate" deaths identified by Amnesty International to the approximately 660,000 times an ECW has been discharged in the field. *See* TASER Press Kit, *supra* note 3, p. 6. If the approximately 880,000 volunteer exposures are included, the rate of death falls even further to 0.02%. *Id*. Using the higher estimate of 459 deaths yields a rate of death of .07% (field discharges) or 0.03% (including training discharges).

arrhythmia. However, the Task Force did find sufficient consensus that secondary factors from the restraint and incapacitation caused by an ECW (*e.g.*, a fall or stress caused by being shocked) may cause serious injury or death.

While instances of death or serious injury following ECW use are rare, such incidents nonetheless have given rise to concerns that the risks associated with ECWs are not fully appreciated by those who use them. Every well-trained officer understands that other force options, such as batons, OC spray, or physical strikes, have the potential to kill or seriously injure a subject. However, because ECWs have been widely-described as "a safer alternative to other uses of force,"[10] not all law enforcement officers and agencies fully understand the potential risks associated with using an ECW, nor the circumstances that exacerbate those risks.[11]

Furthermore, when ECW-proximate deaths have occurred, they tend to receive a high level of attention, and may give rise to community concerns and strain law enforcement-community relations. For example, on November 18, 2007, Jarrell Gray, a young African-American man, died after being shocked with an ECW during an altercation with a Frederick County Sheriff's Deputy.[12] The deputy responded to a report of an on-going fight between several males. When the deputy and other law enforcement personnel arrived at approximately 5:00 a.m. at the parking lot of a townhouse complex in Frederick, Maryland, they found four males, including Gray, engaged in a fight. After trying unsuccessfully to break up the fight with verbal commands for the suspects to raise their hands, the deputy discharged an ECW on Gray. When the first discharge failed to result in Gray's compliance with verbal commands to raise his hands, the deputy discharged the ECW on Gray a second time. Each discharge lasted five seconds with twenty-three seconds lapsing between the first and second discharges. After the second discharge, Gray fell to the ground. Medical

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[10] *See* About TASER International, http://www.taser.com/company/Pages/AboutTASER.aspx.

[11] Inquiries by other entities have reached findings consistent with the Task Force's finding that many law enforcement agencies do not sufficiently prepare their officers for the potential risks of ECWs. A recent report by the American Medical Association found that "appropriate training and supervision of ECW use is lacking in some jurisdictions." American Medical Association, Council on Science and Public Health, "Use of Tasers by Law Enforcement Agencies," CSAPH Rep. 6-A-09, p. 9, June 2009, available at http://www.policeone.com/policeone/data/pdfs/taser_ecd_resolution.pdf (hereinafter "AMA Report"). There are many incidents indicating that the potential dangers of ECWs are not fully understood. For example, correctional officers in Florida recently discharged ECWs in drive-stun mode against their own children in three separate state prisons as part of "Take Our Daughters and Sons to Work Day." Meg Laughlin, "Corrections Sergeant Shocks Kids with Stun Gun During Prison Visit," St. Petersburg Times, May 2, 2009, available at http://www.tampabay.com/news/publicsafety/article997379.ece. In another incident, police used an ECW to force a man to comply with a court order to provide a DNA sample. Rick Pfeiffer, "TASER Use to Obtain DNA Not Unconstitutional," Niagara Gazette, June 4, 2009, available at http://www.niagara-gazette.com/breakingnews/local_story_154132251.html. Many officers may believe that they understand the impact of ECW discharge because they have had an ECW discharged against them during ECW training. As noted in Part V of this report, this training can be misleading.

[12] The facts of this incident are taken from Steve Lash, "Maryland Task Force Looks at Taming the Taser," Daily Record (Baltimore), May 4, 2009; Keith L. Martin, "Taser Probe Nears End, But Doubt Lingers," Gazette (Maryland), May 15, 2008, available at http://www.gazette.net/stories/051508/walknew173737_32356.shtml; and "Maryland Man Dies After Being Tasered," NBC4 Online News, Nov. 19, 2007, available at http://www.officer.com/web/online/Careers-and-Recruitment/Maryland-Man-Dies-After-Being-Tasered/12$38952.

aid was administered immediately but Gray did not respond. After being taken by ambulance to Frederick Memorial Hospital, Gray was pronounced dead three hours later.

The Maryland Office of the Chief Medical Examiner concluded that the cause of Gray's death was "[s]udden death associated with restraint and alcohol intoxication."[13] Although the only method of restraint specifically identified in the autopsy was "an electronic control device (TASER)," the Medical Examiner did not specifically identify the ECW as a cause of or as a contributing factor to Gray's death.[14] Rather, the Medical Examiner concluded that "[t]he temporal relationship of the TASER deployment associated with alcohol intoxication and the interaction with the natural anatomic deviations to cause the sudden death of Mr. Gray is not clearly understood. Therefore, the manner of death is UNDETERMINED."[15]

Gray was 20-years old and deaf in one ear. In response to the initiation of a grand jury investigation, the deputy's attorney, Daniel Karp, indicated that "no reasonable well-trained officer would have known that using [an ECW] under these circumstances could have resulted in serious injury or death."[16] Guy Djoken, President of the Frederick County Branch of the Maryland NAACP, indicated that Gray's death demonstrates the need for a further examination into ECW use by law enforcement officers as well as the safety of the device.[17] On May 9, 2008, the grand jury investigating the case ruled that the deputy, in attempting to arrest Gray, was justified in using an ECW. Civil litigation is pending.[18]

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[13] *See* Office of the Chief Medical Examiner, State of Maryland, Post Mortem Examination, Case No. 07-8927, Apr. 23, 2008.

[14] *Id*.

[15] *Id*. In some of the other Maryland deaths proximate to ECW use, the Maryland Medical Examiner has found that the method of restraint was a factor that contributed to the death. An ECW was one of the restraints used, but was not singled out as a contributing factor. Further study, including review of the autopsy reports, is necessary in order to draw any meaningful conclusions from these facts, however. Further research into this area is warranted by the fact that the Task Force is concerned that, in some states, although not in Maryland, TASER International has sued medical examiners in connection with findings that its products were the cause of death. *See* Robert Anglen, "Judge Rules for Taser in Cause-of-Death Decisions," Arizona Republic, May, 2, 2008, available at http://www.azcentral.com/news/articles/2008/05/02/20080502taser0503.html. The National Association of Medical Examiners has taken the position that these suits, are "dangerously close to intimidation," and that the manufacturer is, "attempting to send a message to medical examiners that if they elect to make that determination they may face a civil suit." Adrian Humphreys, "Taser Win in Court Puts Chill on Doctors," The National Post, May 7, 2008, available at http://www.nationalpost.com/news/story.html?id=499151 (quoting Jeff Jentzen, president of the National Association of Medical Examiners). If medical inquiry anywhere is quashed, it impacts decision making regarding ECWs here in Maryland, and is therefore a concern of this Task Force.

[16] Steve Lash, "Maryland Task Force Looks At Taming The Taser," Daily Record (Baltimore), May 4, 2009.

[17] *See id.*

[18] On July 17, 2009, a Federal District Court denied the deputy and county commissioners' motion for summary judgment. An appeal of that ruling is currently pending. *See Gray v. Torres*, 2009 U.S. Dist. LEXIS 61994 (D. Md. July 17, 2009).

Mr. Gray is one of nine individuals in Maryland who have died after being shocked by an ECW since 2004.[19] Incidents similar to the death of Mr. Gray inspired calls for more consistent ECW policies and training, and were the impetus for the authorization of this Task Force by the Attorney General. The Task Force reviewed Maryland law enforcement agencies' ECW polices and found that ECW training, use, and monitoring vary widely in many respects. While the Task Force recognizes that agency approaches to ECWs may appropriately vary in some respects because of the size and type of the agency, regardless of the particular approach an agency takes, the use of ECWs should be respectful of civil rights and as safe and effective as possible. With this in mind, and in accord with the Attorney General's mandate, the Task Force has developed recommendations for ECW best practices that should be implemented in law enforcement agencies throughout Maryland.[20]

The Task Force's recommendations reflect a belief that, when used appropriately with a full understanding of their risks, ECWs can be a beneficial law enforcement tool that can effectively resolve situations with fewer injuries to law enforcement officers and civilians alike. At the same time, the Task Force's recommendations reflect the recognition by law enforcement officials and others appearing before the Task Force that the use of ECWs poses serious risks to suspects, law enforcement agencies, and the communities they serve. This risk is exacerbated when ECWs are used improperly or proximate to serious injury or death.

The Task Force's recommendations, listed at the end of this report and explained below, are presented as guidance and best practices to law enforcement agencies to assist them in their decision to reject or adopt the use of ECWs and, if they do elect to use ECWs, to assist them in maximizing benefits while avoiding potential negative consequences.

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[19] The other individuals are: Dwight Madison (6/13/09); Thomas Campbell (8/18/07); Marcus D. Skinner (5/26/07); Terrill Heath (5/14/07); Uywanda Peterson (4/23/07); Ryan Lee Meyers (3/16/07); Theodore Rosenberry (3/24/06); and Eric Wolle (4/27/04). *See* "Taser Inmate Dies in Hospital," The Washington Times, June 15, 2009 (Madison); Luke Broadwater, "Third Person Dies After Police Taser Strike," Baltimore Examiner, Aug. 23, 2007 (Campbell); Ruben Castaneda, "Tasers Used on Bound Suspect: Sources Say Man Was Shocked Twice Before He Died," Washington Post, May 31, 2007 (Skinner); Derek Valcourt, "Man Dies After Police Officer Uses Taser on Him," WJZ CBS News, May 15, 2007 (Heath); Derek Valcourt, "Witnesses Contradict Police in Taser Death," WJZ CBS News, Apr. 27, 2007 (Peterson); Adam May, "Man's Death Prompts Call for Police Taser Review," WJZ CBS News, May 20, 2007 (Meyers); Pepper Ballard, "Doctors Rule Heart Problem, Cocaine Cause Man's Death," The (Hagerstown) Herald-Mail, April 27, 2006 (Rosenburry); David Snyder, "Md. Family Grieves for Mentally Ill Man: Schizophrenic Died After Being Subdued by Officers; No Wrongdoing Found," Washington Post, June 26, 2004 (Wolle).

[20] While this report was drafted primarily with police departments' and sheriffs' offices' field operations in mind, the recommendations and their reasoning generally apply to corrections departments and the detention components of sheriffs' departments.

IV. Planning and Implementation

The Task Force's review of ECW use by law enforcement agencies in Maryland indicates that the success of adopting these weapons as a use-of-force option—in terms of injury and complaint reduction, reduction of overall uses of force, and a strengthening of police-community relationships—depends in significant part on whether the law enforcement agency has carefully researched and evaluated the impact of using ECWs, and whether it has involved the community in this process.

The Task Force found that a number of factors must be carefully considered before a law enforcement agency decides whether to acquire ECWs.

Working with Internal and Community Stakeholders

Generally, law enforcement agencies with a history of forging positive relationships with the larger community can expect less tension surrounding ECW use.[21] A law enforcement agency that works in partnership with the community it serves will have less mistrust over the decision to use ECWs. This trust is earned by thorough training, transparency, strict oversight, accountability, and the implementation of solid policies. The process of considering whether to implement ECWs can benefit from a close police-community partnership, and can help strengthen this partnership.

The more successful ECW programs seek the involvement of a broad range of community stakeholders (*e.g.*, civil rights and mental health advocacy groups, medical professionals, lawmakers, and other interested persons and groups) in the decision-making process from the outset. This approach helps ensure community concerns are understood and addressed in deciding how to implement an ECW program and provides guidance on the safety and accountability mechanisms appropriate for the community in which the program operates.[22]

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[21] Witnesses at Task Force hearings reported that the NAACP responded favorably to the Howard County Department of Police's decision to use ECWs after considerable efforts by the Police Department to work with the community on this issue. Testimony of Chief William J. McMahon, Howard County Department of Police, Apr. 23, 2009; Testimony of Terry Bohrer, Mental Health Association of Maryland, Apr. 23, 2009. In contrast, witnesses testified that the death of a man after an ECW was discharged against him by Frederick County Police exacerbated an already tension-filled relationship between the community and this police department. Testimony of June Dillard, Prince George's County NAACP, Apr. 23, 2009; Testimony of Guy Djoken, Frederick County NAACP, Apr. 30, 2009.

[22] For example, the Howard County Department of Police reported to the Task Force the planning process they undertook before deciding to acquire ECWs. The department consulted with their local NAACP branch and other community organizations. They responded directly to community representatives regarding their expressed concerns. They also explained to representatives of the community why they wanted to acquire ECWs, how ECWs would be incorporated into their use-of-force practices, and the oversight that would be provided. Finally, they started with a pilot program and included the community in an evaluation of that program before expanding the number of officers issued ECWs. As a result, the department reports that they have the support of their community leaders for their ECW program. Testimony of Chief William J. McMahon, Howard County Department of Police, Apr. 23, 2009. As another example, the Montgomery County Police Department explained to the Task Force that through their work with the mental health advocacy community, the department incorporated model crisis

Law enforcement coordination with representatives of racial and ethnic minority groups is critical to ensure that agencies recognize these groups' concerns and can respond effectively. The Task Force did not find that ECWs are, in general, discharged against African-Americans or Latinos with any discriminatory intent or animus. However, the Task Force did not assess whether African-Americans or Latinos have ECWs discharged against them at a rate inconsistent with their respective arrest rates. A lack of complete data precluded such analyses. Nonetheless, the perception among African-Americans and Latinos that the use of ECWs has a disproportionately high impact on them compared to non-Latino white Marylanders is not without basis. As data provided by 23 Maryland law enforcement agencies to the Task Force confirms, African-Americans and Latinos are over-represented in the rate at which they are shocked with ECWs, compared to their percentage of the population. These data show that 45% of individuals who were shocked by ECWs were African-American, despite the fact that African-Americans make up only 21% of the population of those jurisdictions. Similarly, at least one jurisdiction reports that 36% of those shocked by ECWs were Latino compared to their 20% representation in the general population in that jurisdiction. The language barriers that exist with some communities further underscore the importance of identifying and involving relevant community representatives in the decision about whether to add ECWs and how to plan for their implementation if the jurisdiction decides to move forward.

Coordination with mental health advocates is also critical. In testimony to the Task Force, mental health advocacy organizations were united in urging law enforcement agencies to consult with local mental health experts and advocates before deciding to acquire ECWs. Law enforcement officers are increasingly the first responders to situations involving a mental health crisis where confrontational or dangerous behavior indicates a need for rapid medical attention and where a typical "command and control" approach can dangerously escalate the situation. ECWs can be an effective alternative to lethal force in situations involving persons in mental health crisis.[23] However, the introduction of ECWs without an adequate training or policy foundation can result in their overuse in situations involving persons in mental health crisis. This is particularly problematic since this population may be at a heightened risk for serious injury or death after an ECW discharge. Law enforcement agencies should work with mental health advocates to implement best practices for identifying and effectively responding to these situations. Mental health organizations should also educate law enforcement agencies about the particular population in the agency's area, providing information that may be important to the agency's evaluation about the impact ECWs may have in its community.

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intervention/de-escalation techniques into their ECW training and certification. Testimony of Joan Logan, Police Officer III, Montgomery County Police Department, Apr. 23, 2009.

[23] *See* "Taser Tactical Conference," Law & Order Magazine, Oct. 2007, available at http://www.hendonpub.com/resources/articlearchive/details.aspx?ID=4132 (hereinafter "TASER Tactical Conference") (identifying 23 documented incidents involving mentally disturbed individuals with edged weapons where despite lethal force being justified, an officer used an ECW instead, and as a result, none of these 23 incidents resulted in an injury).

Other community stakeholders who should be involved beginning at the planning stage are medical professionals and public officials. Medical professionals, in particular, can help develop protocols for post-ECW medical care, and help coordinate with area emergency medical services.

Law enforcement agencies should work closely with school officials and parents to develop policies and protocols concerning whether and how ECWs will be used by law enforcement personnel specifically assigned to schools. It should not be presumed or required that officers assigned to schools will carry ECWs simply because other officers in the department carry ECWs. Rather, communities, schools, and law enforcement should decide together whether officers assigned to schools will carry ECWs while on school assignment. For example, in 2005, the St. Paul (MN) Police Department and School District discussed limiting when an ECW can be used against a student in school. The school board held a public meeting in which the police department participated. Following the meeting, the school board voted to allow ECWs to be deployed only "when the officers are intervening in circumstances that could result in substantial or great bodily harm or circumstances that would permit the use of deadly force by a police officer."[24]

ECW vendors can be consulted and may provide helpful information during the law enforcement and community stake-holder decision making process. However, officials should remember that ECW vendors might not fully understand or appreciate the needs and values of the particular community when making recommendations about whether and how an ECW program should be implemented or modified.

An agency considering whether and how to implement ECWs should include a broad group of internal stakeholders in the decision-making process to ensure that all perspectives can be considered. In addition to the chief law enforcement executive, the planning team should include personnel responsible for the following functions:

- Operations Command;
- Planning;
- Training;
- Legal;
- Professional Standards;
- Media Relations;
- Budget;
- EMS; and
- Detention/Corrections.

The internal stakeholder team's purpose is to provide a comprehensive and documented implementation plan that includes goals and objectives, timelines, performance measures, evaluation processes, etc., related to ECW use.

[24] Paul Strong, "Training Bulletin, Use of Taser in the Schools," St. Paul Police Department, Dec. 20, 2005; *see also* Donna Leinwand, "Schools Restrict Use of Tasers," USA Today, June 3, 2005.

Coordination with internal and community stakeholders should occur not only during the planning process, but also following implementation if the jurisdiction elects to use ECWs. When the program is about to be launched, the agency should share the program with relevant stakeholders, explaining how the policy addresses issues related to weapon use, medical aftercare, case prosecution, use-of-force reviews, etc. Relevant stakeholders may include:

- Agency supervisors and commanders;
- Professional standards (*i.e.*, Internal Affairs) personnel;
- Emergency responders and hospital personnel;
- Public information personnel and media representatives;
- Prosecutors and court personnel;
- Booking and detention personnel;
- Community groups; and
- Advocacy groups.

Even after implementation of an ECW program, as technology and procedures change, agencies should share the updated information with these stakeholders. This will allow the stakeholders to understand the implications related to ECW use changes. It will also provide an open line of communication with those who are already supportive of the ECW program. Including community stakeholders in the agency's ECW planning, training and education programs can help create social capital for the agency within the community, and strengthen the police-community partnership.

Planning for Policies, Training, and Accountability Systems that Address the Unique Benefits and Challenges of ECWs

In deciding whether to add ECWs as a force option, the agency and community must recognize that the inclusion of ECWs will have an impact on an agency's use-of-force program beyond simply adding a new force option. Agencies and communities that fully consider the many facets of adding ECWs will be in a better position to determine if the tool is right for their community. If the decision is made to issue ECWs, developing appropriate policies and training specific to ECWs, as well as implementing systems for comprehensive and reliable reporting, investigation, and data collection and analysis, will help maximize the benefits of ECWs, while minimizing the potential for negative consequences.

The Task Force has included in this report detailed guidance on appropriate agency policies, training, investigation, and oversight systems. In this section, the report discusses some of the unique benefits and challenges of ECWs that agencies should consider as they begin to plan development of these policies and systems.

Law enforcement agencies view ECWs as uniquely versatile and adaptable because they are useful against a wide variety of threat levels and types. ECWs provide law enforcement officers with an option to attempt verbal de-escalation techniques while maintaining a safe distance. ECWs are easier to control, and therefore limit the amount of force used, compared to some other intermediate-force

weapons, such as batons. Serialized identification tags, data downloads, and the capability for audio and video recording facilitate force documentation and accountability. The implementation of ECWs also has been associated with a decrease in law enforcement use-of-force complaints.[25] Law enforcement officers report that, at times, just the display of an ECW is enough to gain compliance.[26]

Perhaps the most important basis for law enforcement agencies' support of ECW use is the belief that ECWs can reduce serious injuries to both officers and suspects. ECWs appear less likely than batons (both fixed and collapsible), fists, and similar strike weapons to break bones or cause deep tissue injuries. By allowing officers to use force without fighting or wrestling suspects, injuries to officers and suspects alike potentially can be decreased.[27] Although the law enforcement community does not consider ECWs an adequate substitute for lethal force, in certain situations, with appropriate cover, officers may have the tactical opportunity to de-escalate a lethal situation through ECW use rather than with a firearm.[28] ECW policies and training should reflect these unique benefits of ECWs. Agencies should examine whether, if ECWs are added, other use-of-force tools may need to be added, modified, or dropped from their use-of-force program altogether.

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[25] In the first six months after TASER deployment, one jurisdiction experienced a 25% drop in use-of-force complaints. Columbus (OH) Police Intra-Divisional Correspondence, "Six Month TASER Study Executive Summary," July 5, 2005, available at http://www.taser.com/research/statistics/Documents/Columbus TASER Exec Summary.pdf (hereinafter "Columbus TASER Study"). Another jurisdiction experienced a 32% reduction in use-of-force complaints after TASER deployment. Austin (TX) Police Department, "City Policy on TASER Use," 2005 (hereinafter "Austin City Policy"), available at http://www.ci.austin.tx.us/news/2005/downloads/taserfinal.pdf.

[26] *See, e.g.*, Russ Mitchell, "Lawson Gives City Council Taser Update," Spencer Iowa Daily Reporter, Feb. 7, 2009, available at http://www.spencerdailyreporter.com/story/1499993.html ("Since the program began, officers have turned on the weapon and pointed it at a subject 36 times. In 26 instances, the shining red guide dot was enough to get the citizen to comply.").

[27] In the first full year after the Cincinnati (OH) Police Department began using ECWs, the department reported that injuries to officers decreased 56%, and injuries to suspects dropped 35%. *See* "Cincinnati Police Department Report to the Community," Fall 2005, pp. 4-5, available at http://www.cincinnati-oh.gov/police/downloads/police_pdf13181.pdf. Similarly, in the first six months after TASERs were first deployed in Columbus, Ohio, that department reported that officer injuries declined 23.4% and suspect injuries declined 24.1%. *See* Columbus TASER Study, *supra* note 25. In Austin, TX, the police department reported that after TASER deployment, overall officer injuries decreased 53%,with serious injuries to officers reduced from 13 to 0, and serious injuries to suspects decreased 80%. Austin City Policy, *supra* note 25.

[28] *See* Madison (WI) Police Department, "TASER Report," 2005, available at http://www.cityofmadison.com/police/documents/MPDTaserReport.pdf (citing six cases where the ECW was used as an alternative to lethal force); Keith Upchurch, "TASER Use Aids Police," Herald Sun, Aug. 19, 2009, available at http://www.heraldsun.com/pages/full_story/push?article-TASER+use+aids+police&id=3247254-TASER+use+aids+police&instance=main_article (noting the Durham (NC) Police Department cited four incidents where officers had justified use of lethal force but used the TASER instead); TASER Tactical Conference, *supra* note 23 (citing 23 documented cases where lethal force would have been justified but ECWs were used instead and there were no injuries); City of Houston, "Conducted Energy Device Program Performance Audit Part I-Detailed Background and Audit Methodology," p. 2, 2009, available at http://www.houstontx.gov/controller/audit/Conducted Energy Device Program 9.8.2008/Conducted Energy Device Program Performance Audit.htm (noting 53 occasions where officers used an ECW as alternative to deadly force even though they were not required to do so).

It is equally important that ECW policies and training reflect the potential risks involved in issuing ECWs. Much of the tension between communities and law enforcement agencies' ECW use involves the community perception that ECWs are used too frequently and to counter low levels of resistance. Agencies should recognize that this perception has some basis in reality.[29] Even where any resulting injury is slight or where no injury occurs, the sight of a law enforcement officer discharging a weapon that knocks an individual to the ground and causes him or her obvious pain can be difficult for those who witness it to understand and, sometimes, difficult for a law enforcement agency to explain. The subsequent recording of these incidents by observers and posting on the World Wide Web can cause untold problems for the law enforcement agency and the community.

Another unique challenge of ECWs is that they can, in rare instances, be lethal, even if there was no intent to use deadly force. When a death follows an ECW discharge, especially where the use of the ECW is seen as undeserved or unnecessary, the damage to the law enforcement agency's reputation in the community can be difficult to overcome.

The creation of strong partnerships during the implementation process can help avoid this tension. But it is also critical that use-of-force policies and training address the potential for overuse and educate officers about the risk of serious injury or death following ECW discharge, as well as what officers can do to decrease that potential for a negative outcome. In particular, law enforcement agencies should review or develop de-escalation practices and policies to determine whether they are current and effective. Regardless of whether it decides to use ECWs, an agency that does not have such a crisis-intervention program should consider putting such a program in place, especially if it ultimately elects to use ECWs.

Cost-Effectiveness

Law enforcement agencies have found that a well-coordinated and properly implemented ECW program, including the training and oversight required to ensure their proper use, can be cost-effective. ECWs can reduce litigation related to serious injuries and officer-involved shooting deaths and can reduce overtime and workers' compensation costs associated with serious injuries from the use of other types of weapons such as long batons and telescoping batons.[30] More importantly, ECWs can reduce the incalculable human costs suffered when officers must use deadly force because a less-lethal option is unavailable.

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[29] As stated by the AMA: "[ECWs] are used too frequently and at lower levels on the use-of-force continuum than indicated." AMA Report, *supra* note 11, p. 9.

[30] In 2002, the Granite City (IL) Police Department incurred $740,000 in workers' compensation costs. After the department began using TASERs in December 2002, it had no workers' compensation costs for all of 2003 and the first nine months of 2004. Correspondence from Granite City (IL) Police Department, Sept. 20, 2004, available at http://www.taser.com/research/statistics/Documents/Granite Ciy IL Stats 09 04.pdf. The Durham (NC) Police Department's workers' compensation costs dropped from $657,000 to $187,000 in the first fiscal year after ECWs were deployed. Keith Upchurch, "TASER Use Aids Police," Herald Sun, Aug. 19, 2009, available at http://www.heraldsun.com/pages/full_story/push?article-TASER+use+aids+police &id=3247254-TASER+use+aids+police&instance=main_article.

Of course, if ECWs are used improperly, or their use results in serious injuries or deaths, ECWs may not represent a cost savings. Thus, an agency must, at the planning stage, ensure that it has the capacity for appropriate training and oversight if it is to realize cost-savings related to ECWs.

In deciding whether ECWs are a cost-effective option, law enforcement agency leadership should consider not only the purchase cost of each ECW, but also the costs of training, supervision, oversight, potential liability, and device maintenance and replacement. The latter cost issue may be particularly important over time if the ECWs either require maintenance or no longer meet the manufacturer's technical specifications. Agencies should keep this in mind as they contract with an ECW vendor.

Selection of Officers To Be Equipped with ECWs

Not all law enforcement personnel should necessarily be permitted to use ECWs. During a pilot period in particular, agencies may benefit from issuing ECWs only to officers they have identified as having developed positive reputations within their communities and having a particularly strong history of good judgment. Any personnel selected to carry ECWs should be required to meet several criteria to ensure the weapon will be used safely and with restraint. Factors that should be considered include the officer's tenure, performance ratings, training background, demonstrated judgment skills, and complaint and disciplinary record, including previous uses of force. Properly selecting which officers will carry ECWs encourages the appropriate and effective use of the weapon.

Pilot Program Evaluation

Agencies may benefit from phasing in use of ECWs.[31] A program this complex will require a great deal of management oversight. Deploying ECWs in manageable increments gives officers and supervisors the opportunity to obtain real-time experience and training with ECWs with minimized risk. Phased deployment of ECWs to the field via a pilot program will allow the law enforcement agency to get feedback from their officers and community stakeholders who can assist and provide valuable input on the adequacy of the agency's policy and training. The resulting information will enable the law enforcement agency to quickly modify the program and retrain its officers, rather than suspending the program or recalling the weapons. This approach will also show the community that law enforcement is committed to minimizing the use of force and protecting civil rights.

Evaluation of an ECW program should occur throughout and after the pilot phase.[32] As a part of the evaluation process, a review of incident reports and medical reports should be accompanied by interviews (or surveys) with both officers and citizens, as well as (again) input from the relevant stakeholders. The agency should

[31] International Association of Chiefs of Police Executive Brief, "Electro-Muscular Disruption Technology: A Nine-Step Strategy for Effective Deployment," p. 17, 2005 (hereinafter "IACP Executive Brief").

[32] *Id.* at pp. 17-18.

determine if the previously established performance measures were met, and make recommendations concerning modification or continuance of the ECW program. A timeline should also be included to ensure that necessary changes are made and that program evaluations are regularly scheduled, even after the program is fully implemented.

V. Training

Recent legislation requires the Maryland Police and Correctional Training Commission ("MPCTC") to develop guidelines for ECW training and certification. The Task Force encourages the MPCTC to adopt a training curriculum, as well as certification and recertification standards, that conform to the Task Force recommendations contained in this report. This will ensure that uniform, quality training is available to all agencies' officers, regardless of the size of the agency or ECW program and resources available to it. In addition, if necessary to augment training provided by MPCTC, the Task Force encourages agencies using ECWs to adopt a thorough and detailed training program requiring a high level of proficiency and reflecting the need for restraint and good judgment. This approach to training will prepare officers for appropriate ECW use and facilitate the use of minimal but effective force.

To that end, an ECW training program should not simply be a one-time introduction on the technical operation of the ECW. Rather, the training must be regularly re-evaluated and updated, and must provide officers with regular training and recertification with the weapon. Most importantly, ECW training must teach officers *when* to use an ECW, not just *how*.

In drafting comprehensive recommendations, the Task Force examined many model guidelines, including those put forth by the Police Executive Research Forum ("PERF")[33] and the International Association of Chiefs of Police ("IACP").[34] This part of the report examines each of the above issues in detail and makes recommendations to guide law enforcement agencies in achieving a thorough and detailed training program.

Program Type and Certification Standards

An agency's ECW training program should integrate the agency's overall use-of-force standards.[35] While it is necessary that the ECW training program utilize the manufacturers' training materials for the technical information, these materials alone are insufficient.[36] An agency must create its own training program that teaches its use-of-force standards, the proficiency standards of the State and the agency, and any other community-specific concerns.

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[33] James Cronin and Joshua Ederheimer, Police Executive Research Forum ("PERF"), "Conducted Energy Devices: Development of Standards for Consistency and Guidance Policy and Training Guidelines for Consideration," Nov. 2006 (hereinafter "PERF Guidelines").

[34] IACP Executive Brief, *supra* note 31.

[35] PERF Guidelines, *supra* note 33, at No. 18.

[36] *Id*. at No. 40.

To encourage a high level of expertise, officers assigned an ECW must not only receive initial certification but should also receive, at a minimum, annual recertification.[37] To meet the recommended level of high proficiency, initial certification should require several components:

- Written testing;
- Performance-based testing (*i.e.*, pull the trigger, hit a target, etc.);
- Scenario- or judgment-based components, to include simulated physical/mental stress (*i.e.*, running in place then firing a weapon); and
- Other tests and drills (*i.e.*, reloading drills, weapon retention drills, etc.) as required by the agency.[38]

ECW Exposure During Training

Officer exposure to ECW discharge should be voluntary and not required for certification.[39] There are several reasons many training programs currently require officers to be shocked by an ECW during training: to give an officer an idea as to the weapon's effectiveness and limitations; to allow the officer to more credibly articulate and testify as to the need to use an ECW; to encourage officers to show more restraint in the use of the weapon; and to provide a better understanding of what to expect should they be shocked by an ECW; and to articulate why lethal force may be necessary when confronted by a subject with an ECW.

ECW exposure during training is not intended to mimic the experience of ECW use in the field. For example, instead of exposing their officers to a full five-second cycle of an ECW's incapacitation mode via darts (probes) capable of penetrating skin, some agencies use only alligator clips to attach the wires and expose the officers for a shorter duration cycle. Most agencies also make sure that an officer receiving a shock is supported by other officers to avoid a potential fall and resulting injury. Given the controlled environment in which these training shocks are administered, they may create a misleading impression of the risks associated with ECW exposure that undermines other training goals. To prevent this, agencies permitting exposure during training should explain the difference between being shocked during training and in the field so that officers understand that their experience may not be representative of the experience of those who have ECWs discharged against them in the field.[40]

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[37] *Id*. at Nos. 39 and 41.

[38] The Maryland Department of Public Safety and Correctional Services' proposed regulations regarding electronic control devices include similar requirements. *See* 36-19 Md. Reg. 1468 (Sept. 11, 2009).

[39] PERF Guidelines, *supra* note 33, at No. 42.

[40] The ECW jolt during training frequently is of shorter duration and is not accompanied by the same stressors associated with ECW use in the field. *See* Merrick Bobb et al., Police Assessment Resource Center, "A Bad Night at Powell Library: The Events of November 14, 2006," p. A2, Aug. 2007, available at http://www.parc.info/client_files/UCLA/UCLA TASER Report August Final.pdf (hereinafter "UCLA Report") (training burst is a half-second rather than the five second burst received in just one standard ECW cycle used in the field); *see also* AMA Report, *supra* note 11, p. 5 ("Although [ECW] activation in normal volunteers appears to be very safe, these studies do not sufficiently reproduce the risks of TASER®

There may be some risk of injury in exposing the officers to ECW discharge, but this risk may be reduced if certain proper precautions are taken.[41] Prior to exposure, there should be screening to determine if the officer has a pre-existing medical condition that would prevent participation. In addition, trainers not only need to prevent injuries from secondary falls, but have emergency medical personnel, if necessary**,** on hand to monitor the participants.

If an agency allows voluntary exposure, it may also want to consider taking that opportunity to conduct a recovery drill where the officer must recover from the shock and utilize other weapons. This is particularly important in jurisdictions where the general public is likely to have access to an ECW.

Training on Resistance Levels and ECWs' Place in Use-of-Force Policies

Officers must be trained to understand when ECW use is appropriate pursuant to the agency's use-of-force policy. As discussed in Part VI below, there is wide variety in how ECWs are incorporated into agencies' use-of-force policies. Regardless of the type of use-of-force policy an agency has, each officer must know where the ECW falls in comparison to other use-of-force options, such as verbal control and control holds; chemical (OC spray) and chemical/kinetic hybrids (pepper ball); strikes (fists, batons, flashlights) and impact weapons (bean bag munitions); and firearms.

Complicating matters is the re-labeling of many of the weapons above as "less-lethal." Previously many of these weapons had been considered "less-than-lethal" or "non-lethal" but as deaths have occurred proximate to their use, the terminology has transitioned to "less-lethal." Regardless of the label used, ECWs are universally considered to be an option above verbal control but below firearms.[42] Outside of that, there are a variety of opinions about the ECW's perceived location in a use-of-force model. In light of this varying terminology, scenario-based training can be invaluable in providing a practical framework, because officers must be able to show their understanding of the agency's use-of-force model and demonstrate the ability to determine the best method to de-escalate the situation; whether to use physical force or to remain at a distance; whether to use an ECW or an alternate force option; the appropriate ECW mode to use (*i.e.*, display only, red dot compliance, incapacitation

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exposure among criminal suspects, in whom coexisting medical and psychiatric conditions, alcohol and drug use, and other factors are often present."). The United States Department of Justice ("USDOJ") Civil Rights Division has noted that ECW training courses should be "conducted with the same level of seriousness and professionalism as that of a firearms training course." Letter from USDOJ Civil Rights Division, Special Litigation Section to Orange County Sheriff's Office, Florida, Aug. 20, 2008, p. 15, available at http://www.justice.gov/crt/split/documents/orangecty_ta_ltr.pdf (hereinafter "USDOJ Letter").

[41] An Oswego County (NY) Sheriff's Department deputy filed a federal lawsuit against TASER International alleging that he suffered permanent injuries after being shocked by an ECW during a training exercise. *See* Robert A. Baker, "Oswego County Deputy Says Training-Session Shock from Taser Left Him Disabled, Sues Its Maker," Syracuse City News, May 10, 2009, available at http://www.syracuse.com/city/ index.ssf?/base/news-5/1241945796197090.xml&coll=1.

[42] Police Executive Research Foundation, "Critical Issues in Policing Series: Strategies for Resolving Conflict and Minimizing Use of Force," Joshua A. Ederheimer ed., p. 110, Apr. 2007 (hereinafter "PERF: Critical Issues").

mode, or pain-compliance mode); the best weapon to transition to if the ECW is ineffective; and the safest transition method.

When trained to consider other weapons and techniques, officers may be less prone to become over-reliant on ECWs in lieu of considering other potentially more appropriate options. Scenario-based training also gives the officers the opportunity to demonstrate their verbal de-escalation (aka "verbal judo") skills—a key to de-escalating a situation.

Scenario-based training also allows officers to be trained on how to respond when threatened by a subject with an ECW. Since Maryland allows citizens in some jurisdictions to purchase ECWs, officers are more likely to face this situation. Although deadly force is a legitimate option in that scenario, other mitigating factors may exist. For example, the presence of other officers on the scene may remove the need for deadly force, as might the lack of a cartridge in the civilian's ECW. Further, deadly force may not be necessary against a civilian using the ECW in the pain compliance mode or if the officer knows that he or she is outside of the maximum range of the ECW cartridge.

Pre-Discharge Weapon Skills

There are many skills needed to effectively use an ECW. Officers trained properly on the following skills are less likely to resort to ECWs precipitously:

- Positioning: Officers should be trained in a variety of shooting positions to include standing, kneeling, prone, and barricade (a key element of cover with ECW use).
- Sighting: Officers should be trained to aim with both the laser dot and sights as a laser may not be functioning properly or it may be difficult to see the laser dot during the daytime.
- Aiming: In the incapacitation mode, aiming for areas of high muscle mass, like the back, promotes weapon effectiveness. Officers should be trained to avoid aiming at the groin area, chest, or head, which puts the eyes, face and neck at risk.[43] Further, officers should be trained on proper aiming to avoid unnecessary burns or serious injuries.
- Firing distances: Officers must be trained to fire at optimum distances which increases the potential for effectiveness.[44] Training at or beyond maximum distances may result in ineffective discharges and unnecessary injuries.
- Weapon draw: Officers should be trained to keep the ECW on the non-firearms side to avoid drawing the firearm by mistake.[45]
- Trigger pull: Officers should be trained to discharge the ECW with both hands, just as they are with firearms.

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43 PERF Guidelines, *supra* note 33, at No. 12.

44 *Id*. at No. 26.

45 *Id*. at No. 25.

- Use of warnings: Officers should be trained to warn fellow officers that they intend to discharge the ECW, not only for their safety, but as a cue to prepare to take the suspect into custody. Further, it lets officers know that the ECW, and not a firearm, is being drawn, which may avoid an unnecessary and tragic firearm discharge by support personnel.[46]

Training on Risk Factors and Aftercare

Agencies should be diligent in updating their policies and training programs as new information and best practices become available. As studies emerge, law enforcement agencies have an obligation to evaluate them and determine their impact on the agency's ECW program.[47] Because the health effects of ECWs on humans are not yet fully understood, officers must not only be trained with regard to what is known, but should be instructed about the uncertainty and risks involving the use of ECWs.

Due to this uncertainty regarding the effects of ECWs on human health, particularly for some heightened-risk populations, the ability to recognize a suspect's medical condition plays an important role in an officer's decision regarding whether or how to use the ECW, as well as how to handle the suspect post-discharge. While the Task Force recognizes that officers often may be unable to ascertain a suspect's physical or medical condition, officers must be trained to, where feasible, ask the right questions and gather as much information as possible prior to making the decision to discharge an ECW.

Specifically, officers must be trained to consider the following factors that may indicate a subject's heightened risk for serious injury or death, when apparent: [48]

- known heart conditions, including pacemakers;
- old or young age;
- frailty or small stature (*i.e.*, may have thin chest walls);
- pregnancy;
- mental/medical crisis; or
- under the influence of drugs or alcohol.

Officers should be trained in the appropriate response and levels of force to use when these risk factors are presented. The Task Force's recommendations for the appropriate use-of-force policy for responding to persons in populations at heightened risk for serious injury or death are discussed below in Part VI of the report.

In addition to the potential risks outlined above, ECWs carry risks of secondary injuries or death (*e.g.*, from falling, drowning, etc.). That is especially true when the suspect is fleeing or operating a vehicle; restrained in handcuffs; in an elevated position; or in close proximity to water or flammable objects (such as alcohol-based OC spray

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[46] *Id*. at Nos. 28 and 29.

[47] The still-developing field of knowledge about the effects of ECW use, particularly on certain populations, is discussed below in Parts VI and VIII of this report.

[48] PERF Guidelines, *supra* note 33, at No. 33.

that may be used by some agencies).[49] Officers must be trained not only to recognize these risk factors, but to consider alternatives to ECW use when these factors are present.[50]

The situation involving a fleeing suspect warrants particular emphasis in training, due to risks of both secondary injuries and potential onset of "excited delirium." In some scenarios involving increased risk of secondary injury the ECW may still be effective, assuming the suspect remains fairly stationary. However, law enforcement officers frequently encounter suspects who are moving, which can limit an officer's ability to use the weapon in a safe and effective manner. For example:

- In a foot pursuit, the suspect will be difficult to target and, if hit, may fall out of the range of the cartridge, effectively rendering the weapon useless.
- If an ECW is used against a suspect driving a vehicle (or riding a motorcycle or bike), the vehicle may go out of control with a great potential to harm the suspect or even innocent bystanders.
- In a vehicle extraction, use of an ECW is difficult and may cause a stationary vehicle to begin moving, with the same risk of injury mentioned above.
- From a moving police vehicle, an officer cannot safely discharge an ECW and control the vehicle, much less be able to safely take the suspect into custody.

Officers should be trained to not use an ECW against a subject who is fleeing unless there are exigent circumstances because of the increased risk of serious injury or death and the potential lack of effectiveness.[51] As with the other heightened risk scenarios where the risk of secondary injury is present, officers should be discouraged from using an ECW unless circumstances justifying the risk of potentially lethal force exist. Officers must also be trained to have a contingency plan in place when they do choose to use an ECW when these risk factors are present. They should be trained not only to attempt to take the suspect into immediate custody to minimize injuries but also to provide immediate medical attention, when appropriate.

Regardless whether the suspect against whom an ECW is discharged is a member of a heightened-risk population, officers must be trained about appropriate aftercare for the suspect.[52] Part VII of this report includes the Task Force's recommendations for the assessment, care, and referrals an officer should provide after discharging an ECW.

<u>Training on Response to Communication Barriers</u>

Law enforcement officers must be trained to be aware of and to resolve communication barriers. Many Maryland communities are culturally and linguistically diverse and interactions between police and non-English speaking persons are

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[49] *Id*. at Nos. 9 and 17.

[50] *Id*. at Nos. 7, 8, and 9.

[51] PERF: Critical Issues, *supra* note 42, p. 120 ("Proximity death cases seems more likely to involve . . . a subject . . . fleeing"); PERF Guidelines, *supra* note 33, at No. 23.

[52] PERF Guidelines, *supra* note 33, at Nos. 13 and 14.

common. Agencies must understand the specific needs of the community they serve and train their officers, as practical, in language skills necessary to effectively communicate basic information, including commands related to potential weapon discharge. This may reduce not only the number of unnecessary or inappropriate ECW uses, but also problematic uses-of-force in general. Officers should also be trained that deafness, autism, and other disabilities may affect a suspect's ability to understand and comply with instructions. Officers should be trained to recognize that mere non-compliance because of an inability to communicate does not give rise to a threat of imminent physical harm and, as such, does not warrant the use of an ECW or other uses of force.

Simultaneous Use of Weapons, Repeated Discharge of an ECW, and De-escalation after Discharge

Another tactic that should be discussed in training is the simultaneous use of weapons, in general. Officers should be trained to holster one weapon before pulling out another. This will prevent an officer from having an ECW in one hand and a firearm in the other, with potentially fatal results. Similarly, officers should be trained to avoid using multiple ECWs simultaneously, unless there is an articulable reason to do so. Although multiple ECW discharges provide a redundancy should one of them fail, two simultaneous successful discharges are difficult to attain and may provide no more effectiveness than a single ECW discharge. Further, due to insufficient data, it is uncertain whether there are any deleterious health effects from simultaneous ECW discharges.[53] For that reason, PERF has recommended that "[n]o more than one officer at a time should activate an [ECW] against a person."[54]

Once the ECW has been discharged, officers must then take action to de-escalate the situation and take control of the suspect. Training should include the following issues:

- Cycle evaluation: Officers should be trained to quickly evaluate each ECW cycle to determine its level of effectiveness.
- Multiple cycles and cycle length: To minimize the force used and avoid potential injuries officers must be trained to limit not only the number of cycles used, but the length of each cycle.[55]

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[53] Research in this area is discussed further in Part VIII of this report. TASER International released a Training Bulletin in June 2005, stating, "Repeated, prolonged, and/or continuous exposure(s) to the TASER electrical discharge may cause strong muscle contractions that may impair breathing and respiration, particularly when the probes are placed across the chest or diaphragm. Users should avoid prolonged, extended, uninterrupted discharges or extensive multiple discharges whenever practicable in order to minimize the potential for over-exertion of the subject or potential impairment of full ability to breathe over a protracted period of time . . . . [People experiencing "excited delirium"] are at significant and potentially fatal health risks from further prolonged exertion and/or impaired breathing." TASER Int'l, "Training Bulletin 12.0 Regarding Restraint During TASER System Application," June 28, 2005, available at http://www.charlydmiller.com/LIB06/2005JuneTASERIntTrainBulletin.pdf.

[54] PERF Guidelines, *supra* note 33, at No. 2.

[55] *Id*. at No. 3.

- Weapon transition: Officers must be trained to move to another option within the use-of-force continuum after multiple ECW cycles have been ineffective.[56]

To gain quicker control of a suspect, training must combine both ECW use and physical control techniques, with an emphasis on the use of verbal commands. It should also emphasize greater teamwork and multiple-officer scenarios, not only for the purpose of cover, but for evaluating the subject's compliance level. To that end, officers should be trained to attempt to place the suspect in handcuffs as quickly as possible.

An officer should only administer an additional shock after an initial shock if the officer has concluded that the subject still poses an imminent threat of physical harm and other options are not appropriate. Repeated and prolonged discharges should be avoided whenever possible. If the subject has not become compliant after multiple cycles, officers should be trained to consider other use-of-force options (as noted above) to quickly de-escalate the situation and minimize the potential for serious injury.

Other Training Considerations

Officers must be trained on additional areas related to ECW use, including critical issues such as:

- Communication of ECW use to the dispatcher and supervisor prior to and/or immediately after ECW use;
- Reporting and other accountability procedures; and
- Preservation of ECW-related evidence.

VI. Use-of-Force Policies

When Use of an ECW is Justified

The Task Force's review of Maryland law enforcement agencies' use-of-force policies reveals that there is not a uniform approach to authorizing the use of an ECW. Most agencies properly classify ECWs as "less-lethal" devices,[57] but the standard for when an ECW may be discharged is inconsistent. The most commonly applied standard among the surveyed agencies is to permit ECW use against an individual who either poses a physical threat to the officer or others, or who is "actively resisting" the officer.[58] The policies generally define "actively resisting" to include actions that fall short of causing an imminent threat of harm, such as "bracing" or "tensing" one's arms

[56] *Id*. at No. 5.

[57] While ECWs are not intended to be lethal, they are not non-lethal weapons and so should be appropriately identified as "less-lethal" rather than "less-than-lethal."

[58] The following agencies that follow that policy include: Anne Arundel County Sheriff's Office, Baltimore City Police Department, Baltimore County Police Department, Bowie Police Department, Caroline County Sheriff's Office, Cecil County Sheriff's Office, Dorchester County Sheriff's Office, Howard County Department of Police, Montgomery County Sheriff's Office, Queen Anne's County Sheriff, St. Mary's County Sheriff's Office, and Wicomico County Sheriff's Office. *See* Appendix C.

to avoid being placed into handcuffs—even if the person is otherwise unthreatening.[59] By allowing their officers to use ECWs against individuals who are "actively resisting" *without any imminent risk of harm*, these agencies are authorizing their officers to use ECWs solely as a device to coerce compliance with the officer's orders. The risks associated with ECW usage, from the potential for death or injury to straining police-community relationships, should preclude the use of ECWs as a device to merely achieve compliance.

The remaining surveyed agencies allowed even more permissive use of ECWs. These agencies have adopted use-of-force policies that contain vague standards that can be read to permit use in a wide variety of situations, even when the individual is not posing a threat to anyone. Among the standards employed by these agencies to determine when ECW use is proper are the following: "to control the situation," "to bring an unlawful situation under control," "to safely effect an arrest," and against "non-compliant individuals."[60] Such exceedingly vague standards provide a law enforcement officer with no meaningful guidance on when ECW use is reasonable and may therefore facilitate inappropriate use. Instead, law enforcement agencies should provide their officers with a use-of-force policy for ECWs that clearly articulates when ECW use is warranted, taking into account the risks posed by ECWs, while allowing for reasonable officer discretion.

While most injuries caused by ECWs are minor, there are a number of documented cases finding that ECWs caused death or serious injury, and there is some evidence that the number of deaths associated to ECW use has been underestimated.[61]

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[59] For example, the Gaithersburg City Police Department permits use of ECWs against a person who is "bracing" or "tensing." Some agencies distinguish active resistance from passive resistance (*i.e.*, where the subject simply refuses to obey commands). The Baltimore County Police Department, Caroline County Sheriff's Office, Cecil County Sheriff's Office, Howard County Department of Police and Queen Anne's County Sheriff's Office expressly prohibit the use of ECWs against passive subjects. *See* Appendix C. Likewise, the PERF Guidelines recommend that "ECWs should not be used against a passive suspect." PERF Guidelines, *supra* note 33, at No. 1.

[60] Jurisdictions with vague ECW use-of-force standards include: Allegany County Sheriff's Office ("circumstances are tense, uncertain, and rapidly evolving"); Calvert County Sheriff's Office ("when the use-of-force is necessary to gain control of an individual for a lawful purpose"); Charles County Sheriff's Office ("to incapacitate a resistive person"); Frederick County Sheriff's Office ("when . . . attempts to subdue or control the subject by other conventional tactics have been, or will likely be, ineffective"); Gaithersburg City Police Department (on "non-compliant individuals"); Garrett County Sheriff's Office ("circumstances are tense, uncertain, and rapidly evolving"); Harford County Sheriff ("to bring an unlawful situation safely and effectively under control"); the Maryland State Police Tactical Assault Team ("to safely effect an arrest"); Montgomery County Police Department ("to safely effect an arrest"); Prince George's County Sheriff's Office ("effect an arrest"); Washington County Sheriff's Office ("to safely effect an arrest"); and Worcester County Sheriff's Office ("to safely effect an arrest" or "to control the situation"). *See* Appendix C.

[61] TASER International reported that its products "are often used in aggressive confrontations that may result in serious, permanent bodily injury or death to those involved. Our products may cause or be associated with these injuries." TASER Int'l, Inc. Form 10-K Annual Report for period ending December 31, 2005. A June 2009 report from the AMA noted a review of 2,002 arrest-related deaths between 2003 and 2005 in 47 states and the District of Columbia that showed that ECWs were involved in 36 arrest-related deaths during this period. In 17 of these deaths, an ECW was causally linked to the death. However, these numbers undercount the number of deaths involving ECWs and may not be accurate

Importantly, the full effect an ECW may have when deployed in the field or why its use is associated with deaths in some circumstances is not yet fully understood.

Unfortunately, not all law enforcement officers and agencies fully understand the potential risks associated with ECW deployment.[62] Too often law enforcement agencies mistakenly view ECWs as harmless, non-lethal devices that simply temporarily incapacitate subjects with little or no risk of injury.

When practical, ECWs should be used instead of other force options, such as batons or firearms, that would cause greater injury or even death. To help ensure they are used in this manner, and given the risk, albeit slight, for serious injury or death following ECW usage, an agency's use-of-force policy should make clear that ECWs should not be used merely to gain a suspect's compliance, but should be discharged only as tool to protect the officer or others against the risk of physical harm. To properly use ECWs as a law enforcement tool, ECWs must be appropriately placed along a use-of-force spectrum that both recognizes the value of ECWs as a less-lethal weapon but also acknowledges the risks of injury and death created by the discharge of an ECW.

Use-of-force policies should strive to balance the risks of ECW use against the actual threat of harm against an officer or another individual. To that end, the Task Force recommends that ECW use should be permitted only when an individual's actions pose an imminent threat of physical harm to themselves or others. For the purposes of this standard, "physical injury" should have the same meaning as it does in Maryland's

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regarding the number of deaths causally linked to ECWs: "This report acknowledges that the ability of ECWs to cause death is a subject of debate, and that due to reporting gaps, these 36 cases do not represent a complete count of all deaths in which the use of a ECW was involved." AMA Report, *supra* note 11, p. 7; *see also* Braidwood Commission on Conducted Energy Weapon Use, "Restoring Public Confidence: Restricting the Use of Conducted Energy Weapons in British Columbia," p. 14, June 2009, available at http://www.braidwoodinquiry.ca/report/ (hereinafter "Braidwood Report") ("Although there is often a lack of physical evidence on autopsy to determine whether arrhythmia was the cause of death, if a person dies suddenly and from no obvious cause after being subjected to a conducted energy weapon, death is almost certainly due to an arrhythmia."). A December 2008 report from Amnesty International found that ECWs were listed as a cause or contributory factor in 37 of the 98 autopsy reports available, as well as in two inquest transcripts. In 18 of the 37 cases, ECWs were listed as a cause of death, "usually along with other factors such as heart disease or physiologic stress." Amnesty Int'l Report, *supra* note 8, p. 27.

[62] Inquiries by other entities reach findings consistent with those of the Task Force's finding that many law enforcement agencies do not sufficiently prepare their officers for the potential risks of ECWs. A recent report by the AMA found that "appropriate training and supervision of [ECW] use is lacking in some jurisdictions." AMA Report, *supra* note 11, p. 9. There are many incidents indicating that the potential dangers of ECWs are not fully understood. For example, correctional officers in Florida recently discharged ECWs in drive stun mode against their own children in three separate state prisons as part of "Take Our Daughters and Sons to Work Day." Meg Laughlin, "Corrections Sergeant Shocks Kids with Stun Gun During Prison Visit," St. Petersburg Times, May 2, 2009, available at http://www.tampabay.com/news/publicsafety/article997379.ece. In another incident, police used an ECW to force a man to comply with a court order to provide a DNA sample. Rick Pfeiffer, "TASER Use to Obtain DNA Not Unconstitutional," Niagara Gazette, June 4, 2009, available at http://www.niagara-gazette.com/breakingnews/local_story_154132251.html. Many officers may believe that they understand the impact of ECW discharge because they have had an ECW discharged against them during ECW training. As noted in Part V of this report, however, this training can be misleading.

definition of second degree assault on a law enforcement officer.[63] Specifically, "physical injury" means "any impairment of physical condition, excluding minor injuries."[64] A threat of such minor injuries does not ordinarily warrant the application of a potentially lethal force option. Officers should not have to actually suffer an injury before use of an ECW may be justified. As is the case with any decision to use force, officers should consider the totality of the circumstances at hand, including the nature of threatened physical harm as well as the risks associated with using the ECW against the particular individual in the circumstances presented.

ECWs should not be used against a passive subject or otherwise to counter passive non-compliance, absent an imminent threat of physical harm.[65] For example, if a group of protesters were obstructing traffic by linking arms and refusing to obey an officer's commands to disperse, an ECW should not be used to force them to comply. The same is true for an individual engaged in so-called "active" resistance that does not pose an imminent threat of physical harm, absent extraordinary articulable exigent circumstances. As an example, an officer would not be justified to use an ECW on an individual who was merely "bracing" or "tensing" his or her arms or moving evasively to avoid being handcuffed, but who otherwise did not threaten physical harm. In this situation, the risks associated with the ECW are disproportionate to the risk of harm posed on the officer or others. If, on the other hand, an individual was not merely bracing his or her arm to resist an officer's instructions, but rather initiated a physical struggle with an officer, the officer could determine that the threat to his or her safety was substantial enough to justify using the ECW. When confronted with an unarmed individual who does not comply with an officer's orders, officers should attempt to determine whether the individual actually received and understood the officer's commands. Often language barriers or hearing disabilities may make an individual appear non-cooperative, when in reality they are unaware of the officer's commands. Using an ECW against such an individual simply because the subject did not understand (and thus not comply with) the officer's commands is especially unwarranted.

Because subjects who are restrained presumptively are no longer a threat to safety, ECWs should not be used against a restrained subject unless the subject, despite being restrained, poses an imminent threat of physical harm. A number of Maryland law enforcement agencies have already placed such restrictions on using ECWs against persons in handcuffs.[66] Similarly, because ECWs should only be used to

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63 *See* MD. CODE ANN., CRIMINAL LAW § 3-203(c).

64 *Id*. § 3-203(c)(1).

65 *See* PERF Guidelines, *supra* note 33, at No. 1. At least one federal Court of Appeals has concluded that using an ECW to shock a person who does not pose an immediate threat of harm violates a clearly established constitutional right. In *Landis v. Baker*, 297 Fed. Appx. 453 (6th Cir. 2008), the court held that it was unconstitutional to use an ECW against a person "who was resisting arrest but not threatening anyone's safety or attempting to evade arrest by flight," and where there "is no immediate threat to the safety of the officers or others . . . ." *Id*. at 464 (internal quotations and citations omitted).

66 The Baltimore City Police Department, Baltimore County Police Department, Bowie Police Department, Caroline County Sheriff's Office, Cecil County Sheriff's Office, Charles County Sheriff's Office, Gaithersburg City Police Department, Howard County Department of Police, Prince George's

prevent imminent physical harm, their use is not warranted by the mere fact that a subject is fleeing, nor is their use warranted to prevent the destruction of evidence.[67]

By ensuring that an ECW is used only to prevent harm, and not merely as a tool to obtain compliance, a law enforcement agency can avoid not only needlessly exposing a subject to potential injury or death, but also can avoid alienating the community, undermining the public's confidence in the agency, and enduring costly and disruptive litigation. Indeed, many of the ECW incidents that have generated the most public outrage occurred when an officer used an ECW to force an uncooperative individual to comply with an order, but where no harm was imminent. As just one of many examples, in 2006, campus police repeatedly shocked a UCLA student when he refused to leave a library. The student was uncooperative, but unthreatening. The incident, a videotape of which gained national prominence, generated a widespread outcry about the abusive use of ECWs. A university-commissioned review of the incident concluded that the officer who shocked the student acted unreasonably because he "did not take advantage of other options and opportunities reasonably available to de-escalate the situation without the use of the Taser."[68] The university overhauled its ECW use-of-force policies. A suit filed by the student was settled for $220,000.

Integrating ECWs and De-Escalation Techniques into an Agency's Use-of-Force Policy

As with any weapon, an agency's policy on ECWs should be integrated into its overall use-of-force policy.[69] An integrated use-of-force policy should emphasize that ECWs are one among several tools available to the officer and should not always be used as a matter of first resort. In determining which of the available options to use, use-of-force policies should emphasize that officers should use the least amount of force necessary to bring a situation under control and to select the tool or technique that best achieves this goal. Specifically, these policies should treat an ECW as a force option considerably less lethal than a firearm, but one that, nonetheless, in certain circumstances discussed in this report, can become lethal. As such, the policies should instruct officers that when an individual does not present an imminent threat of physical harm, the officer must select a force option lower than an ECW.

Use-of-force policies should also integrate de-escalation techniques and other non-force options, which should be employed prior to any use-of-force—including

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County Police Department, and Queen Anne's County Sheriff's Office prohibit the use of ECWs against a person in handcuffs unless exigent circumstances exist. *See* Appendix C.

[67] The PERF Guidelines recommend: "That a subject is fleeing should not be the sole justification for police use of an ECW." PERF Guidelines, *supra* note 33, at No. 6.

[68] *See* UCLA Report, *supra* note 40, p. 64.

[69] The PERF Guidelines recommend that ECW policies be integrated in an agency's overall use-of-force policies. *See* PERF Guidelines, *supra* note 33, at No. 18 ("Agencies should create stand-alone policies and training curriculum for ECWs and all less-lethal weapons, and ensure that they are integrated with the department's overall use-of-force policy."); *see also* "Report of the Use of Force Working Group of Allegheny County, Pennsylvania," p. vi, Oct. 8, 2009, available at http://www.law.pitt.edu/files/harris/Taser-Working-Group.pdf (hereinafter "Allegheny Report") (recommending that an agency's ECW "policy should incorporate, reference, and form a part of the department's overall policy on the use of force").

ECWs—unless doing so would be ineffective or would place the officer or another individual under a threat of physical harm. De-escalation techniques specific to situations involving persons in mental health crisis, or "crisis intervention" techniques, including containment, should also be part of an agency's use-of-force policy and training program. The role of such techniques in deciding whether to use ECWs in situations involving persons in mental health crisis is discussed below in the section on ECW Use in Response to Medical or Mental Health Crisis.

Restriction on Use in Circumstances Where an Increased Risk of Indirect Injury or Death Exists

By momentarily depriving a person of control of his or her muscles, ECWs frequently lead to falls, some of which may cause injury or even death. For example, in June 2009, a man being held at the Harford County Jail in Maryland became combative while correctional deputies were seeking to fingerprint him. An ECW was discharged against him and he fell, striking his head on the floor and dying later that same day.[70] In another example, a man died after he was subjected to ECW discharge while he was standing on a storefront ledge, causing him to fall two stories and hit his head on the sidewalk. The police department found that officers had violated guidelines prohibiting the use of ECWs in such circumstances.[71] Because ECWs render individuals unable to stop themselves from falling or to protect vital parts of their body if they do, there is a likelihood of a dangerous fall when an ECW is discharged against persons in elevated positions.

ECWs may indirectly contribute to injuries or death in other ways.[72] ECWs discharged against a person in the water may cause that person to drown, and the spark from an ECW can fatally ignite flammable materials (*e.g.*, gasoline; some types of OC (pepper) spray).[73] ECWs used against a person driving a motor vehicle (or bicycle), or fleeing on foot, also may result in serious injury or death.[74]

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[70] Harford County Sheriff's Office News Release: Prisoner Death at Detention Center, June 13, 2009, available at http://www.harfordsheriff.org/_application/files/press_releases/2009/hcso.press_release.2009-06-13_1.pdf.

[71] Kareem Fahim & Christine Hauser, "Taser Use in Man's Death Broke Rules, Police Say," New York Times, Sept. 25, 2008.

[72] Braidwood Report, *supra* note 61, p. 266 (discussing the increased risk that various "external circumstances" such as heights, water, or operating machinery entail).

[73] TASER, Inc., "Product Warnings-Law Enforcement," Apr. 28, 2009 (noting that risks of TASER discharge include falling, ignition of flammable materials, injury to sensitive areas such as the eyes or groin, and burns or scars); *see also* Lorie A. Fridell, "Sample Policy with Commentary: Electronic Control Devices (ECD's) or 'Tasers,'" p. 8 (hereinafter "Fridell Sample Policy") (ECWs will not be used: [1] When the subject has come in contact with flammable liquids or is in a flammable atmosphere; [2] In areas where compressed oxygen is present, such as Medical Facilities and Emergency Rooms; [3] Houses where ether or methamphetamine labs are suspected; [4] When the subject is in a position where a fall may cause substantial injury or death; [5] When the subject is in water deep enough to cause drowning in the event the subject falls into it; [or 6] Against an individual who has his/her finger on the trigger of a firearm.); PERF Guidelines, *supra* note 33, at No. 9 (ECWs should not be used where falls may cause injury or death); *id*. at No. 17 (ECWs should not be used in presence of combustible vapors and liquids or other flammable substances like OC spray); *id*. at No. 23 (ECWs should not be used against persons

Because of the risk that using an ECW could unintentionally cause serious injury or death, they should be used only where deadly force is otherwise authorized in these situations:

- Against persons in elevated positions who might be at risk of a dangerous fall;
- Against persons operating vehicles or machinery;
- Against persons who are fleeing on foot;
- Against persons already restrained in handcuffs;
- Against persons who might be in danger of drowning;
- In environments in which combustible vapors and liquids or other flammable substances, including but not limited to alcohol-based OC spray, are present; or
- In other situations involving heightened risk of serious injury or death to the subject.

Although exigent circumstances infrequently may justify the use of an ECW in one of these heightened risk situations, the decision to use the weapon must always be a reasoned and proportionate one,[75] with the risks of injury or death balanced against the need to subdue the subject.

Restrictions to Minimize Risk of Direct Injury or Death

Aside from the indirect injuries described above, ECWs can directly injure a subject. While serious injuries are relatively rare, injuries following ECW use include puncture wounds, burns and abrasions, and seizures. Puncture wounds in some areas of the body could be particularly damaging. For example, an ECW dart (probe) in the eye can cause loss of vision.[76] There are also documented incidents of ECWs discharged into the head/scalp area causing full-blown seizures with long-term effects in otherwise healthy people.[77]

Recently, TASER International modified its usage recommendations to discourage ECW discharge on a subject's upper chest. Finding that "a close distance between the ECW dart (probe) and the heart is the primary factor in determining

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operating motor vehicles); "TASERed Homeless Man Catches on Fire," CBS News, Aug. 19, 2009, available at http://www.cbsnews.com/stories/2009/08/19/national/main5251739.shtml.

[74] See the discussion of dangers and potential ineffectiveness of ECWs when used against fleeing persons above in Part V of this report.

[75] *But see* Allegheny Report, *supra* note 69, p. vii (recommending that ECWs never be used in the above situations because of the "very high risks of danger due to fire, explosion, falls or other circumstances").

[76] National Institute of Justice, "Study of Deaths Following Electro Muscular Disruptions: Interim Report," p. 3, June 2008, available at http://www.ncjrs.gov/pdffiles1/nij/222981.pdf (hereinafter "NIJ Interim Report").

[77] *See* discussion in Part VIII of the report.

whether an ECW will affect the heart,"[78] TASER International now recommends that officers should avoid chest shots when possible.[79]

Agency use-of-force policies and training should reflect the fact that ECW use may result in direct injury and that in a small number of cases these injuries can be serious. Model policies, and agencies reflecting such policies, prohibit ECW discharge at sensitive areas of the body, including the head, eyes, mouth, neck, chest, and genitalia.[80]

Restrictions on Use Against Certain Populations Subject to a Heightened Risk of Injury or Death

While additional research is necessary, the risk of serious injury or death from ECWs may be increased when used against certain populations.[81] Recognizing this, best practices require that the use of ECWs against persons at heightened risk of injury be avoided whenever reasonably possible.[82]

Research indicates that ECWs may be more likely to cause cardiac complications in certain populations, including elderly people and people with heart

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78 TASER Int'l, "Training Bulletin 15.0 Regarding Medical Research Update and Revised Warnings," Oct. 15, 2009, available at http://www.taser.com/legal/Documents/Training Memo with Training Bulletin and Warnings.pdf (hereinafter "TASER Training Bulletin").

79 *Id*.

80 *See, e.g.*, Fridell Sample Policy, *supra* note 73 ("Never aim the TASER at sensitive tissue areas such as the eyes, face, or groin."); PERF Guidelines, *supra* note 33, at No. 12 ("Officers should avoid firing darts at a subject's head, neck and genitalia."); American Bar Association, "Proposed ABA Standards for Criminal Justice (Third Edition) Volume 23: The Treatment of Prisoners," June 12, 2009 (hereinafter "Proposed ABA Standards") (Standard 23-5.8(a)(iv) proposes to prohibit the use of electronic weaponry directly on vital parts of the body, including genitals and, for electronic weaponry, eyes, mouth, and neck).

81 *See* NIJ Interim Report, *supra* note 76 ("The purported safety margins of [ECW] deployment on normal healthy adults may not be applicable in small children, those with diseased hearts, the elderly, those who are pregnant and other at-risk individuals. The effects of [ECW] exposure in these populations are not clearly understood and more data are needed. The use of a [ECW] against these populations (when recognized) should be avoided but may be necessary if the situation excludes other reasonable options."); *see also* UK Defense Scientific Advisory Council's Subcommittee on the Medical Implications of Less-lethal Weapons, "Statement on the Comparative Medical Implications of Use of the X26 Taser and the M26 Advanced Taser," p. 4, Mar. 7, 2005, available at http://police.homeoffice.gov.uk/publications/operational-policing/police-taser-DOMILL-statement?view=Binary (hereinafter "UK Defense Scientific Advisory Council's Statement") (risk of serious injuries or deaths from TASERs very low but "the possibility that other factors such as illicit drug intoxication, alcohol abuse, pre-existing heart disease, and cardioactive therapeutic drugs may modify the threshold for generation of cardiac arrhythmias cannot be excluded"). Part VIII of the report further discusses the medical literature supporting the Task Force recommendation that ECW use against certain populations be restricted.

82 *See, e.g.*, IACP Executive Brief, *supra* note 31, p. 15 (Officers should be aware of the greater potential for injury when using a ECW against "persons with pacemakers, persons in a drug induced state of delirium, women who are known to be pregnant, persons of small stature irrespective of age, and the very old and very young"); PERF Guidelines, *supra* note 33, at No. 7 ("[ECWs] should not generally be used against pregnant women, elderly persons, young children, and visibly frail persons unless exigent circumstances exist.").

conditions or cardiovascular disease.[83] Also, certain populations are even more at risk of being seriously injured by a fall than others.[84] Persons generally suspected to be at higher risk from injury or death due to ECW include: (1) persons of small stature and slight build (including children and small adults);[85] (2) persons with cardiovascular disease or otherwise diseased hearts, including those with pacemakers; (3) elderly persons; (4) pregnant women;[86] (5) persons with known heart conditions;[87] (6) persons in mental/medical crisis; and (7) persons under the influence of drugs or alcohol.[88]

In Maryland and elsewhere, individuals from these populations have died after officers used ECWs against them.[89] As discussed at the beginning of this report, in November 2007, Jarrell Gray, who was small and slightly built, died after being shocked by an ECW.[90] In April 2007, an ECW was discharged against Uwyanda Peterson. Ms. Peterson, who was slightly built, fell on the ECW probe. The ECW probe passed through her chest wall and into her lung and heart. According to emergency medical personnel, her heart was in ventricular fibrillation when first recorded.[91] Ms. Peterson lost consciousness at the scene and was pronounced dead a half an hour later.[92]

According to the American Medical Association, the impact of ECWs when used against individuals in actual law enforcement scenarios is unknown:

> Although [ECW] activation in normal volunteers appears to be very safe, these studies do not sufficiently reproduce the risks of TASER® exposure

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[83] *See* AMA Report, *supra* note 11, pp. 4-6 (discussion of ECW cardiac effects). Part VIII of this Report further discusses the medical literature supporting the Task Force recommendation that ECW use against persons with known heart conditions be restricted.

[84] AMA Report, *supra* note 11, p. 5 ("The strong muscle contractions induced by [ECWs] cause falls and impact-related injuries (*e.g.*, fractures and head injuries), particularly in elderly individuals or pregnant women.").

[85] *See, e.g.*, TASER Int'l, "Volunteer Warnings, Risks, Liability Release and Covenant Not to Sue," Oct. 28, 2009 (hereinafter "TASER Liability Release") ("ECD use on a . . . low body-mass index (BMI) person could increase the risk of death or serious injury."); IACP Executive Brief, *supra* note 31, p. 15 (Officers should be aware of the greater potential for injury when using a ECW against "persons of small stature irrespective of age").

[86] *See, e.g.*, TASER Liability Release, *supra* note 85 ("ECD use on a pregnant, infirm, elderly, small child, or low body-mass index (BMI) person could increase the risk of death or serious injury."); IACP Executive Brief, *supra* note 31, p. 15; PERF Guidelines, *supra* note 33, at No. 7 ("[ECWs] should not generally be used against pregnant women, elderly persons, young children, and visibly frail persons unless exigent circumstances exist."); NIJ Interim Report, *supra* note 76, p. 4 ("The purported safety margins of ECW deployment on normal healthy adults may not be applicable in small children, those with diseased hearts, the elderly, those who are pregnant and other at-risk individuals. The use of ECWs against these populations (when recognized) should be avoided, but may be necessary if the situation excludes other reasonable options.").

[87] AMA Report, *supra* note 11, pp. 4-5.

[88] *Id*. at p. 5.

[89] The outside parameters of the populations at heightened risk of injury are unknown. It has been reported, for example, that some fatalities after ECW discharge involved persons who had asthma or epilepsy. *See* Amnesty Int'l Report, *supra* note 8, p. 45.

[90] Sarah Fortney, "Man Dies After Being Struck by Taser," Frederick News Post, Nov. 19, 2007, available at http://www.fredericknewspost.com/sections/archives/display_detail.htm?StoryID=75587.

[91] Amnesty Int'l Report, *supra* note 8, p. 73.

[92] *Id*.

> among criminal suspects, in whom coexisting medical and psychiatric conditions, alcohol and drug use, and other factors are often present. Human volunteers report that [ECW] exposure is an extremely unpleasant experience, inducing both physiologic and psychological stress. Some experimental studies have begun to address these confounding factors.... Such studies cannot fully evaluate the responses of individuals who are confrontational, have taken drugs, or are desperate for escape, highly agitated, and combative.[93]

Thus, the challenge for law enforcement in avoiding ECW use against persons at heightened risk of injury is twofold. First, more research is needed to determine which populations are at a heightened risk of death or injury and the extent of that risk. Second, in many situations it may not be readily apparent to a law enforcement officer faced with a rapidly evolving situation whether an individual falls within one of these groups. Taken in combination, these challenges mean that a law enforcement officer making the decision whether to use an ECW is sometimes faced with a unique and difficult conundrum: a use-of-force option that normally is not deadly, may in some instances be lethal even where the officer had no intention of using lethal force, did not believe lethal force was necessary, and used the force tool in a manner that normally would not increase the risk of death.

Given this conundrum, unless and until research demonstrates that ECWs are as safe for the individuals against whom they are used in real life law enforcement scenarios as they are for individuals in training or experimental contexts, law enforcement agencies' use-of-force policies should not permit ECW use to combat lower level resistance, and officers must be trained to stage medical assistance prior to ECW use where possible and to recognize indicia of medical crisis after ECW use. This is true even where the person is not a recognized member of a known heightened-risk population. In addition, until further research clarifies ECW risks related to heightened risk populations, law enforcement agencies should ensure that agency use-of-force policies and training: (1) inform officers of the uncertainties and potential dangers of ECW use against heightened risk populations; (2) educate officers in identifying heightened risk individuals where possible;[94] and (3) emphasize alternatives to ECW use for heightened risk populations.

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[93] AMA Report, *supra* note 11, p. 5.

[94] Where circumstances permit, this information can sometimes be obtained from family members or other persons if the individual is unable to provide it. Forthcoming ABA standards addressing the use of ECWs in jails and prisons require assessments to determine whether the individual is particularly vulnerable to harm by ECW or whether ECW discharge would be contraindicated by the individual's medical condition. Standard 23.2.1 addresses considerations at intake related to ECWs. Standard 23.2.1(b)(iii) requires an "initial assessment whether any characteristic of the prisoner makes use of chemical agents or electronic weaponry against that prisoner particularly risky, in order to facilitate compliance with Standard 23-5.8(d)." Standard 23.5.8(d) requires: that "[w]hen practicable, before using either chemical agents or electronic weaponry against a prisoner, staff should determine whether the prisoner has any contraindicated medical conditions, including mental illness and intoxication and make a contemporaneous record of this determination." *See* Proposed ABA Standards, *supra* note 80.

ECW Use in Response to Medical or Mental Health Crisis

ECW use against persons in medical or mental health crisis warrants particular focus because law enforcement officers increasingly are using ECWs on subjects displaying symptoms of a medical or mental health crisis, including those with symptoms that are sometimes referred to as "excited delirium."[95] As noted above, there are numerous accounts of incidents where the use of lethal force against such individuals would have been justified, but ECWs were used instead and no injuries resulted. There is also concern, however, that ECWs are sometimes used precipitously against persons in medical or mental health crisis and that in some circumstances the use of the ECW does more harm than good.

Some argue that ECWs should never be used against persons already exhibiting signs of high stress, such as those in a manic state or drug induced psychosis,[96] because some research indicates that ECWs may have contributed to the stress experienced by a person who ultimately died of stressors related to the arrest.[97] Other reports have noted a temporal association between fatalities and the use of ECWs against persons exhibiting symptoms termed "excited delirium."[98]

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[95] This term is used to refer to acute physical and emotional changes that are often seen during police confrontations. There are differing views of what constitutes "excited delirium," and even whether "excited delirium" exists. According to a recent AMA report:

> Although not a validated diagnostic entity in either the International Classification of Diseases or the Diagnostic and Statistical Manual of Mental Disorders, "excited delirium" is a widely accepted entity in forensic pathology and is cited by medical examiners to explain the sudden in-custody deaths of individuals who are combative and in a highly agitated state. Excited delirium is broadly defined as a state of agitation, excitability, paranoia, aggression, and apparent immunity to pain, often associated with stimulant use and certain psychiatric disorders. The signs and symptoms typically ascribed to "excited delirium" include bizarre or violent behavior, hyperactivity, hyperthermia, confusion, great strength, sweating and removal of clothing, and imperviousness to pain. Speculation about triggering factors include sudden and intense activation of the sympathetic nervous system, with hyperthermia, and/or acidosis, which could trigger life-threatening arrhythmias in susceptible individuals. Biochemical studies have shown alterations in the function of dopamine neurons and specific gene activation products in the central nervous system of such individuals. The intense pain associated with [ECW] exposure, the psychological distress of incapacitation, and hazards associated with various restraint methods also could contribute.

AMA Report, *supra* note 11, pp. 6-7 (internal citations omitted).

[96] Braidwood Report, *supra* note 61, p. 309 ("The unanimous view of mental health presenters was that the best practice is to de-escalate the agitation, which can best be achieved through the application of recognized crisis intervention techniques.").

[97] *See* NIJ Interim Report, *supra* note 76, p. 3 ("[ECW] technology may be a contributor to 'stress' when stress is an issue related to cause of death determination.").

[98] Amnesty International reports that "[t]he most common cause of death given by coroners or medical examiners (more than 30 [percent] of cases where information was available [*i.e.*, 111 of 250]) was heart failure caused by the ingestion of cocaine or other stimulant drugs, often together with a conditions described as excited delirium. In some cases excited delirium alone was given as a cause of death." Amnesty Int'l Report, *supra* note 8, p. 26.

In certain circumstances, individuals experiencing mental health- or drug-induced crises, or similar episodes, may be experiencing a dire medical emergency that needs to be quickly treated.[99] In some of these circumstances, law enforcement officers, sometimes with the assistance of mental health professionals, may be able to take the individual into custody without resorting to force. However, in other circumstances, non-force strategies may not be an option or will be ineffective.

The decision whether to use ECWs or another type of force to restrain an individual when non-force options have failed or are not feasible should be left to the discretion of properly trained and supervised law enforcement officers on the scene. However, this discretion must be properly informed. ECWs may allow the individual to be taken into custody with less stress and harm to all involved than would a possible protracted hands-on struggle or resort to long batons or similar weapons.[100] However, law enforcement officers should understand that the use of ECWs in such circumstances poses risks. Aside from the general risks associated with ECW usage, research has been unable to ascertain the effect of an ECW use on individuals experiencing a medical or mental health crisis.[101] A recent AMA report appears to acknowledge the possibility that medical symptoms associated with "excited delirium" may be exacerbated by any attempts to restrain an individual, including restraint by an ECW.[102] The United States Department of Justice has warned a local jurisdiction under investigation that there is a risk of ECW discharge leading to sudden death when used against persons who are under the influence of drugs, or who present behaviors associated with the condition of "excited delirium."[103]

With these risks in mind, use-of-force policies should make clear that an individual's apparent mental health or medical crisis (including any display of symptoms that are considered by some to constitute "excited delirium") should not in itself justify

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[99] "Excited delirium" is often cited as such an emergency. In one widely cited example, doctors at an emergency room at Vanderbilt University hospital in Nashville, Tennessee tranquilized three people whose heart rates and body temperatures were soaring. All three recovered. Laura Sullivan, "Death by Excited Delirium: Diagnosis or Cover-up?," National Public Radio, July 11, 2007, available at http://www.npr.org/templates/story/story.php?storyId=7608386. Others argue that persons experiencing excited delirium are not particularly treatable after a certain point, obviating the need to quickly restrain them for any medical purpose. *See* Samuel J. Stratton et al., "Factors Associated with Sudden Death of Individuals Requires Restraint for Excited Delirium," 19 Am. J. Emergency Med. 187 (May 2001) (study of 18 cases in which persons with excited delirium were put in an ambulance after being restrained and monitored by paramedics, and finding that all 18 died).

[100] This belief is widely held and has intuitive appeal. *See, e.g.*, Testimony of Bernadette DiPino, Chief of Ocean City Police Department, Apr. 30, 2009; Testimony of Alan Goldberg, Captain, Montgomery County Police Department, Apr. 23, 2009. Whether ECWs in fact cause less dangerous physical stress than other methods of restraint in such circumstances has not been determined.

[101] *See* AMA Report, *supra* note 11, p. 5 (noting that the research to date "cannot fully evaluate the responses of individuals who are confrontational, have taken drugs, or are desperate for escape, highly agitated, and combative").

[102] *Id*. at p. 6 ("The intense pain associated with [ECW] exposure, the psychological distress of incapacitation, and hazards associated with various restraint methods also could contribute [to triggering excited delirium].").

[103] *See* USDOJ Letter, *supra* note 40, p. 9.

the use of an ECW against that individual.[104] Instead, officers on the scene should consider policies and training on dealing with persons in mental health/medical crisis to determine whether non-force options—including de-escalation techniques and containment—are feasible.

Maryland mental health advocates urged in testimony to the Task Force that priority should be placed on integrating crisis intervention and de-escalation techniques into law enforcement use-of-force policies and procedures.[105] Mental health experts noted that police are often called as first responders by family members to deal with emotionally disturbed individuals who display extreme behaviors. In such crisis situations, emotionally disturbed individuals are often at an impaired level of consciousness; they may not know who or where they are; they may be delusional, anxious, or frightened; and they may be unable to process or comply with an officer's commands. When police arrive, such individuals can become even more anxious and appear even more dangerous.

The unanimous position of mental health experts is that the best practice in such situations is to de-escalate the agitated suspect with a crisis intervention approach instead of a typical command-and-control approach.[106] This type of crisis intervention approach is used safely and effectively in numerous police departments nationwide and a few Maryland jurisdictions. Both the Maryland Mental Health Association and the National Alliance on Mental Illness of Maryland in their testimony to the Task Force urged that all Maryland jurisdictions incorporate this approach in their use-of-force policies; and that in departments that use electronic weapons, those policies should make it clear that de-escalation techniques should be invoked before resorting to an electronic weapon.

If de-escalation techniques or containment are not feasible or are ineffective, and the decision is made to arrest or otherwise restrain a person in a mental health or medical crisis, use-of-force policies should direct the officers to consider whether there are means to quickly and safely restrain the individual without resort to an ECW. Policies should also require that, where possible, the restraint of a person who is in mental health or medical crisis should be made in conjunction with mental health and medical personnel to help minimize the chance of injury to officers, the subject, or bystanders and to ensure the prompt provision of appropriate medical or mental health care. An ECW should be used to restrain an individual in mental health or medical crisis only if the officer determines that alternative means of restraint are unavailable

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104 *See generally* AMA Report, *supra* note 11, pp. 6-7.

105 Testimony of Terry Bohrer, Mental Health Association of Maryland, Inc., Apr. 23, 2009; Written Testimony submitted by National Alliance of Mental Illness of Maryland, Apr. 23, 2009.

106 *See id.; see also* British Columbia Division, Canadian Mental Health Association, "Study in Blue and Grey," 2003, available at http://www.cmha.bc.ca/files/policereport.pdf; Braidwood Report, *supra* note 61, pp. 248-61 (summarizing the testimony of Dr. Shaohu Lu, Dr. Joseph Noone, Dr. Maelor-Vallance, Dr. John Butt, and Dr. Michael Webster).

and that the individual's condition poses an imminent threat of physical harm to the individual or another person.[107]

It is critical that agencies have policies and training related to medical and mental health crises that are thorough and accurate. Officers who have a complete understanding of the complexities of this scenario may be more willing to first attempt lower force options where feasible and to better understand the restrictions against repeated or prolonged ECW discharge, especially in these circumstances. Agencies that understand this may better recognize the need to train their officers and community mental health and medical personnel to develop strategies that can help restrain persons using less force, even while they increase safety for all concerned.[108]

Restrictions Against Multiple or Prolonged Discharges

Many of the deaths following ECW use, including some in Maryland, are associated with repeated or continuous discharges.[109] Research of this phenomenon to date has been insufficient to resolve why these deaths occur.[110] A TASER International "product warning" notes that "muscle contractions may impair a subject's ability to

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[107] Braidwood Report, *supra* note 61, p. 310 (recommending that officers be "required to use de-escalation and/or crisis intervention techniques before deploying a conducted energy weapon, unless they are satisfied, on reasonable grounds, that such techniques will not be effective in eliminating the risk of bodily harm.").

[108] Many agencies, including Montgomery County, have in place their own versions of the widely influential "Memphis Model" of developing Crisis Intervention Teams to respond to persons with mental illness, including training for officers on how to deescalate potentially violent incidents. One recognized attribute of the model is that the risk of injury can be significantly reduced. *See e.g.*, Presentation by Bob Kurtz, NC-NAMI Conference, Mar. 9, 2007, available at http://www.naminc.org/dihoff_documents/Conference_2007/recap/presentations/Bob Kurtz CIT Presentation.ppt (slide on "Outcomes for Memphis CIT Model") (noting the reduced officer and consumer injury rate, the reduced need for lethal force, and the improved officer de-escalation skills).

[109] Eric Wolle died in 2004 after an ECW was discharged against him four times. *See* David Snyder, "Maryland Family Grieves for Mentally Ill Man," Washington Post, June 26, 2004. Jarrel Gray died in November 2007, several hours after an ECW was discharged against him twice, 23 seconds apart. See Keith L. Martin, "Family Files $145 Million Lawsuit in Taser-Related Death," Gazette (Maryland), May 29, 2008, available at http://www.gazette.net/stories/053008/polinew202517_32370.shtm. While most deaths associated with repeated or prolonged ECW discharges involve only a few discharges, in one death actually attributed directly to ECW, the decedent had an ECW discharged against him nine times in 14 minutes. The coroner in that case found that the death was due to those repeated ECW discharges. *See* Patrik Jonsson, "Are Stun Guns Too Deadly? Louisiana Case Adds to Debate," Christian Science Monitor, Aug. 12, 2008.

[110] *See* NIJ Interim Report, *supra* note 76, p. 4 ("The medical risks of repeated or continuous [ECW] exposure are unknown and the role of [ECW]s in causing death is unclear in these cases. There may be circumstances in which repeated or continuous exposure is required but law enforcement should be aware that the associated risks are unknown. Therefore, caution is urged in using multiple activations of [ECW] as a means to accomplish subdual.") A study commissioned by the U.S. Department of Defense recently expressed concern that "the effects of multiple simultaneous exposure" to ECW shocks on the heart required additional evaluation. Joint Non-Lethal Weapons Program, U.S. Department of Defense, "Human Effectiveness and Risk Characterization of the Electromuscular Incapacitation Device—A Limited Analysis of the TASER," p. 28, Mar. 1, 2005, available at http://www.taser.com/research/Science/Documents/The Joint Non-Lethal Weapons Human Effects Center of Excellence.pdf (hereinafter "Joint Non-Lethal Weapons Program Report").

breathe" and that "in some circumstances, in susceptible people, it is conceivable that the stress and exertion of extensive, repeated, prolonged, or continuous application(s) of the TASER device may contribute to cumulative exhaustion, stress, and associated medical risk(s)."[111] While the TASER International warning singles out "susceptible" people, such discharges are also associated with deaths of even healthy adults. According to a recent AMA report, studies indicate that heart rhythms usually can be disrupted with "prolonged discharges and electrode placements that bracket the heart."[112]

Many governmental and law enforcement reports have concluded that multiple and prolonged ECW shocks may increase the risk of death or serious injury.[113] Furthermore, studies indicate that people who are shocked by an ECW frequently are dazed after the shock and may be unable to immediately obey an officer's commands.

Given the apparent risks, use-of-force policies should make clear that repeated or prolonged discharges should be avoided wherever possible and that an officer should only administer an additional shock if the officer has concluded that the subject still poses an imminent threat of physical harm and other options are not appropriate.[114] If

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[111] TASER Int'l, "Volunteer Warnings, Risks, Liability Release and Covenant Not to Sue," Apr. 12, 2006, available at http://www2.taser.com/SiteCollectionDocuments/Controlled Documents/Warnings/LG-FORM-VOLUNTER-001 REV A Volunteer Exposure Release Form.pdf.

[112] AMA Report, *supra* note 11, p. 4.

[113] For example, in reviewing the results of two national surveys it conducted, PERF found that "the results indicated that multiple and continuous activations of ECWs may increase the risk of death or serious injury, and that there may be a higher risk of death in people under the influence of drugs." PERF Guidelines, *supra* note 33, at p. 7. As a result, PERF concluded that "multiple activations and continuous cycling of a [ECW] appear to increase the risk of death or serious injury and should be avoided where practical." *Id*. at No. 4. PERF therefore recommends that officers should use an ECW "for one standard [five-second] cycle and stop to evaluate the situation. If subsequent cycles are necessary, agency policy should restrict the number and duration of those cycles to the minimum activations necessary to place the subject in custody." *Id*. at No. 3; *see also* PERF: Critical Issues, *supra* note 42, p. 120. The AMA has similarly recommended that "[t]raining protocols should emphasize that multiple activations and continuous cycling of ECWs appear to increase the risk of death or serious injury." AMA Report, *supra* note 11, p. 9. Courts have held that multiple applications can amount to excessive force. *See, e.g.*, *Lee v. Metro. Gov't of Nashville & Davidson County*, 596 F. Supp. 2d 1101, 1117 (M.D. Tenn. 2009) ("[U]nder appropriate circumstances, gratuitous, repeated applications of the TASER over a short period of time can amount to excessive force."). TASER International's September 30, 2009 product warning also recommends minimizing ECW use where practical. TASER Int'l, "Important ECD Product Safety and Health Information," p. 5, Sept. 30, 2009, available at http://www.taser.com/legal/Documents/Training Memo with Training Bulletin and Warnings.pdf (hereinafter "TASER Product Warning") ("Reasonable efforts should be made to minimize the number of ECD exposures."). The USDOJ Civil Rights Division has also provided detailed guidance on the length and number of ECW cycles that should be allowed. *See* USDOJ Letter, *supra* note 40, pp. 11-12. Numerous Maryland law enforcement agencies prohibit or restrict officers from discharging multiple shocks against subjects. These include the Anne Arundel County Sheriff's Office, Baltimore County Police Department, Bowie Police Department, Calvert County Sheriff's Office, Gaithersburg City Police Department, Harford County Sheriff's Office, Howard County Department of Police, and St. Mary's County Sheriff's Office. *See* Appendix C.

[114] *See* Allegheny Report, *supra* note 69, p. vi (recommending "that officers activating a TASER™ should use it once, for one five-second standard cycle, and then pause to evaluate whether further use might be necessary. If subsequent cycles are necessary, agency policy should restrict the number and duration of those cycles to the minimum necessary to place the subject in custody"). Several Maryland

no such threat is present, no further ECW shocks should be permitted. Policies should require that where an officer administers additional shocks, the officer's use-of-force report of the incident should explain why each additional shock was necessary. For the same reasons, use-of-force policies should permit simultaneous ECW use only when there is a specific, articulable reason to do so.[115] Further guidance regarding multiple and simultaneous use of ECWs is provided in the Part V of this report.

Warnings and Display of ECWs

Before an officer discharges an ECW, the officer should provide a suspect with an opportunity to comply with the officer's instructions unless delaying discharge would be unsafe or the element of surprise is necessary to minimize the risk of harm. Because the mere threat of being shocked by an ECW often causes an individual to cease his or her potentially dangerous behavior, providing a warning may eliminate the need to actually discharge the ECW. In addition, the display of an ECW itself may be considered a use of force. Thus, officers should not aim or threaten to use an ECW unless they reasonably believe that doing so will de-escalate the situation.

A warning is also useful to prevent other officers on the scene from mistaking the ECW discharge for firearms discharge. Some ECWs look very much like firearms, and when an ECW is discharged it produces a noise that sounds similar to a shot from a firearm. Issuance of a verbal warning before discharging an ECW will help avoid any confusion about the type of weapon used and will help ensure that a tense situation is not mistakenly escalated.[116]

Use of Drive-Stun (Pain Compliance) Mode

Use-of-force policies should treat the ECW's drive-stun (pain compliance) mode differently than the ECW's conventional incapacitation (probe) mode. Whereas the probe mode is capable of incapacitating an individual's muscle movements, the drive-stun mode is designed to gain compliance solely through the administration of pain.[117]

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law enforcement agencies already prohibit or restrict officers from discharging multiple shocks against subjects along these lines. These include the Anne Arundel County Sheriff's Office, Baltimore County Police Department, Bowie Police Department, Calvert County Sheriff's Office, Gaithersburg City Police Department, Harford County Sheriff's Office, Howard County Department of Police, and St. Mary's County Sheriff's Office. *See* Appendix C.

[115] The PERF model guidelines provide, "No more than one officer at a time should activate a [ECW] against a person." PERF Guidelines, *supra* note 33, at No. 2.

[116] The Anne Arundel County Sheriff's Office, Baltimore County Police Department, Bowie Police Department, Calvert County Sheriff's Office, Cecil County Sheriff's Office, Charles County Sheriff's Office, Gaithersburg City Police Department, Howard County Department of Police, Maryland Police Tactical Assault Team, Montgomery County Sheriff's Office, Prince George's County Sheriff's Office, Queen Anne's County Sheriff's Office, St. Mary's County Sheriff's Office, Washington County Sheriff's Office, and Wicomico County Sheriff's Office all require that barring exigent circumstances, officers must issue a warning before discharging an ECW. *See* Appendix C. Similarly, the PERF Report recommends that "[a] warning should be given to a person prior to activating the [ECW] unless to do so would place any other person at risk," and "[w]hen applicable, an announcement should be made to other officers on the scene that a [ECW] is going to be activated." PERF Guidelines, *supra* note 33, at No. 29.

[117] Braidwood Report, *supra* note 61, p. 133.

Because the officer must be in direct contact with an individual to use the drive-stun mode, using it places the officer at a higher risk of harm. To avoid this risk, ECWs should only be used in drive-stun mode when necessary to complete the incapacitation circuit or when the probe mode has been ineffective and use of drive-stun mode is necessary to prevent imminent physical harm to the officer or others. The drive-stun mode should not be used merely to gain compliance from a subject.

VII. Medical Care

Agency policies should delineate the obligation of officers to provide a basic assessment for medical needs following the discharge of an ECW. Training should reinforce the importance of the officer initiating first aid to the suspect as soon as the situation is safely controlled, and officers should have standard first aid items, gloves, and resuscitation equipment available to them. Training should address the use of this equipment, as well as emphasize the appropriate utilization of EMS to provide advanced life support ("ALS") and stabilization, when medically necessary. Every officer should be able to perform a basic assessment of an individual in their custody to determine if there is reasonable concern that a serious or potentially life threatening medical condition exists. In situations where the use of an ECW was based upon a need for medical intervention, such as with an individual displaying signs and symptoms that may represent presentation of "excited delirium," then the rapid transition to paramedics for continuous monitoring and care is essential. In those situations, if possible, EMS should be alerted in advance of engaging the subject, in order to expedite ALS care and transport to an emergency department.

Once an individual is taken into custody, he or she should be restrained in a fashion that assures the safety of both the subject and those around him or her. This includes restraining and positioning the person in a manner that does not interfere with breathing. The decision as to who removes the electrical probes from the subject and when they may do so should be predetermined by the agency, taking into consideration that the probes should be treated as "sharps" contaminated by body fluids, whether or not fluids are visible, and treated appropriately to reduce the risk of injury and disease transmission.

Law enforcement agencies deploying ECWs should meet with local EMS and emergency department representatives in order to understand the capabilities and limitations of these resources. This will allow the information to be included in the training of officers who will carry ECWs, and will help prevent delays in patient care or disagreements in the field. Officers who understand EMS protocols and the limitations of field providers will have more realistic expectations of what can be done in the field, and what is more appropriately handled in an emergency department. Additionally, working with medical staff at the local emergency department, in conjunction with planning meetings with booking and jail representatives, will allow for the creation of reasonable guidelines for evaluation of the subject in custody, as well as the determination of where such evaluations should take place. Once an evaluation is completed, a subject should be housed in a fashion to allow some form of monitoring in order to speed the identification of any late-presenting medical complications. These

expectations and agreements should be documented in writing in order to minimize confusion or misunderstanding among parties.

VIII. Medical Support

The recommendations of this Task Force are strongly supported by the medical literature. As an initial matter, the Task Force endorses law enforcement deployment of ECWs under appropriate circumstances. This recommendation is founded, in part, on the fact that the medical literature generally recognizes the relative safety of ECWs when compared with other force options, such as firearms.[118] The Task Force acknowledges the fact that ECWs are less lethal than certain of the other alternatives available to law enforcement officers in the field.

Equally important to recognizing the efficacy and relative safety of ECWs, however, is understanding their potential risk. The medical literature is replete with research and reports regarding both direct and indirect injury resulting from ECW

[118] *See, e.g.*, G.J. Ordog et al., "Electronic Gun (Taser) Injuries," [Comparative Study] 16 Annals Emergency Med. 73, Jan. 1987. Some have raised concerns about reliance on information from researchers who either are or were on the TASER International external medical and scientific review board, or who own stock in that company, or who have previously been paid to speak as a subject matter expert on ECWs. In fact, one medical journal editor has noted his personal opinion that, "despite . . . scientific demonstration of potentially lethal effects in animals and humans" and "overwhelming circumstantial evidence" of the risks associated with ECWs, the major ECW manufacturer has "sponsored research to prove the taser's safety." "Just about all the research, as it turns out." Matthew B. Stanbrook et al., eds., "Editorial: Tasers in Medicine: An Irreverent Call for Proposals," 178 Can. Med. Ass'n J. 1401, 2008, available at http://www.cmaj.ca/cgi/content/full/178/11/1401. The editor continues, "[t]he scientific literature bears witness to a small group of dedicated researchers who diligently write letters to journals pointing out flaws in studies reporting harm from [ECW]s," which are then published by other journals' editors who are under no obligation to do so. *Id*. "Unfortunately, some of these researchers occasionally neglect to mention their participation on TASER International's medical advisory board or board of directors." *Id*. Likewise, he notes that, the ECW manufacturer, "sometimes goes further, to the extent of suing a researcher for publishing scientific results critical of [ECWs] in a peer-reviewed journal and a medical examiner for the 'error' of listing [ECW] exposure on a death certificate as the cause of death." *Id*. This strongly-worded opinion from the editor of a peer-reviewed journal certainly gives rise to concerns about research funded or performed by the manufacturer, members of its board, or those it routinely employs, even though his comments are not peer reviewed. However, as the editor notes, much of the available research falls into this category and this is not uncommon with at least the initial reports on any new drug or medical device. Readers of the scientific literature must make their own evaluation of the study, its methods, its results, and the conclusions based upon those results. The researchers are required to identify and address any potential conflicts of interest, and all submissions are subject to blinded review by peers in the field who likewise must report any potential conflicts. If a paper passes the review process by two or more unrelated professionals, then it is published and becomes part of the medical literature. In order to facilitate the reader's interpretation of the authors of the works cited in the medical section, a literature review and Internet search identified the following persons as serving, or previously serving, in an external review board position, or as having acknowledged stock ownership in or receipt of honoraria from TASER International: Jeffrey D. Ho, William Bozeman, Donald M. Dawes, Mark W. Kroll, Hugh Calkins, Charles Swerdlow, Michael Graham, William Heeggard, and James Sweeney. As a means to try to assure the integrity of the materials presented in the medical section, letters to the editor and other non-peer-reviewed works from any of these individuals are not cited as sole support for a claim.

discharge.[119] The Task Force makes significant recommendations in each of these areas, all of which are directly supported by the reports of ECW-related risks in the medical literature.

To begin with, every successful ECW discharge results in some degree of injury if the darts enter the human body and if the individual is incapacitated and falls to the ground. This injury can range from extremely minor to catastrophic. On the relatively minor end of the spectrum, some of the lesser possible complications associated with ECW discharge include contusions, abrasions, lacerations, and mild muscle tissue damage.[120]

Much more significant injuries, including those requiring hospitalization, are also reported in the literature. The use of ECWs may also lead to cardiovascular, respiratory, obstetric, ocular and traumatic injuries as well as potentially biochemical abnormalities.[121] In a case series of four patients subdued with ECWs, researchers identified injuries including: (1) a fracture at the base of the skull and intracranial bleeding, necessitating brain surgery; (2) a concussion, facial laceration, multiple nasal fractures, and orbital floor fracture; (3) penetration completely through the skull by an ECW probe with seizure-like activity reported by the officer when the ECW was discharged; and (4) a forehead bruise and laceration.[122] Although no dates were provided, it appears that these cases may have been gathered over as long a period as two years. The same authors concluded that, although seemingly rare, individuals against whom ECWs are discharged may be exposed to the potential for significant injury and that trauma surgeons and law enforcement agencies should be aware of the potential danger of significant head injuries as a result of loss of neuromuscular control.[123]

ECW barbs are particularly dangerous to a subject's eyes. The medical literature includes at least four cases in which ocular injuries were sustained by impalement with an ECW dart, resulting in serious ophthalmic injuries.[124] ECWs have led to retinal detachment secondary to blunt trauma and cataract formation, both serious eye injuries.[125] Another case study discusses the perforation of a man's eye by an ECW

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[119] ECW injuries reported in the literature fall, very broadly, into two categories. The first is direct or primary injury. This category includes all injuries from the ECW acting alone, whether due to the entry of darts into the body or the electrical current discharged. The second category of injuries is indirect or secondary injury. Secondary injuries include ECW-induced falls. Both types of injury are causally related to ECW discharge given that absent the ECW, the injury would not have occurred.

[120] G.J. Ordog et al., "Electronic Gun (Taser) Injuries," 16 Annals Emergency Med. 73, Jan. 1987

[121] M. Robb et al., "Review Article: Emergency Department Implications of the TASER," 21 Emergency Med. Australasia, Aug. 2009.

[122] B.E. Mangus et al., "Taser and Taser Associated Injuries: A Case Series," [Case Study] 74 Am. Surgeon 862, Sept. 2008.

[123] *Id.*

[124] J.S. Han, A. Chopra & D. Carr, "Case Report: Ophthalmic Injuries from a TASER," 11 Can. J. Emergency Med. Care 90, Jan. 2009.

[125] R.K. Seth, "Case Report: Cataract Secondary to Electrical Shock from a Taser Gun," 33 J. of Cataract & Refractive Surgery 1664, Sept. 2007.

dart, causing iris, lens, and retinal injury and later, retinal detachment.[126] Another medical case study concluded that any ECW-dart injury around the orbits should raise the suspicion of a penetrating ocular injury.[127] In such cases, the authors concluded that removal of the dart should be performed in an operating theater under general anesthesia.[128]

There is at least one reported case in which a patient developed pharyngeal perforation following the use of an ECW.[129] The fact that ECW use may inadvertently result in the penetration of an individual's throat provides additional support for the Task Force and manufacturer recommendation to avoid ECW discharge against vulnerable parts of the body.

ECW discharge can lead to seizures. In a case reported in the medical literature, during a police chase on foot, a previously well police officer was hit mistakenly by an ECW shot meant for the suspect.[130] Within seconds, the officer collapsed and experienced a generalized seizure with loss of consciousness and postictal confusion.[131] More than one year after receiving the ECW shock, the officer's "symptoms of anxiety, difficulties concentrating, irritability, nonspecific dizziness and persistent headaches have not completely resolved."[132] The authors stated that their report "shows that a taser shot to the head may result in a brain-specific complication such as generalized seizure. It also suggests that seizure should be considered an adverse event related to taser use."[133]

These reports strongly support the Task Force's call for appropriate training prior to ECW deployment as well as its recommendations to obtain proper post-discharge medical treatment when necessary, and to avoid ECW discharge towards sensitive areas of the body such as the head, eyes, and groin.

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126 S.L. Chen et al., "Perforating Ocular Injury by Taser," 34 Clinical & Experimental Ophthalmology 378, May – June 2006.

127 W. Ng et al., "Case Report: Taser Penetrating Ocular Injury," 139 Am. J. Ophthalmology 713, Apr. 2005 (discussing the case of a 50-year-old man who suffered impalement by an ECW dart 1.5 cm below the right lower eyelid margin, causing a full-thickness wound adequately large for vitreous to escape from the eye when the TASER was removed).

128 *Id*.

129 M. Al-Jarabah et al., "Case Report: Pharyngeal Perforation Secondary to Electrical Shock from a Taser Gun," 25 Emergency Med. J. 378, June 2008.

130 Esther T. Bui, Myra Surkes & Richard Wennberg, "Case Report: Generalized Tonic-Clonic Seizure After a Taser Shot to the Head," Canadian Medical Association Journal, Mar. 17, 2009, available at http://www.cmaj.ca/cgi/reprint/180/6/625 (hereinafter "CMAJ Case Report"). TASER International responded that it was "aware of a few incidents during training in which an officer experienced a seizure following a hit by a TASER device." Sue Bailey, "Medical Journal Article Says Taser Stun to the Head Can Cause Seizures," Canadian Press, Mar. 16, 2009. A TASER International product warning notes that the risk of seizure "may be heightened if electrical stimuli or current passes through the head region." *See also* TASER Product Warning, *supra* note 113, p. 6.

131 CMAJ Case Report, *supra* note 130.

132 *Id*.

133 *Id*.

In addition to injuries to superficial body structures or those sustained in the post-discharge fall, complications from ECW use include injury to deep structures of the abdomen and chest.[134] For instance, while currently rare in the medical literature, there is at least one case report of a 16-year old male patient who suffered a collapsed lung after an ECW discharge.[135] This report strongly supports the recommendation to avoid ECW use against very thin individuals given the risk of piercing the chest wall and causing serious injury internally. It also forms a medical basis to avoid ECW use against those who are running and at risk of falling on the darts, forcing them further into the body.

A case report in the Annals of Emergency Medicine found that the fall due to an ECW discharge caused a thoracic spine compression fracture in the victim.[136] It is recognized elsewhere that ECW discharge may result in spinal fractures, and it has been suggested that "physicians consider obtaining back radiographs to rule out a vertebral compression fracture in any individual who has sustained a TASER discharge and has ongoing or persistent back pain."[137] Here again, the medical literature supports the recommendation for officers to seek medical assistance for subjects against whom ECWs are discharged, when necessary.

The medical literature reviewed includes one case report of a woman losing her child to miscarriage seven days after an ECW was discharged against her.[138] This report underpins the Task Force recommendation to avoid ECW discharge against women known to be pregnant.

There are theoretical concerns expressed in the literature related to the effects of ECWs on respiration. One study found that repeated or long-duration discharges of ECWs may result in more potentially harmful effects (as reflected in blood factor changes), including a lack of effective respiration, as compared to shorter discharges.[139] This study concludes that it is not known if all human subjects exposed to ECW discharges in the field (often "on drugs" or exhibiting a set of symptoms sometimes called "excited delirium") would be able to maintain adequate breathing. This study strongly supports the Task Force recommendations regarding repeated or long-duration ECW discharges as well as the Task Force recommendations regarding the discharge of ECWs against individuals who are known to be under the influence of drugs, or who are experiencing "excited delirium."

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134 P.R. Hinchey & G. Subramaniam, "Pneumothorax as a Complication After TASER Activation," 13 Prehospital Emergency Care 532, Oct. – Dec., 2009.

135 *Id*.

136 J.E. Winslow et al., "Thoracic Compression Fractures as a Result of Shock from a Conducted Energy Weapon: A Case Report," 50 Annals Emergency Med. 584, Sept. 2007.

137 C.M. Sloane, "Case Report: Thoracic Spine Compression Fracture after TASER Activation," 34 J. Emergency Med. 283, Apr. 2008.

138 L.E. Mehl, "Case Report: Electrical Injury from Tasering and Miscarriage," 71 Acta Obstetricia et Gynecologica Scandinavica 118, Feb. 1992.

139 J.R. Jauchem, "Repeated or Long-Duration TASER® Electronic Control Device Exposures: Acidemia and Lack of Respiration," Forensic Sci., Med. & Pathology, Nov. 20, 2009.

There are theoretical concerns raised in the literature and elsewhere regarding the interaction of ECWs with the heart. ECWs can acutely alter cardiac function in swine, including by inducing ventricular fibrillation, a dangerous condition which can lead to cardiac arrest and death.[140] In fact, one study found two deaths in 11 swine immediately after ECW discharge from acute onset ventricular fibrillation.[141] In another study of 25 pigs shocked with ECWs, fatal ventricular fibrillation was induced in one.[142] These cardiac concerns provide a medical basis for the recommendation to avoid ECW use against those with known heart conditions.[143]

ECW deployment and discharge have also been associated in the medical literature with the risk of death from non-cardiac causes. After finding that the rate of in-custody sudden death increased 6.4-fold in the first full year after ECW deployment compared with the average rate in the 5 years before deployment, one study concludes that, "TASER deployment was associated with a substantial increase in in-custody sudden deaths in the early deployment period."[144]

TASER International noted in a submission to the U.S. Securities and Exchange Commission that their products "are often used in aggressive confrontations that may result in serious, permanent bodily injury or death to those involved. Our products may cause or be associated with these injuries."[145]

One case series identified 75 "TASER-related deaths" occurring over four years beginning in January 2001 and noted that use of an ECW was considered a potential or contributory cause of death in 27% of these cases.[146] This research provides further support of the finding that ECWs should, in certain circumstances, be considered deadly weapons.

In assessing this data, it is important to consider that approximately 60% of the discharges at issue were in a sterile training environment and may not represent real-world circumstances. However, conducting a field-based study would be technically

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140 D.J. Valentino et al., "Taser X26 Discharges in Swine: Ventricular Rhythm Capture Is Dependent on Discharge Vector," 65 J. Trauma 1478, Dec. 2008.

141 A.J. Dennis et al., "Acute Effects of TASER X26 Discharges in a Swine Model," 63 J. Trauma 581, Sept. 2007.

142 R.J. Walter, "TASER X26 Discharges in Swine Produce Potentially Fatal Ventricular Arrhythmias," 15 Acad. Emerging Med. 66, Jan. 2008.

143 *See also* Kumaraswamy Nanthakumar, et al., "Case Report: Cardiac Stimulation with High Voltage Discharge from Stun Guns," Canadian Medical Association Journal, p. 1451, May 20, 2008, available at http://www.cmaj.ca/cgi/reprint/178/11/1451 ("Despite theoretical analyses and animal studies which suggest that stun guns cannot and do not affect the heart, 3 independent investigators have shown cardiac stimulation by stun guns. Additional research studies involving people are needed to resolve the conflicting theoretical and experimental findings and to aid in the design of stun guns that are unable to stimulate the heart."); *see also id*. pp. 1456-57 ("In our view, it is inappropriate to conclude that stun gun discharges cannot lead to adverse cardiac consequences in all real world settings.").

144 Byron K. Lee et al., "Relation of Taser (Electrical Stun Gun) Deployment to Increase in In-Custody Sudden Deaths," 103 Am. J. of Cardiology 877, Mar. 2009.

145 TASER Int'l, Inc., Form 10-K Annual Report for period ending December 31, 2005, p. 15.

146 J. Strote et al., "Taser Use in Restraint-Related Deaths," 10 Prehospital Emergency Care 447, Oct.− Dec. 2006.

and ethically difficult, since it involves an unpredictable occurrence rate, and the study would be of persons in uncooperative or altered states of mind, who at least in theory, are at elevated risk of serious injury or death from the device to be studied (ECW). Institutional review boards would be extremely unlikely to approve such field studies of ECW use for these reasons. So, despite obvious differences between research subjects, and persons in states of psychiatric crisis, often with intoxication by illegal stimulant drugs, for the foreseeable future, available research will be limited to retroactive review of uncontrolled uses by law enforcement in the field and controlled studies of human volunteer research subjects. This limitation applies to all of the research, including that cited immediately above.

Given their widespread deployment, and an incidence of death of 0.02% to 0.07% associated with ECW use, deaths are likely to occur in Maryland following ECW discharge. Based on these figures, as the Task Force has found, ECWs are "less lethal" than some other force options. They are not "non-lethal," however. While the rates of ECW-related death are very low, and the benefits still outweigh the risks of deployment, it is important to keep the high value of human life in perspective when addressing ECW deployment and discharge.

The statistical figures above related to deaths do not include primary or secondary injuries caused by ECWs. The incidence of primary or secondary injury from ECW discharge is even more difficult to quantify than the risk of death. First, deaths are reported more broadly and studied more closely. Second, there are definitional and other difficulties in isolating ECW injuries. For instance, some primary injury is inherent in every successful ECW discharge (the mere entry of the darts into the body, for example). A recent study that attempted to quantify the incidence of injuries associated with ECWs found a significant injury rate of 0.3% and a minor injury rate of 21.6%.[147]

In reviewing the literature, it is important to keep in mind that while individual reports of any particular injury (*e.g.*, the very rare penetration of the skull reported *once* in the literature) may be extremely rare complications on an individual basis, when the individual risks of each type of potential injury are compounded, the total risk of ECW discharge is greater than the specific risk of any particular injury. However, a review of the reported medical literature does suggest that the risk per discharge of serious long-

[147] A 2009 study by Wake Forest Medical Center claims to be the first published large independent study of injuries from ECWs. The study reports that 99.7% of subjects had no injuries or mild injuries following ECW use. Skin punctures bruises and cuts comprised 95.5% of the mild injuries. The "significant" injury rate (*i.e.*, moderate or severe injuries) in this study was 0.3%. These injuries included a cerebral contusion (bruise of the brain tissue); an indirectly caused epidural hematoma (a collection of blood between the skull and the brain); and a case of rhabdomyolysis (the destruction of skeletal muscle tissue which can be caused by thermal or electrical injury, among other things) that developed two days after ECW use. Two persons died after the ECW use, although not immediately and both deaths were determined to be unrelated to ECW use. It is unclear whether the cause of death determination was made at the time and/or by persons conducting the study. The study found the rate of minor injuries was 21.6%. The study defined minor injuries to include "superficial puncture wounds," contusions, lacerations, "superficial burn marks, a finger fracture, a nasal fracture, a case of epistaxis, and a chipped tooth." *See* Bozeman Study, *supra* note 7.

term injuries associated with the ECW is relatively low when compared with other force options.[148]

Nevertheless, as demonstrated herein, injuries do occur with sufficient frequency to warrant careful consideration. In addition, even though some of the more serious complications from ECW use reported in the literature are relatively unusual, the severity of these events requires that they be examined here and understood by officers in the field.

In addition to serving as training guides for law enforcement personnel and providing background and context for the Task Force's recommendations, these and other examples throughout this report are meant to raise awareness of the seriousness of an agency's decision to deploy ECWs and an officer's decision to discharge one. Nonetheless, the Task Force is in favor of appropriate ECW deployment and use within the context of the risks outlined herein.

Finally, this report also calls for additional research in a variety of areas. This is supported by the recognition, in the medical literature, that there is only limited research into the overall safety or efficiency of ECWs currently available.[149]

It is important to note that numerous bodies similar to this Task Force have reached strikingly similar conclusions about the state of the medical research and the potential risks associated with ECWs. For instance, the Canadian Police Research Centre noted that "police officers need to be aware of the adverse effects of multiple, consecutive cycles of a [ECW] on a subject" because "the issue related to multiple [ECW] applications and its impact on respiration, pH levels and other associated physical effects, offers a plausible theory on the possible connection between deaths, [ECW] use and people exhibiting symptoms of [ECW]."[150]

Likewise, the Joint Non-Lethal Weapons Human Effects Center of Excellence, which produced a study for the United States Department of Defense, found that, "[d]ue to the absence of specific threshold information in young children, the elderly, individuals with underlying heart conditions, or individuals with concurrent drug use, it is not known whether there are sensitive individuals in these groups that could experience [ventricular fibrillation] under normal use of an [ECW] device."[151]

The UK's Defense Scientific Advisory Council's Subcommittee on the Medical Implications of Less-lethal Weapons released a statement in March 2005 stating that

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148 *See, e.g.*, *id*.; Police Executive Research Forum, "Comparing Safety Outcomes in Police Use-of-Force Cases for Law Enforcement Agencies that Have Deployed Conducted Energy Devices and a Matched Comparison Group that Have Not: A Quasi-Experimental Evaluation," p. 7, Sept. 2009, available at http://www.policeforum.org/upload/CED outcomes_193971463_10232009143958.pdf (hereinafter "Comparing Safety Outcomes").

149 D.J. O'Brien, "Electronic Weaponry—A Question of Safety," 20 Annals Emergency Med. 583, May 1991.

150 D. Manojlovic, "Review of Conducted Energy Devices: Technical Report TR01-2006," Can. Police Res. Centre, p. 18, Aug. 2005.

151 Joint Non-Lethal Weapons Program Report, *supra* note 110, at p. 42.

"[t]he possibility that other factors such as illicit drug intoxication, alcohol abuse, pre-existing heart disease and cardioactive therapeutic drugs may modify the threshold for generation of cardiac arrhythmias cannot be excluded."[152]

The Wisconsin Law Enforcement Standards Board developed standards for ECW use across Wisconsin and, on June 7, 2005, recommended that ECWs not be used against suspects who are running away, children, the elderly, and those engaged in civil disobedience.[153] The Board also recommended that officers be trained to recognize medical conditions that might precipitate death if an ECW is used, especially "excited delirium."[154]

The Braidwood Inquiry, sponsored at a national level by the Canadian government, studied ECW use, and found as follows:

> in deaths proximate to use of a conducted energy weapon, there is often a lack of physical evidence on autopsy to determine whether arrhythmia was the cause of death, which opens the door to debate about whether the weapon or some preexisting medical condition was responsible. While alcohol or drug intoxication may complicate the pathological analysis in some cases, other explanations must be found in cases where alcohol or drugs were not involved.[155]

A broad array of law enforcement and military agencies have also recognized the legitimate concerns raised in the literature. A Customs and Boarder Protection spokesman stated that there were "enough questions about the safety of the [ECW] device" to preclude the agency from deploying them and Immigration and Customs Enforcement ("ICE") similarly banned the use of ECWs on December 10, 2003, after a review by their Firearms and Tactical Training Unit. An ICE spokesman said that "the decision [to ban ECWs] was made out of an abundance of caution related to safety."[156]

A February 2005 memorandum from the Aberdeen Proving Ground, a United States Army weapons test site in Maryland, discouraged shocking soldiers with ECWs in training. Although the Army's occupational health sciences director affirmed the ECW's effectiveness, the director warned that "the practice of using these weapons on U.S. Army military and civilian forces in training is not recommended, given the potential risks."[157]

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152 UK Defense Scientific Advisory Council's Statement, *supra* note 81.

153 *See* Law Enforcement Standards Board, Wisconsin Department of Justice, "Advisory Committee Recommendations for Training for Employment of an Electronic Control Device by Law Enforcement Officers in Wisconsin," June 7, 2005, available at https://wilenet.org/html/taser/TSReport.pdf.

154 *Id.*

155 Braidwood Report, *supra* note 61, p. 228.

156 Kevin Johnson, "Federal Bureaus Reject Stun Guns," USA Today, Mar. 17, 2005.

157 Department of the Army, "The U.S. Army Center for Health Promotion and Preventive Medicine's Position on Whether TASER Electro Muscular Incapacitation Launched Electrode Stun Weapons are Safe to Use on U.S. Army Military and Civilian Personnel During Training," p. 4, Feb. 7, 2005, available at http://mcdetflw.tecom.usmc.mil/INIWIC 05/Reference Docs/03MQ-05 TASER.PDF.

The National Institute of Justice issued an Interim Report in 2008 consistent with many of the findings of this report. It provides:

> The potential for moderate or severe injury related to [ECW] exposure is low. However, darts may cause puncture wounds or burns. Puncture wounds to an eye by a barbed dart could lead to a loss of vision in the affected eye. Head injuries or fractures resulting from falls due to muscle incapacitation may occur.
>
> [ECW]s can produce secondary or indirect effects that may result in death. Examples include deploying a device against a person who is in water, resulting in drowning, or against a person on a steep slope resulting in a fall, or ignition risk resulting from deployment near flammable materials such as gasoline, explosives or flammable pepper spray that may be ignited by a spark from a device.
>
> There is currently no medical evidence that [ECW]s pose a significant risk for induced cardiac dysrhythmia when deployed reasonably. Research suggests that factors such as thin stature and dart placement in the chest may lower the safety margin for cardiac dysrhythmia.[158]

Likewise, PERF has endorsed training in connection with many of the same issues for which we recommend specific officer guidance:

> Another training issue is the inappropriate use of the [ECW]. Misuse can range from outright abusive or illegal use of the weapon to less obvious cases of officers turning to a [ECW] too early in a force incident. These problems can be managed with policies, training, monitoring and accountability systems that provide clear guidance (and consequences) to officers regarding when and under what conditions [ECW]s should be used and when they should not be used.[159]

In addition to wide consensus in the field at large regarding many of the recommendations of this report, others have also concluded, as the Task Force does, that more research is necessary in certain areas. "The peer review and open literature [on ECWs] contains very limited objective scientific research data on mechanism of action, efficacy, safety, and acute and long term effects of these devices."[160] This group also found that "key data gaps and uncertainties preclude the development of effectiveness and risk probabilities."[161]

The Potomac Institute for Policy Studies prepared a report based on information gathered at a conference that sought to bring together experts and professionals in the field to "offer insights and suggestions on filling the current gaps in knowledge"

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158 NIJ Interim Report, *supra* note 76, p. 3.

159 Comparing Safety Outcomes, *supra* note 148.

160 Joint Non-Lethal Weapons Program Report, *supra* note 110, p. 25.

161 *Id*. at p. 73.

surrounding the efficacy and safety of ECWs. The report concluded by "strongly recommend[ing] that additional research be conducted at the organism, organ, tissue and cell levels."[162]

The law enforcement response to the medical literature, like the response of this Task Force and others like it, has also been to recognize certain inadequacies and call for additional research. "Independent data does not yet exist concerning in-custody deaths, the safety of [ECWs] when applied to drug or alcohol-compromised individuals, or other critical issues."[163]

In short, the Task Force's findings and recommendations are in keeping with and supported by the medical literature, the work of similar bodies, and the conclusions of many law enforcement groups. This Task Force recognizes that the benefits of ECWs justify the risks involved in deploying them. However, the Task Force also agrees with the many authorities cited above that there are substantial risks associated with ECWs. The Task Force's mission requires that these risks be acknowledged so that: (1) agencies may take them into account in deciding whether to adopt this tool and where to place it in use-of-force training; and (2) potential ECW operators can be educated about the risks so that they have the tools necessary to make appropriate judgments about when and why to discharge this weapon.

IX. Reporting and Investigation

To maintain community confidence, agencies must vigilantly investigate and document ECW use. The Task Force believes that a use-of-force investigation should occur in operational settings regardless of whether an ECW discharge is accidental or intentional. In addition, investigations should be conducted regardless of the weapon mode used. Even when the weapon is merely cycled or the laser dot is used to gain compliance, investigation and documentation are crucial to ensure the weapon is being used appropriately. Reporting and investigating weapon cycling and laser dot aiming not only allows law enforcement to justify use and demonstrate restraint when allegations of abuse arise, but such efforts also provide a rare instance where a prevented outcome can reasonably be measured.

The foundation for that investigation starts with supervisory engagement. Supervisors have a role prior to ECW discharge, and once force is used they need to respond immediately to ensure the investigation is thorough and detailed and that evidence is properly gathered.[164]

The Task Force recognizes that the actual supervisor may not always be able to respond immediately to the scene of the use of force. The supervisor may instead go to the hospital where the suspect is located, or may be unavailable for any number of

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[162] Dennis K. McBride et al., Potomac Institute for Policy Studies, "Efficacy and Safety of Electrical Stun Devices (Report No. 05-04)," p. 5, Mar. 29, 2005, available at http://www.potomacinstitute.org/images/stun_devices_report_final.pdf.

[163] *See, e.g.,* IACP Executive Brief, *supra* note 31, p. 5.

[164] PERF Guidelines, *supra* note 33, at Nos. 30 and 31.

reasons. If the supervisor cannot personally respond to the scene, he or she should direct someone other than the officer who discharged the ECW to respond to the scene to conduct the investigation and ensure evidence is properly gathered. That investigation should include, at a minimum:[165]

- Collection of information from officer(s), suspect(s) and witnesses;
- Photographs of the scene and all evidence;
- Photographs of injuries to the officer(s) and/or suspects;
- Collection of physical evidence, including cartridges, probes/prongs, confetti/identification tags, video from vehicle/weapon, etc.;
- Documentation of data downloads from the ECW;
- Radio transcripts, if necessary;
- Test results for the weapon's operability and electrical output, for cases involving life-threatening injury or death; and
- Complete documentation of the incident, including standard incident reports and use-of-force reports.

The Task Force also recognizes that typical ECW uses that involve either no injury or minor injury and involve no apparent policy deviance can be investigated within the discharging officer's chain-of-command, subject to a command review. In more serious cases, however, the review should be conducted by an independent unit such as Internal Affairs or other Professional Standards-type unit for law, policy, and training compliance. The cases necessitating an independent investigation include those where an ECW:

- resulted in serious injury or death of a suspect;
- was used against a heightened-risk individual (*e.g.*, elderly, young, pregnant, etc.);
- was used in a high-risk situation (*e.g.*, elevated areas, in water, etc.);
- was discharged multiple times or for a duration exceeding standard policy/training standards; or
- was otherwise potentially misused.

Entities investigating and reviewing ECW use should not only assess whether the officer's actions were in compliance with law and policy, but should also take the opportunity to determine whether the incident indicates any need for changes to the agency's policies, training, or equipment. To that end, agencies should also consider conducting periodic reviews and critiques of ECW cases to learn from these situations.

For cases involving death, the State Medical Examiner should determine and document whether ECW use may have contributed or did contribute to that death. Due to fluctuating interpretations, "excited delirium" should not be cited as the cause of death if another direct cause is known. In addition, when "excited delirium" is listed as either the cause of death or a contributing factor, the Medical Examiner should list the cluster of symptoms that lead to that finding. While the Task Force commends the State

[165] *Id*. at No. 35.

Medical Examiner's Office for their efforts up until this point, the Task Force hopes that providing more specific information will better assist law enforcement agencies, researchers, and communities in general in understanding the effects of ECWs.

X. Monitoring, Data Collection, and Evaluation

Accountability is fundamental to a law enforcement agency's successful use of ECWs.[166] Without accountability, both at an individual officer and agency level, ECWs can be abused and misused in ways that could undermine the legitimacy of the officer, the agency, and the use of ECWs. While many Maryland agencies already collect extensive data regarding ECW use, few compile such data or make it easily accessible to the public. Nor do agencies collect data in a comparable format, hindering accurate statewide assessment of ECW benefits and risks. The lack of any centralized state-wide repository for such information further complicates the public's ability to review ECW usage data. To the extent such data is currently available, it would have to be obtained in a piecemeal fashion from each individual agency. Thus, to further ensure that law enforcement agencies are properly utilizing ECWs and to inform future policy judgments regarding the regulation or promotion of ECWs, the data regarding ECW discharges collected by Maryland agencies should be uniform and collected, maintained, and made available to the public via a state-wide process. Many law enforcement agencies and best practices support these objectives, including PERF, IACP, the Braidwood Commission on Conducted Energy Weapon Use,[167] the Allegheny Working Group,[168] and the Illinois Law Enforcement Training and Standards Board.[169]

Sufficient data collection is also necessary for law enforcement agencies and the broader community to assess the costs and benefits of ECWs, especially as compared to other tools available. One of the most significant problems in developing this report—and as noted by most other organizations and task forces that have researched the appropriate role of ECWs[170]—is the paucity of objective data, which places law enforcement agencies and policymakers at a disadvantage when making policy choices concerning ECWs.

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166 *See* Allegheny Report, *supra* note 69, p. 12-13; Braidwood Report, *supra* note 61, p. 61.

167 Braidwood Commission on Conducted Energy Weapon Use, "Restoring Public Confidence: Restricting the Use of Conducted Energy Weapons in British Columbia, June 2009, available at http://www.braidwoodinquiry.ca/report/.

168 Report of the Use of Force Working Group of Allegheny County, Pennsylvania, convened by Stephen A. Zappala, District Attorney (Oct. 8, 2009), available at http://www.law.pitt.edu/files/harris/Taser-Working-Group.pdf.

169 Illinois Law Enforcement Training and Standards Board, "Policy Development Guidelines for Deployment of Electro-Muscular Disruption Devices," available at http://www.ptb.state.il.us/pdf/EMD Policy Guidelines.pdf (hereinafter "Illinois Law Enforcement Guidelines").

170 *See, e.g.*, Allegheny Report, *supra* note 69, pp. 17-18 ("The Working Group believes that the goals of accountability and public education can be served by basic statistical tracking of all TASER™ uses, along with data tracking important contextual factors. All uses of TASERs by any police officer that would constitute a use-of-force should be tracked, and appropriate data on the situation should be tracked along with it. That data should be gathered systematically, and analyzed rigorously by a neutral third party such as a university or a think tank, to insure public confidence. Further, any system of data tracking should make the data and the analysis available to the public in convenient, widely available forms, such as on the internet."); Braidwood Report, *supra* note 61, pp. 329-34.

Because of their role in incidents that have led to deaths or serious injuries, ECWs are subject to intense scrutiny as indicated by the number of studies commissioned to examine the propriety of their use. This scrutiny is likely to become even greater in the wake of TASER International's recent recommendation that TASERs should not be aimed at the chest.[171] As the scrutiny of ECWs increases, it is especially important that comprehensive and reliable data be available to accurately assess the actual risks and benefits associated with ECW use. It is difficult to credibly evaluate claims about ECWs without such data—both with respect to their benefits and their risks. For instance, proponents of ECWs often claim that their use leads to a decrease in fatalities, while opponents of ECWs claim that they lead to an increase in the overall incidences of use of force. Neither claim can be reliably assessed without accurate, uniform, and comprehensive data collection and compilation.

Agency Collection of Data

One of the advantages of ECWs is that most devices, including those devices most commonly used by Maryland law enforcement, create an electronic record of each discharge, which details a variety of information, including the time that the discharge occurred, the number of times the ECW was discharged, and the duration of each discharge. Law enforcement agencies should require regular downloading of this data from all ECWs. In addition to the data automatically recorded by ECWs, other data related to ECW use is routinely recorded in arrest and use-of-force reports. Uniform data from all sources should be timely collected and maintained and should include:[172]

- The date, time, and location of incident;
- Whether the ECW was displayed and if the display alone gained compliance;
- Identifying and descriptive information of the suspect (including weight, height, age, membership in an at-risk population and the race, ethnicity, and gender of the subject), all officers firing ECWs, all officer witnesses, and all other witnesses;
- The type and brand or model of ECW used;
- The number of ECW cycles, the duration of each cycle, the duration between cycles and the duration that the subject was actually shocked;
- The level of aggression encountered;
- Any weapons possessed by the subject;
- The type of crime/incident the subject was involved in;
- The type of clothing worn by the subject;
- The range at which the ECW was used;
- The type of mode used (display only, red-dot compliance, incapacitation, pain compliance, or combinations thereof);

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171 *See, e.g.*, "Heart-Stopping," Frederick News Post, Nov. 1, 2009, available at http://www.fredericknewspost.com/sections/opinion/display_editorial.htm?StoryID=97224&section=ed (editorial criticizing TASER International for recent revelations regarding safety of TASERs).

172 *See generally* PERF Guidelines, *supra* note 33; *see also* International Association of Chiefs of Police, "Electronic Control Weapons: Concepts and Issues Paper," p. 5, rev. Aug. 2005 (offering similar guidance on what should be included in reports after ECW use).

- The point of impact of probes on a subject (when ECW was used in incapacitation mode;
- The point of impact on a subject (when ECW was used in drive-stun (pain compliance) mode);
- The location of missed probe(s), if any;
- Terrain and weather conditions during ECW use;
- Lighting conditions;
- Medical care provided to the subject;
- Any injuries incurred by an officer or subject;[173]
- The serial number from Anti-Felon Identification ("AFID") "confetti" from the discharged cartridge;
- The serial number of all cartridges used in the discharge;
- The results of any toxicology tests administered;
- The results of any medical evaluations conducted;
- The purpose of discharge and how or if the discharge complied with the use-of-force standards, especially if a discharge occurred under exigent circumstances; and
- A determination of whether deadly force would have been justified.

All information should be immediately collected and timely reported. Some information may not be immediately available (*e.g*., toxicology results) but should be provided when it does become available.

Agency Review of Data

Agencies should regularly analyze the data collected in order to observe the distribution of discharges among officers and geographic areas, to track trends over time, and to determine whether some officers or agencies are using ECWs at a different rate or in a different manner than similarly situated peers. In utilizing an Early Warning System or other procedure for identifying potential misuse of the ECW, it is important that comparisons of ECW usage across officers and departments take into account what portion of officers in a given shift carry ECWs, the differences in the jurisdictions (*e.g*., rural vs. urban), and any other differences that might skew the comparisons. For instance, in a precinct where only a small number of officers are equipped with ECWs, an agency should consider that the ECW-equipped officers may be specifically summoned to other officers' calls by a supervisor, and may thus artificially appear to be overusing the ECW. Regular audits of this data are essential to ensure compliance with the agency's policies and to ascertain whether any changes to policy or training are advised. Agencies should also regularly compare the data recorded by the ECW to the filed use-of-force reports to ensure there are no discrepancies.

[173] PERF Guidelines, *supra* note 33, at No. 28; *see also* Illinois Law Enforcement Guidelines, *supra* note 169, p. 3.

Evaluation and Recertification

As described in the training section above, officers who carry ECWs should undergo an annual recertification process. As part of this process, an agency should review an officer's downloaded data and use-of-force reports to determine if the officer's past history of ECW use indicates that he or she is not using the device appropriately. In analyzing the relevant data, it is important that the officer be compared to other similarly-situated officers. Based on the officer's past history of ECW use, an agency can recommend the officer take additional training or decline to renew an officer's certification. Pursuant to an audit of an officer's ECW usage history outside of the recertification process, an agency may also elect to suspend or withdraw an officer's ECW certification if the data suggests the officer is not using the ECW properly or could benefit from additional training.

State-Wide Collection and Aggregation of ECW Data

To allow effective tracking of long-term usage statistics and trends, the State should require state-wide collection, compilation, and analysis of uniform and comprehensive agency data regarding ECW use. The data collected should include all data listed above, as well as the Medical Examiner's report for any death for which an ECW is listed as a cause of death or a contributing factor. This data should be collected, compiled and annually published by the Governor's Office of Crime Control and Prevention ("GOCCP") (or other appropriate state agency). Each individual law enforcement agency should also make its reported data available to the public upon request to ensure that citizens can be informed about the use of ECWs in their communities.

ECW Inspection and Testing

To facilitate safety and effectiveness, ECWs should be tested regularly for proper operation and output. At the start of each shift, officers should inspect and test their ECWs. Each inspection should be recorded in a log book. Supervisors should also conduct random inspections of ECWs during roll call or other times that they inspect the officers. Further, all ECWs should be taken for quarterly inspection and maintenance to qualified personnel who can ensure that each weapon is operating within the manufacturer's recommended parameters.

XI. Research

During the course of the Task Force's work, including receiving testimony, reviewing the literature related to ECWs, reviewing law enforcement agencies' policies and training materials related to ECWs, and listening to presentations from industry representatives, Maryland stakeholders, and others, the Task Force has become convinced that additional research into various aspects of ECW use is urgently needed. Much of the in-depth inquiry about how ECWs work and what impact they have when used has taken place in court rooms in the form of competing, and often contradicting, expert testimony. Many areas have not yet been studied in a rigorous manner.

Research in other areas lacks credibility because it has been based on very small studies, has used questionable methodologies, or was conducted by entities funded by or affiliated with TASER International, the primary vendor of ECWs. The Task Force recommends that independent, peer-reviewed research in the following areas be conducted.

Physiological Effects of ECWs, Especially When Used Repeatedly, for Prolonged Periods, Simultaneously, or on Persons in Heightened-Risk Populations

There has been insufficient independent, peer-reviewed research on the physiological effects of ECWs. In particular, more research is needed to understand the extent to which ECWs pose a greater risk of injury to certain groups of persons, and how and why this greater risk exists. Deaths and serious injuries have been associated with certain groups of persons, including children, the elderly, pregnant women, persons with thin chest walls, small persons (regardless of age), persons with serious heart or other medical conditions, and persons in mental health or medical crisis.

There have been multiple deaths associated with multiple and prolonged ECW discharges. More research is also needed to determine any increase in risk when ECWs are discharged repeatedly, simultaneously, or for longer than five seconds.

Additional independent, peer-reviewed research in these areas should help law enforcement agencies and the communities they serve make safer and more informed decisions about when and how ECWs are used.

Physiological Effects of ECWs When Discharged Against Certain Areas of the Body

Deaths and serious injuries have been attributed to ECW discharge in a person's chest area, neck, and head, but there is insufficient research to determine conclusively whether the relationship is one of cause and effect and whether any harm caused by dart/probe placement is independent of, or exacerbated by, the impact of using an ECW on a person at heightened risk for injury.

There are accounts of deaths that appear related to where the ECW barbs/probes strike an individual's body. The neck and chest area appear to be two such sensitive areas. One ECW-proximate death in Maryland occurred after an ECW barb pierced the heart of the woman against whom it was discharged. The Amnesty International report on ECWs similarly recounts a number of deaths or serious injuries in which the ECW barbs/probes were implanted in vulnerable areas.[174] TASER International recently released guidelines recommending that chest shots with ECWs be

[174] For example, Amnesty International recounts an incident that occurred in April 2007, where a TASER was discharged against the slightly built Uywanda Peterson who then fell on the TASER probe. It is reported that the TASER probe passed through her chest wall and into her lung and heart, and that according to emergency medical personnel, her heart was in ventricular fibrillation when first recorded. Ms. Peterson lost consciousness at the scene and was pronounced dead half an hour later. Amnesty Int'l Report, *supra* note 8, pp. 73-74.

avoided in order to "avoid[] the controversy about whether ECWs do or do not affect the human heart."[175]

The head also appears to be a higher-risk target. An Ontario, Canada, law enforcement officer "collapsed and went into a full-blown seizure—foaming at the mouth—for about one minute," after being accidently hit with an ECW by his partner. He was still experiencing headaches and has difficulty concentrating over a year later.[176] TASER International responded to this incident by stating that it was "aware of a few incidents during training in which an officer experienced a seizure following a hit by a TASER device." A TASER Product Warning notes that the risk of seizure "may be heightened if electrical stimuli or current passes through the head region."[177]

Additional research is needed given the apparent links between some ECW-proximate deaths with where the ECW struck the body.

Comparison of Incidents of Deadly Force Used in Agencies with and without ECWs

More research is needed to help determine the extent to which the use of ECWs may decrease law enforcement agencies' use of lethal force, and the deaths and injuries associated with such force. One of the most persuasive arguments in favor of adopting ECWs as a use-of-force option in a law enforcement agency is that ECWs reduce the use of deadly force by the agency. However, in most cases in which deadly force is used, the officer had determined that a less-lethal force option was not feasible, raising the question of how often an ECW can be used to counter significant threats. Moreover, the argument goes, without reducing the use of lethal force, the perceived safety of ECWs may encourage officers to quickly resort to the ECW rather than first trying the non-force options available to the officer, thus increasing the overall number of uses-of-force by the agency.

Researchers are beginning to compile large independent studies into the relative rates of injuries (including serious injuries) in law enforcement agencies that have ECWs and those that do not.[178] The Task Force is aware of only one large-scale study directly investigating the extent to which deadly force is used less in agencies that have ECWs than those that do not, or used less in agencies after the adoption of ECWs as a force option. This study found no difference in suspect deaths in agencies that had adopted ECWs.[179] Further research in this area is needed to assist jurisdictions in deciding whether and how to adopt ECWs.

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175 TASER Training Bulletin, *supra* note 78.

176 CMAJ Case Report, *supra* note 130 (noting that more than one year after receiving the ECW shock, the officer's "symptoms of anxiety, difficulties concentrating, irritability, nonspecific dizziness and persistent headaches [had] not completely resolved").

177 TASER Product Warning, *supra* note 113, p. 6.

178 A recent Wake Forest University study claims to be the first published large independent study of injuries from ECWs. *See* Bozeman Study, *supra* note 7.

179 *See* Comparing Safety Outcomes, *supra* note 148. The main thrust of the report is the significant and encouraging finding that the agencies under review had better outcomes in six of the nine criteria studied (*e.g.*, fewer or less severe injuries). In addition to finding no difference in suspect deaths, the

Feasibility of Having Automatic External Defibrillators Readily Available to Officers

Studies have found that providing police with automatic external defibrillators ("AEDs") improves survival of persons in ventricular fibrillation.[180] While AEDs are beneficial in a broad array of scenarios, the medical community has not conclusively determined whether ECWs cause ventricular fibrillation. Should additional research show a correlation between ECWs and ventricular fibrillation, law enforcement agencies may have an additional reason to consider equipping police vehicles with AEDs.

Recognizing the high cost of AEDs, as well as the fact that incidents involving ECW discharge are only a fraction of those in which AEDs could save lives, the Task Force recommends that the State conduct further directed inquiry into whether law enforcement agencies should equip squad cars with automatic external defibrillators.

Medical and Operational Impacts of New and Developing ECW Weapons

TASER International is continually developing and marketing new weapons based on ECW technology. Recently, for example, they have introduced the TASER X3, which can engage multiple targets (*i.e.*, shock three people simultaneously using one device); and a TASER XREP wireless shocking "shotgun." The benefits and risks of these new weapons are not known and the findings of current and developing research based on the TASER X26 and similar weapons are likely not valid for these weapons. The Task Force recommends that research into the functions, physiological effects, and operational uses of each ECW be evaluated as they are developed. Of equal importance, new weapons may present new risks and law enforcement agencies and other stakeholders should not automatically rely upon research based on previously developed weapons sold by ECW vendors when deciding whether and how to adopt new weapons based on the same technology.

XII. Civilian Use of Electronic Control Weapons

Recent legislation has highlighted the ability of citizens to purchase ECWs in most jurisdictions,[181] and the Task Force is concerned that manufacturers will seek to increase their sales of ECWs to civilians in Maryland. One ECW manufacturer advertises civilian ECW models in magazines and has a price point significantly lower than the law enforcement costs for similar weapons. In addition, it is unknown whether the manufacturer will make available to citizens new technology like ECW shotgun rounds or cartridges that have multiple sets of probes.

Law enforcement has great concern about civilian purchase and use of ECWs, and whether the existing legislation will adequately cover either current or emerging

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report found no difference in severe officer injury or in officer injury resulting in an officer being taken to a hospital. (There were no officer deaths so no analysis could be made.)

[180] *See, e.g.*, V. Mosesso, Jr., et al., "Use of Automated External Defibrillators by Police Officers for Treatment of Out-of-Hospital Cardiac Arrest," [Prospective Controlled Trial] 32 Annals Emergency Med. 200 (1998).

[181] MD. CODE ANN., CRIMINAL LAW § 4-109.

ECW technology. That concern was also shared by the vast majority of those who testified at the Task Force hearings.

Screening

ECWs are not classified as firearms by the Bureau of Alcohol, Tobacco, and Firearms ("BATF"). Civilians purchasing ECWs are therefore exempt from typical federal firearms regulations, such as background checks and waiting periods, which are designed to screen out persons of questionable character, those with significant criminal backgrounds, or those who may be mentally instable. In Maryland, civilian ECW purchasers are also exempt from an application process for use or wear-and-carry permit requirements.

Maryland's current law requires a record check, but places that burden on the ECW manufacturer. Under the law, what constitutes a record check is not clearly defined, and there is little in the way of criteria or standards to apply to the record check results. Moreover, it is an open question whether an out-of-state manufacturer can be forced to comply with a Maryland law.

Conversely, police officers are screened to ensure that only the most qualified are certified to use an ECW. Law enforcement agencies sometimes assess performance ratings, firearms proficiency, use-of-force incidents, and the demonstrated ability to exercise good judgment under stress. Civilians, however, simply do not face such scrutiny.

Training

Police officers receive a great deal of ECW training, must pass knowledge and proficiency testing, and are subjected to periodic recertification. On the other hand, citizens receive little, if any, training, none of which is regulated or mandated. There is no testing on their knowledge or proficiency and no recertification mandates. This breeds the potential for mishaps, misuse, or abuse.

The importance of such training is demonstrated by the technology differences between law enforcement versions and civilian versions of the ECW. Law enforcement must go through a great deal of mandated training for a weapon that typically delivers a five-second cycle of current. Although civilian versions of the ECW have slightly less power, they are considered equally effective and deliver up to a 30-second cycle of current. Despite having a cycle almost six times longer than the law enforcement version, civilians will receive little or no training prior to use of their weapon.

Accountability

Police officers must follow standards and procedures for ECW use that are based on best practices and subjected to periodic refinement for operational and legal sufficiency. In addition, each ECW use is evaluated to determine if standards were followed and remedial action is taken when they are not. Conversely, civilians are not bound by or subjected to such safeguards and restrictions.

Dealer Regulation, Secondary Sales and Other Regulations

There are no regulations regarding ECW dealers, and once a civilian has purchased an ECW, there are no regulations governing the re-sale of the ECW to another individual. In addition, there is no limit to the number of ECWs that may be purchased by a civilian. This lack of regulation allows those legally able to purchase the weapon to sell them to those who cannot meet the State's minimum standards. Furthermore, the current law mandates that ECW manufacturers provide investigatory information to law enforcement, but again, it may not be enforceable for out-of-state manufacturers.

Criminal Use

Accessibility to ECWs will provide yet another weapon for use during the commission of a crime. There have already been reports of ECW use in crimes where other citizens have been victims. For example, in June 2009, a suspect entered a check-cashing establishment in Silver Spring, Maryland. According to the statement of charges, while the clerk was distracted by her work activities, she was assaulted and shocked with an ECW by the suspect. She was allegedly incapacitated and lost consciousness for several seconds. When she regained her faculties, she discovered that the suspect had stolen $14,000 and fled the scene.[182]

Part of the reason for an expected increase in criminal use is that some ECWs are similar in size, shape, and color to standard firearms. Law enforcement officers report a similar trend with other look-alike weapons such as "Airsoft" non-lethal toy guns, which have been used in the commission of crimes. Unlike "Airsoft"-type toy guns, however, ECWs actually have the ability to incapacitate the persons against whom they are used.

Criminals may also be drawn to ECWs because, as noted above, they aren't considered a firearm as defined by the BATF. Therefore, its use in the commission of a crime may mean that juveniles are not tried as adults, and that adults may not receive mandatory sentencing or enhanced penalties that usually occur when a firearm in used. In addition, the ECW is a newer technology, and it is unknown as to what type of criminal charge will be filed when an ECW is used in the commission of a crime (*e.g.*, felony or misdemeanor, first degree assault or second degree assault, etc.).

Another reason criminals may choose to use an ECW is the weapon's utility. As a result, subjects who had not done so in the past may now elect to arm themselves. For example, a suspect committing a robbery may not use a firearm, but to be effective in the commission of that offense, the suspect had to face the victim and imply having the weapon. With an ECW, however, the suspect could easily sneak up on the victim and commit the crime in a stealth manner, with the potential to cause injuries. Not only would this limit the victim's ability to identify the suspect, but the suspect would not fear being charged with homicide or, arguably, aggravated assault.

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[182] *See* Case No. 3d00231199 (Dist. Ct. Montgomery County, 2009).

Potential for Other Abuse and Misuse

Lack of training poses a risk of self-harm to the civilian ECW user, as well as the risk of injuries to the ECW user's family, friends, or even animals. Since the ECW is not considered as dangerous as a firearm, civilians might not make the same efforts to limit ECW access to children and others, resulting in both accidental and intentional injuries. While there are laws controlling access to firearms, these laws do not apply to ECWs.

As a result, many children and adults may view the ECW as a toy and injuries will occur while simply playing with the ECW, or in other situations like hazing, drinking games, etc. More importantly, civilians may use the ECW to intentionally abuse family members or even pets out of anger or for other reasons.

Officer Safety

Civilian use of ECWs will be yet another threat to the safety of police officers. Unfortunately, citizens may not understand the ramifications for the use of an ECW against a police officer. For example, citizens understand that threatening a police officer with a firearm may be met with lethal force. They may not, however, realize that the same result may occur should they threaten an officer with an ECW. Their assumption may be that an ECW is a non-lethal weapon, and that law enforcement cannot therefore respond in a lethal fashion.

However, because officers may not be able to determine at the time of a critical incident that the suspect has an ECW, they must assume that it is a conventional firearm. Even if it can be determined that the weapon is, in fact, an ECW, the officer may still use lethal force. For if an officer is momentarily incapacitated, he or she may lose control of the police service firearm, creating an even more dangerous and potentially tragic situation.

XIII. Task Force Recommendations

Planning and Implementation Recommendations:

1. Agencies should recognize that the inclusion of a new use-of-force tool such as an ECW will have an impact on an agency's use-of-force program beyond the simple addition of a new force weapon. Among other things, ECWs may: reduce the need for other weapons; provide the opportunity to increase the use of other skills such as verbal de-escalation techniques; cause an increase in the use of force; lower rates of injury; and in some instances put too many weapons on an officer's belt, encumbering an officer's movement.

2. To ensure community concerns are understood and addressed before deciding whether to implement an ECW program and, if implemented, what safety and accountability mechanisms should be put in place, the decision-making process should involve community stakeholders (*e.g.*, civil rights and mental health advocacy groups; medical professionals; lawmakers; and other interested parties).

3. Agencies should develop and adopt comprehensive policy and training specific to ECW use prior to implementation to provide as much guidance as possible for officers armed with ECWs.

4. Systems for comprehensive and reliable ECW reporting, investigation, data collection, and analysis must be fully developed.

5. A plan for providing training in crisis intervention techniques, including de-escalation techniques, should be provided to officers so they have alternative tools to deploy in situations involving persons experiencing mental health crisis and to help avoid over-reliance on ECWs and help ensure that ECW use does not unnecessarily alienate communities.

6. Law enforcement agencies should consider many factors when selecting which officers will be permitted to use ECWs. These factors may include the officer's:

   - Time on the job;
   - History of use of force;
   - Weapon proficiency history;
   - Demonstrated level of judgment; and/or
   - Overall job performance.

7. Law enforcement agencies should phase in and periodically evaluate the use of ECWs to: (1) ensure proper management of the program; (2) ensure goals and objectives are being met; and (3) identify and remedy any policy or training deficiencies.

8. When determining whether and how to adopt or continue the use of ECWs, officials should closely consider the specific needs and values of their agency and their community. Officials should remember that ECW vendors might not fully understand or appreciate those needs and values when making recommendations about whether and how an ECW program should be implemented or modified.

9. Each law enforcement agency should work closely with its community and school system to develop policies and protocols for whether and how ECWs will be used by law enforcement personnel specifically assigned to schools. Communities, schools, and law enforcement should decide whether officers assigned to schools will carry ECWs while on school assignment. It should not be automatically presumed or required that officers assigned to schools will carry ECWs simply because other officers in the department carry ECWs.

Training Recommendations:

10. The Maryland Police and Correctional Training Commission should incorporate the Task Force's recommendations into ECW training requirements for Maryland public safety agencies that use ECWs.

11. The training program must emphasize the need for restraint and good judgment.

12. ECW training and use programs must supplement any materials provided or presented by an ECW vendor to ensure that training comprehensively addresses all aspects of ECW operations covered by these recommendations (*e.g.*, when use is warranted, how to provide pre-discharge warnings in languages commonly spoken in the community, risk factors, de-escalation techniques, reporting requirements, etc.).

13. An agency's training program must be mandatory for all officers authorized to use ECWs and should include provisions for certification and recertification, and have components for knowledge and proficiency testing, as well as scenario-based training.

14. Each agency must decide whether to expose officers to an ECW discharge. Exposure need not be a part of the training. Agencies that do permit exposure to ECW discharge as part of training should explain the difference between exposure during training and an ECW discharge in the field so that law enforcement officers understand that their experience may not be representative of the experience of those who have ECWs discharged against them in the field.

15. Officers must be trained that the ECW is a less-lethal weapon, and not a non-lethal or less-than-lethal weapon.

16. Officers must be trained in where ECW use falls in the agency's use-of-force model. This training should include when and how de-escalation techniques can be used instead of ECWs.

17. Officers must be trained in identifying and responding to subjects whose ability to understand, respond to, and comply with officer orders may be impaired due to language, physical disability, or cognitive impairment. Officers must be trained to recognize that mere non-compliance stemming from a communication breakdown does not warrant ECW use absent an imminent threat of physical harm.

18. Officers must be trained about the medical complications that may occur after ECW use, and that certain individuals may be at a heightened risk for serious injury or death when an ECW is discharged. Populations currently believed to be at a heightened risk for serious injury or death include pregnant women, elderly persons, young children, visibly frail persons or persons with thin

stature, persons with known heart conditions, persons in medical/mental crisis, and persons under the influence of drugs or alcohol.

19. Officers must be trained about the heightened risk of injury and/or death associated with ECW discharge in some circumstances, due to the subject's loss of muscle control and other factors related to ECW technology. Research is evolving and such circumstances include, but may not be limited to:

    - persons in elevated positions;
    - persons operating vehicles or machinery;
    - persons who are fleeing on foot;
    - persons who are already restrained in handcuffs;
    - persons who might be in danger of drowning; and
    - environments in which combustible vapors and liquids or other flammable substances including but not limited to alcohol-based Oleoresin Capsicum ("OC").

20. ECW training programs must integrate training on how to recognize and de-escalate incidents involving persons in mental health crisis, including the application of recognized crisis intervention techniques, and how to call on any available mental health resources. Officers must be trained on what actions may unnecessarily escalate or aggravate a mental health crisis and the risks of doing so.

21. Officers must be trained to understand ECW technology so that they understand how they work and what they are capable of, including functions, situations when they may not be effective, and the risks associated with the technology.

22. Officers must be trained to understand that repeated discharges and continuous cycling of ECWs appear to increase the risk of death or serious injury and should be avoided wherever possible.

23. Officers must be trained to understand the weapon's limitations and how to transition to other force options when the ECW is not effective after a discharge.

24. All relevant personnel must be trained in post-ECW use evidence collection, reporting, and maintenance, as well as how to arrange for the care of persons against whom ECWs are discharged.

25. Knowledge of ECWs is changing rapidly. ECW recertification should occur at least annually and should include a review of each officer's ECW history. Certification and recertification training materials should be updated regularly to incorporate changes in technology, research, law, information from reviews of ECW use within the agency, and community concerns.

26. Law enforcement supervisors and commanders who may be asked to review, investigate, or report on ECW use, or to conduct or approve policies or training related to ECW use, must be trained in the appropriate tactical use and potential risks of ECW use.

27. To encourage good community-agency relations, law enforcement agencies should conduct community outreach programs to educate civilians about ECWs, their advantages to other weapons used by the agency, the risks posed by their use, how the agency intends to use them, and the public oversight that will be available.

Use-of-Force Recommendations:

28. ECWs should not be used against a passive or restrained subject, or otherwise to counter passive non-compliance, absent an imminent threat of physical harm.

29. The act of fleeing or destroying evidence, in and of itself, should not justify the use of an ECW.

30. Officers should be permitted to use ECWs only when an individual poses an imminent threat of physical injury to themselves or others. For the purposes of this standard, "physical injury" should have the same meaning as it does in Maryland's definition of second degree assault on a law enforcement officer. Specifically, "physical injury" means "any impairment of physical condition, excluding minor injuries." A threat of such minor injuries ordinarily does not warrant the application of a potentially lethal force option.

31. An agency should adopt a use-of-force policy that integrates ECWs and all other available force options. The policy should recognize that, as less-lethal (but not less-than-lethal) weapons, ECWs have the potential to result in a fatal outcome even when used in accordance with policy and training. The policy should also integrate de-escalation techniques and other non-force options, which should be employed prior to any use of force unless doing so would be ineffective or would place the officer or another individual under a threat of physical harm. Non-force options should be tried where feasible before using an ECW or other force options.

32. Agencies should adopt a use-of-force model that recognizes that in the following situations involving a heightened risk of serious injury or death, ECWs should only be used when deadly force is otherwise legally permitted:

- persons in elevated positions, who might be at a risk of a dangerous fall;
- persons operating vehicles or machinery;
- persons who are fleeing on foot;
- persons who are already restrained in handcuffs;
- persons who might be in danger of drowning;

- environments in which combustible vapors and liquids or other flammable substances including but not limited to alcohol-based Oleoresin Capsicum (OC); or
- similar situations involving heightened risk of serious injury or death to the subject.

33. Agencies should adopt a use-of-force model that recognizes that the populations listed below may be at a heightened risk of serious injury or death. When deciding whether to discharge an ECW, the officer should consider the heightened risk of serious injury or death for these groups and be able to articulate the justification for exposing a person to increased risk:

    - persons with known heart conditions, including pacemakers;
    - elderly persons or young children;
    - frail persons or persons with very thin statures (*i.e.*, may have thin chest walls);
    - women known to be pregnant;
    - persons in mental/medical crisis; or
    - persons under the influence of drugs or intoxicated by alcohol.

    Agencies should adopt a use-of-force model that recognizes that unless articulated exigent circumstances exist justifying the increased risk, ECWs should not be discharged at sensitive areas of the body, including the head, neck, chest, or genitals.

34. An individual's apparent mental health or medical crisis (including any display of symptoms that are considered by some to constitute a syndrome called "excited delirium"), should not in itself justify the use of an ECW. The officer(s) at the scene should consider policies and training on dealing with persons in mental health/medical crisis to determine whether non-force options—including containment—are feasible. If the decision is made to arrest or otherwise restrain a person in mental health or medical crisis, the officer(s) should consider whether there are means to quickly restrain the individual without resort to ECW. When possible, the restraint of a person who is in mental health or medical crisis should be made in conjunction with mental health and medical personnel to help minimize the chance of injury to officers, the subject, or bystanders, and to help ensure the prompt provision of appropriate medical or mental health care. As with any individual, an ECW should not be used against a person in apparent mental health or medical crisis unless the person poses an imminent threat of physical harm to self or others.

35. Officers should not aim or threaten to use an ECW unless they believe the threat of using an ECW would itself help de-escalate the situation.

36. Before using an ECW an officer should warn a subject and give the subject a chance to comply with verbal orders, unless delaying discharge would be unsafe or the element of surprise is necessary to minimize the risk of harm.

37. Multiple ECWs should not be simultaneously discharged against a person unless there is a specific articulable reason for doing so and should be avoided when possible.

38. An officer should only administer an additional ECW discharge after an initial discharge if the officer has concluded that the subject still poses an imminent threat of significant physical harm and other options are not appropriate. Repeated or prolonged (*i.e.*, beyond the 5-second standard cycle) discharges should be avoided whenever possible.

39. ECWs should not be used in pain compliance (drive-stun) mode except when necessary to complete the incapacitation circuit, or when the probe mode has been ineffective and use of drive stun-mode is necessary to prevent imminent harm to the officer or others.

40. ECW use by officers while off duty should be regulated in the same manner as service firearms.

Medical Care Recommendations:

41. Agency policies and training should reflect the responsibility to ensure the rapid provision of medical care, particularly where the need for medical intervention was cited as a reason for the ECW discharge.

42. Law enforcement agencies and local medical personnel should work together to establish protocols for providing medical care subsequent to ECW use and for persons in mental health or medical crisis.

43. When possible, emergency medical personnel should be notified when it is anticipated that an ECW may be used against an individual, especially those in apparent mental health crisis or exhibiting symptoms of “excited delirium,” and emergency medical units should be on-scene prior to the discharge of the ECW.

44. Persons who have had an ECW discharged against them should receive an evaluation conducted pursuant to appropriate agency and medical protocols.

45. When medical necessity (including “excited delirium,” etc.) is cited as the reason to quickly restrain a person, whether using an ECW or another force option, law enforcement should request that the individual is provided medical care on scene by first responders, then quickly transported to a hospital for additional medical care, and should carefully monitor the individual’s well being until transport occurs.

46. After receiving medical care, persons who have had an ECW discharged against them should be monitored while in custody so that any medical complications might be more quickly identified.

47. Following an ECW discharge, officers should use a restraint technique that does not impair respiration.

48. ECW probes (darts) should be treated as a biohazard and should be removed only by individuals trained to remove them.

49. Agencies using ECWs should ensure that officers carry basic resuscitation equipment.

Reporting and Investigation Recommendations:

50. Comprehensive use-of-force reports should be completed when an ECW is discharged or aimed (*e.g.*, the subject is targeted with the ECW's "laser" or "red dot"). Information recorded on use-of-force reports should include data required for consistent, state-wide reporting.

51. In the event of an ECW discharge, a supervisor should respond to ensure the collection of evidence and to initiate a prudent investigation.

52. A post-discharge investigation should be conducted of all discharges, including accidental discharges. This investigation should include interviews with the participants and other witnesses, a review of the use-of-force report, and collection and review of evidence, including cartridges, ECW data, and photographs.

53. When there is a serious injury or death following the use of an ECW, evidence of (including complaint of) misuse of the ECW, or when the ECW was used against a person from a heightened-risk population or in precarious situations, the agency's chief law enforcement executive should ensure the completion of a timely investigation and review of the incident and determining whether the ECW use was in compliance with policy and whether the outcome indicates the need for any training or policy changes. In the case of death or a life-threatening injury, the investigation should be presented to an entity outside the agency for independent review.

54. In cases of death or serious injury, the ECW used should be tested for proper operation and output.

55. When a death occurs in temporal proximity to an ECW discharge, the State Medical Examiner should specifically indicate whether the use of the ECW may have or did contribute to the death. "Excited delirium" should not be cited as the cause of death where there is a known direct cause. The Medical Examiner should explain in the autopsy and death certification the cluster of symptoms that led to the finding of "excited delirium."

Monitoring and Data Collection Recommendations:

56. Agencies should maintain comprehensive data (identified in this report) regarding use of ECWs for the purpose of tracking trends over time and determining whether some officers are using ECWs at a different rate or in a different manner than similarly situated peers. This data should be considered when determining whether to recertify or decertify officers for ECW use.

57. Early warning systems should incorporate data regarding ECW usage to track trends over time and to determine whether some officers are using ECWs at a different rate or in a different manner than similarly situated peers.

58. The Governor's Office of Crime Control and Prevention or other appropriate State agency should require state-wide collection and analysis of the comprehensive agency data regarding ECW use to track trends and identify emergent concerns and should make such data publicly available.

59. ECWs should be regularly tested for proper operation and output. Agencies should consider contracting with their ECW provider to repair or replace any devices that no longer meet manufacturer specifications.

60. Agencies should routinely audit ECW use and ECW training to ensure compliance with the agency's policies and determine whether any changes to policy or training are advised.

XIV. Proposed Research Suggestions:

1. Additional research should be conducted on the physiological effects of ECWs, especially when used repeatedly, for prolonged periods, simultaneously, or on persons in heightened-risk populations or in mental health or medical crisis.

2. Additional research should be conducted on the physiological effects of ECWs when discharged against certain areas of the body, including a person's chest area, neck, and head.

3. There should be a comparison of incidents of deadly force used in agencies with and without ECWs.

4. Additional research should be conducted on the feasibility and utility of having automatic external defibrillators ("AEDs") readily available to officers.

5. Additional research should be conducted on the medical and operational impacts of new and developing ECW weapons as they emerge.

XV. Proposed Legislative Agenda for the Maryland General Assembly

1. A requirement that the Maryland Police and Correctional Training Commission ("MPCTC") incorporate through regulation this report's training recommendations into the Commission's law enforcement ECW certification and training program regulations instituted pursuant to Chapter 320, Laws of Maryland 2009. Chapter 320 requires a law enforcement officer to complete MPCTC training before being issued an ECW and requires MPCTC to provide such training and related certification and recertification. As noted in this report, best practices reflect the need for such training to include important components to address officer safety and public safety priorities to accomplish the goals of Chapter 320. Such legislation would ensure fulfillment of the legislative intent expressed in Chapter 320.

2. A requirement for state-wide collection, compilation, and analysis of uniform and comprehensive agency data regarding ECW use. The data collected should include all data listed in the report above, as well as the Medical Examiner's report for any death for which an ECW is listed as a cause of death or a contributing factor. This data should be collected, compiled and published annually by the Governor's Office of Crime Control and Prevention (or other appropriate state agency). The legislation should also require that each individual law enforcement agency make its reported data available to the public upon request to ensure that the public can be informed about use of ECWs in their communities.

3. A requirement that civilians who intend to purchase an ECW complete an MPCTC-approved ECW training program and meet certification and recertification standards which demonstrate knowledge and proficiency with the weapon.

4. A requirement for a uniform state-wide ECW application/permit process for purchase and ownership as well as for wearing, carrying, and transporting an ECW. The process should include provisions for:

    - Applications being made under oath and subject to the penalty of perjury;
    - Collection of specific identifying information on the applicant and the weapon to be obtained;
    - A background check, to include national and local criminal history;
    - Denial of the application if the individual is under the age of 21, is a fugitive from justice or a habitual drunkard, is addicted to or habitually uses controlled dangerous substances, or has spent more than 30 consecutive days in a medical institution for treatment of a mental disorder;
    - A designated waiting period from the time of application submission to the time the applicant may obtain the ECW; and

- Seizure of the ECW as contraband by a law enforcement agency when obtained in violation of the above process.[183]

5. A requirement that ECW dealers must conform to the ECW application process noted above.

6. A prohibition regarding persons or dealers knowingly selling or transferring an ECW to a person prohibited from owning one.

7. A provision for enhanced criminal penalties for the use of an ECW in the commission of a crime, especially when used against law enforcement officers, similar to the statutory crime of "Use of Handgun in the Commission of a Crime or Violence or a Felony,"[184] recognizing the unique attributes of the ECW in comparison to other weapons.

[183] These recommendations closely track Maryland's restrictions on handgun ownership. *See* MD. CODE ANN., PUB. SAFETY § 5-117 *et seq*.

[184] MD. CODE ANN., CRIM LAW § 4-204.

Appendix A

Witness List for Task Force Hearings

- Coleman Bazelon, ACLU of Maryland
- Commissioner Frederick H. Bealefeld, Baltimore City Police Department
- Terry Bohrer, Mental Health Association of Maryland
- Del. Talmadge Branch, Maryland House of Delegates
- Police Officer Bryan Brummitt, Maryland Transportation Authority Police Department
- Reuben Collins, Charles County Commission
- Judy Cooper, Charles County Commission
- Roger Copeland, Frederick County NAACP
- June Dillard, Prince George's County NAACP
- Chief Bernadette DiPino, Ocean City Police Department
- Guy Djoken, Frederick County NAACP
- Chief Deputy Douglas Dodd, Worcester County Sheriff's Office
- 1st Sergeant Tim Eikenberg, Maryland Transportation Authority Police Department
- Sergeant Angelo Giafes, Elkton Police Department
- Captain Alan Goldberg, Montgomery County Police Department
- Captain Kenneth Hasenei, Maryland State Police Agency
- Peter Holran, TASER International, Inc.
- Elbridge James, Montgomery County NAACP
- Sen. Delores Kelly, Maryland State Senate
- Barry Kissing, Frederick County NAACP
- Police Officer Joan Logan, Montgomery County Police Department
- Mike Mage, ACLU of Montgomery County
- Chief William McMahon, Howard County Department of Police
- Edith Patterson, Charles County Commission
- 1st Sergeant Jason Pulliam, Maryland Transportation Authority Police Department
- Mark Shmueli, Law Office of Mark Shmueli
- Richard Speake, Training Coordinator, Anne Arundel County Sheriff's Office

Appendix B

ECW Discharges in Maryland

Jurisdiction	Yrs. of Data	Total Discharges	Discharge/YR	White					Black					Hispanic				
				Male	Female	Total	%	% of Pop.	Male	Female	Total	%	% of Pop.	Male	Female	Total	%	% of Pop.
Anne Arundel County Sheriff	1.00	1	1.0	0	0	0	0%	75%	1	0	1	100%	15%	0	0	0	0%	5%
Baltimore City Police Dept.	1.58	195	123.2	28	6	34	17%	32%	144	6	150	77%	64%	0	0	0	0%	2%
Baltimore County Police Dept.	2.75	219	79.6	94	7	101	46%	66%	90	5	95	43%	25%	7	0	7	3%	3%
City of Bowie Police Dept.	3.00	8	2.7	4	0	4	50%	63%	3	1	4	50%	31%	0	0	0	0%	3%
Caroline County Sheriff	2.17	12	5.5	8	1	9	75%	79%	2	1	3	25%	14%	0	0	0	0%	5%
Cecil County Sheriff	1.25	3	2.4	2	1	3	100%	89%	0	0	0	0%	6%	0	0	0	0%	2%
Charles County Sheriff	5.75	124	21.6	36	7	43	35%	52%	67	6	73	59%	39%	4	1	5	4%	4%
Dorchester County Sheriff	2.00	3	1.5	3	0	3	100%	69%	0	0	0	0%	28%	0	0	0	0%	2%
Frederick County Sheriff	6.75	111	16.4	68	6	74	67%	80%	23	4	27	24%	9%	5	0	5	5%	6%
Garrett County Sheriff	3.75	10	2.7	10	0	10	100%	98%	0	0	0	0%	1%	0	0	0	0%	1%
Gaithersburg City Police Dept.	5.00	36	7.2	n/a	n/a	11	31%	58%	n/a	n/a	11	31%	15%	n/a	n/a	13	36%	20%
Harford Co. Sheriff	5.00	161	32.2	n/a	n/a	n/a	n/a	81%	n/a	n/a	n/a	n/a	12%	n/a	n/a	n/a	n/a	3%
Howard County Police Dept.	2.33	37	15.9	n/a	n/a	17	46%	64%	n/a	n/a	18	49%	17%	n/a	n/a	2	5%	5%
Montgomery County Police Dept.	0.50	111	222.0	n/a	n/a	30	27%	54%	n/a	n/a	64	58%	17%	n/a	n/a	11	10%	15%
Montgomery County Sheriff	6.75	31	4.6	n/a	n/a	15	48%	54%	n/a	n/a	15	48%	17%	0	0	0	0%	15%
Prince George's County Police Dept.	1.08	78	72.0	n/a	n/a	4	5%	18%	n/a	n/a	66	85%	66%	n/a	n/a	7	9%	13%
Queen Anne's Co. Sherriff	4.75	45	9.5	n/a	n/a	n/a	n/a	88%	n/a	n/a	n/a	n/a	8%	n/a	n/a	n/a	n/a	2%
St. Mary's County Sheriff	3.83	117	30.5	n/a	n/a	59	50%	78%	n/a	n/a	53	45%	15%	n/a	n/a	0	0%	3%
Washington County Sheriff	3.75	63	16.8	n/a	n/a	50	79%	85%	n/a	n/a	13	21%	10%	0	0	0	0%	3%
Wicomico County Sheriff	1.00	1	1.0	0	0	0	0%	70%	1	0	1	100%	24%	0	0	0	0%	3%
Worcester County Sheriff	2.75	13	4.7	2	1	3	23%	81%	6	0	6	46%	14%	n/a	n/a	0	0%	2%

All demographic data derived from the latest U.S. Census data, available at http://quickfacts.census.gov/qfd/states/24000.html

Note: The Baltimore County Sheriff responded that it has not deployed any ECWs. The Calvert County Sheriff and Allegany County Sheriff did not respond to the Task Force's requests for data.

Appendix C

Summary of Survey of Maryland Law Enforcement Agencies' Policies on Electronic Control Weapons

This Appendix summarizes the different approaches taken by law enforcement agencies throughout Maryland to regulating the use of ECWs by their officers. Specifically, this summary focuses on seven key areas addressed in virtually all policies: (1) training of law enforcement officers in ECW usage; (2) restrictions on ECW usage for certain vulnerable classes of people; (3) restrictions on ECW usage in situations that could lead to secondary injuries; (4) the role of ECWs in an agency's use-of-force policy; (5) permissible methods of deploying ECWs; (6) medical treatment required following ECW use; and (7) procedures for reporting and monitoring ECW deployments.

The policies included in this analysis were collected via informal and formal requests under the Maryland Public Information Act, sent by the ACLU in conjunction with its role on the Task Force. Pursuant to these requests, the ACLU obtained ECW policies from twenty-four agencies, including county police departments, county sheriff's offices, and police departments of independent cities.[1] Eight other agencies informed the ACLU that they do not permit their officers to carry or use ECWs.[2] Two agencies declined to provide materials.[3]

The policies' rules and guidelines are summarized in a chart that follows this summary.

Training

Fourteen agencies[4] provided information specifically detailing their training policies, and of those, nine appear to rely exclusively on training materials provided by TASER

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[1] The following agencies provided ECW policies: Allegheny County Sheriff's Office, Anne Arundel County Sheriff's Office, Baltimore City Police, Baltimore County Police, Bowie Police, Calvert County Sheriff's Office, Caroline County Sheriff's Office, Cecil County Sheriff's Office, Charles County Sheriff's Office, Dorchester County Sheriff's Office, Frederick County Sheriff's Office, Gaithersburg Police, Garrett County Sheriff's Office, Harford County Sheriff's Office, Howard County Department of Police, Maryland State Police Tactical Assault Team, Montgomery County Police, Montgomery County Sheriff's Office, Prince George's County Police, Queen Anne's County Sheriff's Office, St. Mary's County Sheriff's Office, Washington County Sheriff's Office, Wicomico County Sheriff's Office, and the Worcester County Sheriff's Office.

[2] The following jurisdictions do not use ECWs: Annapolis Police, Anne Arundel Police, Baltimore City Schools Police, Baltimore County Sheriff's Office, Carroll County Sheriff's Office, Kent County Sheriff's Office, Talbot County Sheriff's Office, and the University of Maryland at College Park Police.

[3] The Prince George's County Sheriff's Office and the Somerset County Sheriff's Office did not provide materials in response to our requests.

[4] The agencies that provided or identified training materials were: Allegany County Sheriff's Office, Baltimore County Police, Calvert County Sheriff's Office, Charles County Sheriff's Office, Dorchester County Sheriff's Office, Frederick County Sheriff's Office, Gaithersburg Police, Harford County Sheriff's Office, Howard County Department of Police, Montgomery County Sheriff's Office, Queen Anne's County Sheriff's Office, St. Mary's County Sheriff's Office, Washington County Sheriff's Office, and Worcester County Sheriff's Office.

International.[5] TASER International's curriculum consists of a PowerPoint presentation, videos, a written test, and sometimes live training. The training materials describe various "tactical considerations" that cover matters similar to use-of-force policies, but TASER International does not adopt a specific use-of-force policy, and instead instructs officers to follow their department's policies regarding appropriate use-of-force standards. TASER International's materials do not provide guidance on where ECWs fall in the use-of-force continuum and do not advise officers about when deploying an ECW would be excessive. The TASER International training materials also warn officers about secondary injuries that could result from ECW use and suggest that caution should be exercised when deploying an ECW against pregnant women and people who are particularly frail. Finally, TASER International employs ECW practice scenarios and written tests that are designed to promote technical proficiency with ECWs, but that do not focus on when and whether it is appropriate to use an ECW in the first place.

The remaining five jurisdictions that provided information about their training programs have created their own training or recertification programs. The Baltimore County Police Department has created a proprietary training program, while the Charles County and Howard County Sheriffs have each created training courses for recertifying ECW users.[6] Both the Queen Anne's County Sheriff and the Gaithersburg City Police Department use training materials derived from the Maryland Police and Correctional Training Commission ("MPCTC"), with modifications of their own. The Gaithersburg City Police Department also incorporates a video and PowerPoint presentation used in the TASER International training program.

Limitations on Use Against Vulnerable Groups

Of the 24 law enforcement agencies that provided use-of-force policies, seventeen restrict the use of ECWs against classes of people who may be subject to an increased risk of injury. These agencies typically place heightened restrictions on ECW use against children, the elderly, the infirm, pregnant women, and individuals who the officer knows suffer from heart problems. Of these jurisdictions, only the Baltimore City Police Department, Cecil County Sheriff, and Queen Anne's County Sheriff appear to completely ban ECW use on certain vulnerable classes of individuals. The majority of other agencies require only that the officer have "additional justification" or give "careful consideration" to deploying an ECW against individuals in these groups, or that such

[5] For the identity of the jurisdictions that rely on TASER International's training materials, please see the chart summarizing ECW policies and the end of this appendix. The attached chart can be used throughout this memorandum to identify the agencies that have adopted a specific approach discussed herein. Where the identity of the jurisdictions is not clear from the chart, such information will be included in a footnote.

[6] Charles County and Howard Police both use TASER International material for initial training, but have created their own material for re-training their officers. Charles County created its own training presentation along with a multiple-choice recertification exam covering maintenance, proper use, use-of-force continuum guidelines, and other restrictions on use. Howard County provides a PowerPoint presentation of the use-of-force guidelines for ECWs and requires that each officer assigned an ECW must pass an exam demonstrating proficiency in loading, unloading, deploying, and discharging the prongs of the weapon on an annual basis.

use is warranted by "exigent circumstances."

Children: Sixteen jurisdictions restrict use of ECWs against "children" or "young people." Most policies with such restrictions mention "children" in general, without further definition, though a few departments have specified that the restrictions apply to young children. The Baltimore County Police Department, for example, specifies that children should be given "special consideration" according to their age, size, and weight, and the Cecil County Sheriff specifies that ECWs should not be used against "very young" children.

Pregnant Women: Seventeen agencies restrict use of ECWs against pregnant women, or "obviously" pregnant women.

Elderly: Twelve agencies restrict use of ECWs against elderly persons and individuals who appear frail or infirm. Some agencies simply note that using an ECW against elderly persons involves "increased risk," while others require "exigent circumstances" to justify the use of an ECW. The Baltimore County Police Department, in addition to restricting ECWs use against the elderly and frail, restrict use of ECWs against persons who are physically handicapped. The Wicomico County Sheriff restricts use against persons known to have neuromuscular disorders or epilepsy.

Heart Problems: Eight agencies specifically restrict the use of ECWs against persons known to have heart problems. None of the surveyed agencies impose outright bans, though the Garret County Sheriff bans outright using a "stun cuff" against inmates known to have heart conditions. (A stun cuff is an ECW cuff designed to control prisoners.)

Limitations on ECW Use to Avoid Secondary Injuries

Most agencies restrict officers from deploying ECWs in certain situations where the use of ECWs is likely to cause secondary injuries. Thus, agencies often prohibit using ECWs around flammable materials, noting in particular that some police pepper sprays are flammable and could be ignited by an ECW, as could materials in methamphetamine labs. To avoid injuries caused by falling, many agencies restrict using ECWs against subjects in elevated positions and subjects who are running. Many agencies also restrict use of ECWs against subjects in water due to the risk of drowning. Some agencies further restrict use of ECWs against individuals driving motor vehicles or operating machinery. A few agencies impose additional restrictions. The Baltimore County Police Department, for instance, prohibits use of ECWs against persons holding firearms and against persons who are suicidal.

Many agencies impose at least some of these restrictions categorically, especially the restrictions on use around flammable materials.[7] Other agencies note that

[7] The following agencies categorically ban use of ECWs around flammable materials: Allegheny County Sheriff's Office; Baltimore City Police; Calvert County Sheriff's Office; Caroline County Sheriff's Office; Charles County Sheriff's Office; Gaithersburg Police; Howard County Department of Police; Montgomery County Police; Montgomery County Sheriff's Office; Prince George's County Police; Queen

circumstances increasing the likelihood of secondary injuries are extremely dangerous, and simply caution officers to exercise caution and use their judgment before deploying ECWs in these situations.

Use-of-Force Policies

The use-of-force policies of Maryland law enforcement agencies generally classify ECWs as "less lethal" devices, and locate them on the use-of-force continuum below deadly weapons. Beyond this similarity, use-of-force policies regarding when ECWs may be used differ substantially among the Maryland law enforcement agencies.

Twelve agencies permit an officer to use an ECW if the suspect poses a physical threat, ***or*** if the person is "actively resisting" the officer. The policies generally define "actively resisting" to include actions that do not give rise to an imminent threat. For example, a person who is "bracing" or "tensing" his or her arms to avoid being placed into handcuffs is considered to be "actively resisting." The policies appear to distinguish "actively resisting" from "passive" resistance, in which a person is simply refusing to obey commands, and five agencies specifically forbid ECW use against passive resisters.

Another twelve agencies' use-of-force policies contain vague standards that can be read to permit use in a wide variety of situations, even when the person is not offering "active resistance" of any kind. For instance, several policies permit officers to use ECWs to "control the situation" or to "bring an unlawful situation under control," and to "safely effect an arrest."[8] The Gaithersburg City Police Department policy allows ECWs to be used on merely "non-complaint individuals."

Some law enforcement agencies use very specific hierarchies of increasing force based on the level of resistance presented by the suspect and the threat to the well-being of persons involved in the incident. For example, the Allegany County Sheriff places ECWs on the continuum before the use of pepper spray or a baton, and the Garrett County Sheriff places the use of ECWs above verbal commands, but below "firm grip pain."

A few other specific provisions are worth noting here:

Anne's County Sheriff's Office; St. Mary's County Sheriff's Office; Washington County Sheriff's Office; and Wicomico County Sheriff's Office.

[8] The jurisdictions that have vague standards that allow for the use of ECWs include: Allegany County Sheriff's Office ("circumstances are tense, uncertain, and rapidly evolving"); Calvert County Sheriff's Office ("when the use of force is necessary to gain control of an individual for a lawful purpose"); Charles County Sheriff's Office ("to incapacitate a resistive person"); Frederick County Sheriff's Office ("when . . . attempts to subdue or control the subject by other conventional tactics have been, or will likely be, ineffective"); Gaithersburg Police Department (on "non-compliant individuals"); Garrett County Sheriff's Office ("circumstances are tense, uncertain, and rapidly evolving"); Harford County Sheriff's Office ("to bring an unlawful situation safely and effectively under control"); the Maryland State Police Tactical Assault Team ("to safely effect an arrest"); Montgomery County Police ("to safely effect an arrest"); Prince George's County Sheriff's Office ("effect an arrest"); Washington County Sheriff's Office ("to safely effect an arrest"); and Worcester County Sheriff's Office ("to safely effect an arrest" or "to control the situation").

- Ten agencies strictly limit the use of ECWs on handcuffed persons to those actively presenting a threat of bodily harm, but not all agencies address the issue.
- Fifteen agencies require officers to call out a warning before firing the ECW, both to alert other officers (who might mistake the ECW for a gun) and to give the subject a chance to comply.
- The Baltimore County Police Department requires that the use of an ECW must be approved by a supervisor, except in exigent circumstances.
- The Baltimore County Police Department, Howard Police Department, and St. Mary's County Sheriff explicitly prohibit the use of ECWs for punitive purposes.

Permissible Methods of Use

Many jurisdictions impose restrictions or caution against certain methods of discharging ECWs. For instance, fifteen jurisdictions prohibit officers from aiming ECWs at sensitive areas such as the head, face, or groin, and eight jurisdictions specifically require officers to use the minimum number of bursts necessary to bring the person under control. Some jurisdictions, like the Bowie Police Department, require officers to affirmatively justify the need for additional bursts. The Baltimore County Police Department specifies that only three ECW bursts may be applied, absent "immediate exigent circumstances." Several jurisdictions also instructed officers to apply only one ECW at a time, unless there are exigent circumstances.[9] A few jurisdictions, however, have no restrictions on the number or duration of ECW bursts.[10]

The Gaithersburg City Police Department and the Howard County Sheriff disfavor the use of an ECW's "stun drive" mode and require additional justifications for its use.

Medical Treatment Following Use

There is no consensus among the surveyed agencies as to the type of medical care required after an individual is shocked with an ECW. Eight agencies require Emergency Medical Services to be summoned to assess any suspect who is shocked by an ECW. Of those agencies, six further require that the person be taken to the hospital. The Gaithersburg City Police Department requires that EMS be summoned if the person is shocked either more than three times or with more than one ECW. Twelve jurisdictions simply require that police monitor the person and request EMS only if there are signs of trouble or the person requests medical attention. The Frederick County Sheriff and the St. Mary's County Sheriff have no provisions for medical treatment, and the Wicomico County Sheriff requires medical treatment only to remove ECW darts from a person's skin.

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[9] The Baltimore County Police, Bowie Police, Howard County Sheriff's Office, and Wicomico County Sheriff's Office prohibit using multiple ECWs against a person simultaneously.

[10] Baltimore City Police, Charles County Sheriff's Office, Frederick County Sheriff's Office, and Worcester County Sheriff's Office have no restrictions on the method in which an ECW is used.

Post-Use Reporting

All agencies surveyed require officers to document each use of an ECW (both accidental and deliberate), typically in a use-of-force report. Seven agencies also require that a supervisor be contacted after the deployment of an ECW and that the supervisor respond to the scene. Other agencies require that photographs be taken, both of the impact area and of any secondary injuries. Thirteen jurisdictions also require that the data from ECWs be downloaded, and included in the use-of-force report.[11] Some jurisdictions also require supervisors to periodically to track use of ECWs by reviewing downloaded data from ECW deployments. The Bowie Police Department has an additional reporting requirement designed to monitor general ECW use: the Department's regulations provide that the commander will create an ECW use database, then periodically download data from all ECWs, enter the use data into the database, and then compare the database to the use-of-force reports to ensure that each use of an ECW is reported.

[11] The Dorchester County Sheriff's Office requires a data download only "in the event of a questionable discharge," or one that leads to injuries.

Appendix
Overview of Maryland Law Enforcement Agencies' CED Policies

	Allegany Co. Sheriff	Anne Arundel Co. Sheriff	Baltimore City Police	Baltimore Co. Police	Bowie Police	Calvert Co. Sheriff	Caroline Co. Sheriff	Cecil Co. Sheriff	Charles Co. Sheriff	Dorchester Co. Sheriff	Frederick Co. Sheriff	Gaithersburg Police	Garrett Co. Sheriff	Harford Co. Sheriff	Howard Co. Police	Md. Police Tac. Assault	Montgomery Co. Police	Montgomery Co. Sheriff	P. George's Co. Police	Q. Anne's Co. Sheriff	St. Mary's Co. Sheriff	Washington Co. Sheriff	Wicomico Co. Sheriff	Worcester Co. Sheriff
Training																								
Relies on Taser International materials	✓					✓			✓*	✓	✓			✓	✓*			✓			✓	✓		✓
Created own materials				✓					✓			✓			✓					✓					
Fully explains medical risks																								
Officers practice using taser	✓					✓			✓	✓	✓			✓	✓			✓			✓	✓		✓
Officers practice use-of-force decisions				✓					✓			✓								✓					
Officers take written test	✓			✓		✓			✓	✓	✓	✓		✓	✓			✓		✓	✓	✓		✓
Use Restricted on Vulnerable Classes																								
Children		✓		✓	✓		✓	✓	✓			✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	
Pregnant women		✓	✓	✓	✓		✓	✓	✓			✓			✓	✓	✓	✓	✓	✓	✓	✓	✓	
Elderly, frail, or infirm		✓		✓	✓		✓	✓	✓			✓			✓			✓	✓	✓			✓	
Subjects with heart problems									✓			✓				✓	✓		✓		✓	✓	✓	
Use Restricted to Avoid Secondary Injuries																								
Near flammables	✓	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	
Subject in elevated position		✓	✓	✓		✓	✓	✓	✓			✓			✓	✓		✓	✓	✓	✓		✓	
Subject fleeing				✓	✓				✓									✓						
Subject operating vehicle			✓	✓	✓				✓			✓			✓			✓					✓	
Danger of drowning		✓			✓			✓				✓			✓			✓	✓					
Use-of-Force Continuum																								
Permited only if subject actively resists or threatens safety		✓	✓	✓	✓		✓	✓		✓					✓			✓		✓	✓		✓	
Expressly prohibited against passive subject				✓			✓	✓							✓			✓						
Vague stantard permitting use in wide variety of circumstances	✓					✓			✓		✓	✓	✓	✓		✓	✓	✓				✓		✓
Warning required before using		✓		✓	✓	✓		✓	✓			✓			✓	✓		✓	✓	✓	✓	✓	✓	
Restricted against subject in handcuffs			✓	✓	✓		✓	✓	✓			✓			✓			✓	✓					
Method of Use																								
Multiple shocks restricted		✓		✓	✓	✓						✓		✓	✓					✓				
Use on sensitive areas restricted	✓	✓	✓	✓	✓		✓	✓		✓			✓		✓	✓		✓	✓	✓		✓		
Medical Care Required After CED Use																								
Must summon EMS			✓	✓	✓	✓			✓						✓	✓		✓						
Must take subject to hospital				✓	✓	✓									✓	✓		✓						
Summon EMS only on need or request	✓	✓					✓	✓		✓		✓	✓	✓				✓		✓		✓		✓
Reporting Required After CED Use																								
Use-of-force report required for all discharges	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Supervisor must report to scene	✓	✓	✓	✓								✓						✓			✓			
Photographs must be taken					✓	✓	✓		✓	✓		✓		✓	✓	✓	✓	✓			✓			
Monitoring CED use with data downloads		✓	✓	✓	✓			✓	✓	✓		✓				✓			✓	✓		✓		

Note: The following agencies do not permit their officers to use CEDs: Annapolis Police, Anne Arundel Police, Baltimore City Schools Police, Baltimore County Sheriff, Carroll County Sheriff, Kent County Sheriff, Talbot County Sheriff, and the University of Maryland at College Park Police.

*Charles County Sheriff and Howard Police use Taser International materials for their initial training but created their own re-certification materials.

Appendix D

Glossary of Terms

Accidental Discharge: The unintentional firing of an ECW in probe mode.

Aiming: Directing an ECW at a person or other intended target.

Arcing/Arching: Activating an ECW without a cartridge.

Automatic External Defibrillator ("AED"): An apparatus that monitors the heart of the patient and then automatically administers a controlled electric shock to the chest to restore normal heart rhythm.

Cartridge: The replaceable ECW cartridge that fires probes on connecting wires, sending a high voltage/low current signal into a subject upon impact.

Command and Control Approach: A method of arresting or securing a person that focuses on use of verbal commands and/or physical restraint to achieve compliance and physical control of a person.

Confetti Tags/Anti-Felon Identification Tags ("AFID")/Serialized Identification Tags: Confetti-like tags expelled from a cartridge of an ECW when fired to shoot probes. Each tag contains a serial number unique to the specific cartridge used.

Continuum of Force/Response to Resistance/Use of Force Model: A training model/philosophy that supports the progressive and reasonable escalation and de-escalation of officer-applied force in proportional response to the actions, level of resistance offered by a subject and danger posed by the subject. The level of response is based upon the situation encountered at the scene and the actions of the subject in response to the officer's commands. Such response may progress from the officer's physical presence at the scene to the application of deadly force.

Darts/Probes/Barbs/Electrode: Projectiles that are fired from an ECW and penetrate the skin; wires are attached to the probes leading back to the ECW.

Dart/Probe Placement: Point of entry for a dart/probe on a person's body.

Dart/Probe (Barb) Removal: The act of removing a dart/probe from a person's body or clothing.

De-escalation Techniques (Verbal and Non-Verbal): Part of a broader set of trained techniques also known as "crisis intervention" techniques used to calm or lessen the intensity of a scenario or conflict. Effective de-escalation techniques have been developed and used by mental health professionals, law enforcement and others to focus on responding to and reducing the symptoms and sources of serious agitation or stress without use of force. These techniques can include containment, simple listening, active listening, acknowledgement, reassurance of safety, apologizing, agreeing and inviting criticism.

Deployment: Sending ECW devices into the field with law enforcement officers.

Deadly/Lethal Force: Any tactic or use of force that has an intended, natural, and probable consequence of serious physical injury or death.

Discharge: Depressing the trigger of an ECW causing an ECW to fire.

Display: Removing the weapon from the holster and pointing the weapon at a subject, arc the weapon or using it in the laser dot mode, prior to pulling the trigger.

Drive Stun Mode: The use of an ECW to deliver an electric charge by making direct contact with the body for the purpose of compliance by the delivery of non-incapacitating pain or to complete an incapacitation circuit. See also Pain Compliance Mode.

Drug Induced Psychosis: Psychosis is functionally a break with reality, wherein the patient exhibits hallucinations and/or delusions.

Duration: The aggregate period of time that ECW shocks are discharged.

Early Warning System: Data-based police management tool designed to identify officers whose behavior is problematic and to allow for early intervention to correct that performance.

ECW Cycle: An electrical discharge occurring when an ECW trigger is pressed and released. The standard 5-second cycle may be shortened by turning the ECW off before 5-seconds has passed, or lengthened by pressing and holding the ECW trigger, in which case the ECW will continue to deliver an electrical discharge until the trigger is released.

Electronic Control Weapon ("ECW")/Electronic Control Device ("ECD")/Conducted Energy Device ("CED"): A device primarily designed to disrupt a subject's central nervous system by means of deploying electrical energy sufficient to cause uncontrolled muscle contractions and override an individual's voluntary motor responses. The Task Force has elected to refer to these devices as Electronic Control Weapons.

Excited Delirium: Term used by some to describe a collection of symptoms that include extreme mental and physiological excitement, characterized by extreme agitation, hyperthermia, epiphora, hostility, exceptional strength, and endurance without fatigue.

Exigent Circumstances: Circumstances that would cause a reasonable person to believe that prompt and unusual action is necessary to prevent physical injury to self or others.

Firing: Discharging ECW darts or electronic charge at a person.

First Responder: A generic term referring to the first medically trained responder to arrive on scene (police, fire, EMS).

Fleeing: An active attempt by a person to avoid apprehension by a law enforcement officer by attempting to leave the scene.

Incapacitation: In the context of ECW use, the deprivation of the power or ability to control muscle movement or strength. The electrical current of an ECW overrides the brain's communication with the body and prevents the voluntary control over the muscles.

Incapacitation mode: The use of an ECW to gain compliance by incapacitation of the subject's neuromuscular system.

Initial Certification: Successful completion of the first basic ECW training provided to officers prior to issuance of an ECW.

Intermediate-Force Weapon: A weapon usage category situated between a verbal command and lethal force on a traditional force continuum.

Laser Dot (Red Dot): Aiming an ECW and activating its laser dot.

Less Lethal: A concept of planning and force application that meets an operational or tactical objective, with less potential for causing death or serious injury than conventional, more lethal police tactics.

Less-Lethal Weapon: Any apprehension or restraint device that, when used as designed and intended, has less potential for causing death or serious injury than conventional police lethal weapons.

Medical Crisis: A medical condition at an unstable point in its natural course that requires urgent or emergent evaluation or care and may present with abnormal behavior.

Mental Health Crisis: An unpredictable psychological event not under the individual's control.

Oleoresin Capsicum ("OC"): Pepper spray, also known as OC spray (from "Oleoresin Capsicum"), OC gas, and capsicum spray, is a lachrymatory agent (a chemical compound that irritates the eyes to cause tears, pain, and even temporary blindness) that is used primarily in riot control, crowd control, and personal self-defense.

Pain compliance mode: The use of an ECW to gain compliance by the delivery of non-incapacitating pain. See also Drive Stun Mode.

Passive Resistance: Physical actions that do not prevent the officer's attempt to control, for example, a person who remains in a limp, prone position, passive demonstrators, etc.

Performance-based testing Scenario- or judgment-based components: Training and testing usually involving role-playing and recreation of real-life interactions and designed to elicit manual or behavioral responses.

Physical injury: For the purpose of this report physical injury has the same meaning as it does in Maryland's definition of second degree assault on a law enforcement officer. Specifically, "physical injury" means "any impairment of physical condition, excluding minor injuries.

Post-Discharge Investigation: An investigation of the circumstances surrounding the intentional or unintentional discharge of an ECW.

Potentially Lethal: A situation, condition or device that could conceivably result in, or contribute to death.

Probe Mode: The use of an ECW to deliver an electric charge by firing darts into the body for the purpose of incapacitating a subject.

Recertification process: The process of ensuring an individual remains a competent and appropriate candidate to be issued an ECW. This process would include updated training as well as the review and analysis of an officer's downloaded data and use-of-force reports to determine if the officer's past history of ECW use indicates that he or she is not using the device appropriately.

Secondary Injury: Physical trauma indirectly associated with ECW use (*e.g*., injuries from falls).

Sensitive Areas: A person's head, neck, chest, and genital area.

Serious Injury: Bodily injury that, either at the time of the actual injury or at a later time, involves a substantial risk of death, a substantial risk of serious permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part or organ of the body, or breaks, fractures, or burns of the second or third degree.

Appendix E

List of Acronyms Used in the Report

ACLU: American Civil Liberties Union of Maryland

AED: Automatic external defibrillators

AFID: Anti-Felon Identification

ALS: Advanced life support

AMA: American Medical Association

CED: Conducted Energy Device

BATF: Bureau of Alcohol, Tobacco, and Firearms

ECW: Electronic Control Weapons

GOCCP: Governor's Office of Crime Control and Prevention

IACP: International Association of Chiefs of Police

ICE: Immigration and Customs Enforcement

MPCTC: Maryland Police and Correctional Training Commission

NAACP: National Association for the Advancement of Colored People of Maryland

OC: Oleoresin Capsicum

PERF: Police Executive Research Forum

Appendix F

Acknowledgments

The Task Force wishes to thank the following individuals and organizations:

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REPORT OF THE MARYLAND ATTORNEY GENERAL'S

TASK FORCE ON ELECTRONIC WEAPONS

Office of the Attorney General
200 St. Paul Place
Baltimore, Maryland 21202
Tel: (410) 576-6300
www.oag.state.md.us

APPENDIX F

Doing More: Reducing Sexual Misconduct at Maryland's Colleges and Universities

Maryland Attorney General's Office Report
November 12, 2014

Doing More: Reducing Sexual Misconduct at Maryland's Colleges and Universities

Maryland Attorney General's Office Report
November 12, 2014

Douglas F. Gansler
Maryland Attorney General

This Report is available online at
www.oag.state.md.us/reports/sexual_misconduct.pdf

I. FOREWORD

Here in Maryland and across the country significant progress has been made in reducing sexual violence against men and women. Significant work remains to be done, however. In particular, work remains to reduce the incidence of sexual violence on our college and university campuses and in connection with college and university activities.

Recognizing this task, President Barack Obama established the White House Task Force to Protect Students from Sexual Assault in January 2014. The White House Task Force came on the heels of the Violence Against Women Reauthorization Act of 2013 (VAWA) and passage of the Campus Sexual Violence Elimination (SaVE) Act, and it marked the beginning of a period of increased scrutiny of how our colleges prevent campus sexual misconduct, respond to campus sexual misconduct, and remedy that misconduct's discriminatory effects.

This increased scrutiny has challenged our Maryland colleges and universities to do more, and it has challenged all of us to do better. It is against this backdrop that I present to you this report, "Doing More: Ending Sexual Misconduct at Maryland's Colleges and Universities."

I hope this report will help all of us in Maryland to better understand and more effectively tackle the problem of sexual misconduct in higher education. I also hope this report will provide assistance to institutions of higher education as they work to develop stronger, more effective procedures to respond to--and prevent--sexual misconduct.

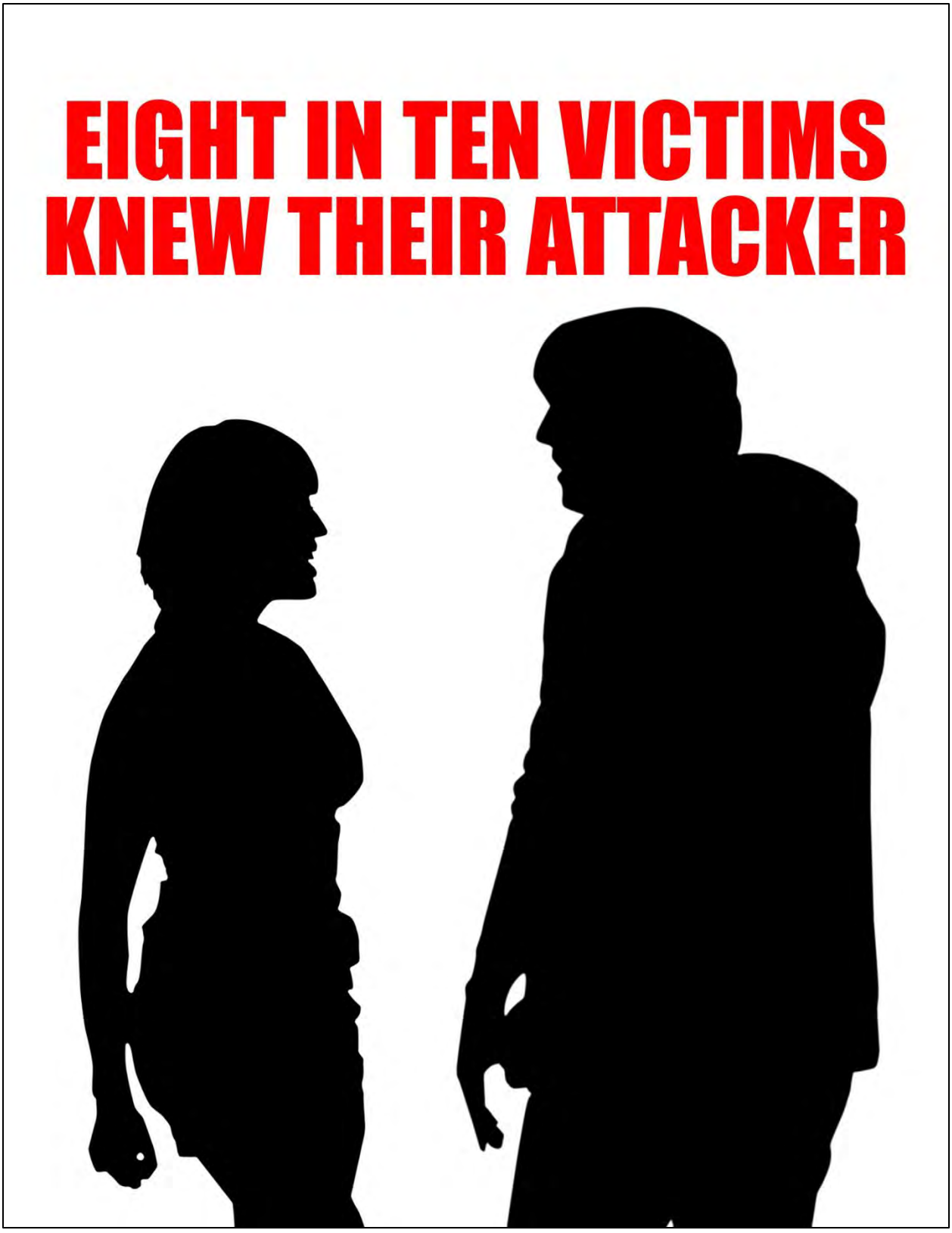
As you review this report, you will first get a glimpse into some of the challenges faced on many of our college and university campuses. The report then provides a brief history of Title IX and federal regulations that outlines the legal framework to address sexual misconduct. It also highlights the University System of Maryland's most recent efforts addressing the issue of campus sexual misconduct and the role of the Office of the Attorney General in shaping that policy. Finally, the report provides some recommendations, best practices, and references to programs currently in development at campuses in Maryland and around the country that I hope will assist ongoing efforts to eliminate campus sexual misconduct.

I would like to thank all of the members of my Office who contributed to the production of this report. We are convinced that it's on us, all of us, to implement stronger, more effective policies and procedures to prevent sexual misconduct on campus and in our communities.

Douglas F. Gansler
Maryland Attorney General

Table of Contents

ARE SEXUALLY ASSAULTED WHILE IN COLLEGE.


EIGHT IN TEN VICTIMS
KNEW THEIR ATTACKER


Across the U.S., only 13% of rape survivors report assault, and only 2% of incapacitated rape survivors report assault.

II. INTRODUCTION

Over the past year, the issue of sexual violence on college and university campuses has come to the forefront. It is hardly a new issue, but a renewed focus on curbing what's been dubbed an epidemic from the White House has prompted a closer look at how higher educational institutions respond and react to them. In our fast-paced, social media-driven world where information – and misinformation – spread fast, colleges and universities should utilize best practices to strengthen how they handle sexual assault in a way that's supportive and protective of the alleged victim, but also just and thorough to the accused, all while keeping the campus community at-large informed.

The U.S. Department of Education's Office for Civil Rights is investigating over 80 colleges and universities for their handling of sexual violence complaints and possible violations of federal law. This is troubling, but a challenge we can and must face head on.

The findings of a multiyear investigation by the Center for Public Integrity into how reports of sexual assault on college campuses are handled, as well as a survey of more than 150 crisis services programs and clinics on or near college campuses, indicated that students deemed responsible for alleged sexual assaults on college campuses face little or no penalty for their acts.[1] Conversely, many victims do not get the support they need and face a complex, secretive and prolonged judicial review process. Many victims end up dropping out of school, while their alleged attackers remain enrolled, according to the investigation.

At the federal level, a bipartisan group of lawmakers have drafted several pieces of legislation aimed at better protecting victims of campus sexual assault, holding institutions more accountable for how they respond to such incidents and requiring colleges and universities to establish an independent on-campus advocate to support victims of sexual violence. This Congressional effort follows a White House task force releasing recommendations in April

[1]Kristen Lombardi, *A Lack of Consequences for Sexual Assault*, THE CENTER FOR PUBLIC INTEGRITY,(Feb.24, 2010), http://www.publicintegrity.org/accountability/education/sexual-assault-campus.

designed to help colleges and universities respond to campus sexual violence. It aims to build on the legal framework outlined in the Campus Sexual Violence Elimination Act, known as Campus SaVE, which took effect in October 2014.

We must move from a position of fear of exposure to admittance and action. If one out of every five female and one out of every sixteen males on college campuses experiences sexual assault then the realities are that sexual assaults are happening on our college campuses much more than are currently reported and there is more work to be done to make victims comfortable with coming forward. It requires everyone to step up, be proactive, and do more to end sexual assaults on our college campuses.

This report is designed as a tool for Maryland higher education institutions to examine, implement, and improve upon existing policies and procedures related to incidents of sexual assaults. This report will hopefully serve as a resource to the public as an informative overview on federal law and the status of Maryland colleges and universities as it relates to sexual assaults. It aims to capture best practices that might be applied beyond where they are currently in place. It is not a one-size-fits-all manual to be adopted by all institutions, but it does call for college and university administrators, advocates, law enforcement, students and the community at large to do more to end sexual assaults on our college campuses.

III. The Evolution of Sexual Assault Laws and Regulations

Title IX states that "[n]o person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance."[2] In 1972, Congress enacted Title IX to expressly prohibit sex discrimination in federally funded education programs.[3] In more recent decades, and in response to growing concern on the topic, Title IX discussion, guidance, and lawmaking has been focused on sexual misconduct, which includes sexual harassment and sexual assault.

In 1997, the Department of Education Office for Civil Rights ("OCR"), the federal agency charged with Title IX enforcement, stated in guidance that Title IX prohibits sexual harassment as a form of sex discrimination.[4] Shortly thereafter, the Supreme Court recognized a private right of action under Title IX where a school had "actual knowledge" of harassment and nonetheless exhibited "deliberate indifference."[5]

In April, 2011, as national dialogue became increasingly focused on issues of campus sexual misconduct, OCR issued further Title IX guidance and stated that liability would be imputed to colleges and universities who "know or should have known" about sexual harassment and failed to take appropriate steps to stop the alleged harassment and remedy its discriminatory effects.[6] This guidance also emphasized that sexual violence is a subcategory of sexual harassment, and it specified dozens of recommendations related to sexual violence that colleges and universities were encouraged to implement.[7]

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[2] 20 U.S.C. § 1681.
[3] Title IX, 20 U.S.C. §1681 *et seq.*
[4] U.S. Department of Education, Office for Civil Rights, "Dear Colleague Letter" (1997), *available at* http://www2.ed.gov/about/offices/list/ocr/docs/sexhar01.html.
[5] *Davis v. Monroe Cnty. Bd. Of Educ.*,119 S. Ct. 1661 (1999).
[6] U.S. Department of Education, Office for Civil Rights, "Dear Colleague Letter" (Apr. 11, 2011), *available at* https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html
[7] *Id.* For a list of ways in which the 2011 Dear Colleague Letter expanded upon previous guidance, see Ann H. Franke and Lawrence White, "The Substance of the Dear Colleague Letter: Its Antecedents and How it Changed the Law," National Association of College and University Attorneys, conference outline (Feb. 3, 2012).

In 2013 and 2014, Title IX laws, guidance, and best practices rapidly evolved. First, in 2013 with the reauthorization of the Violence Against Women Act (VAWA), Congress amended the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act ("Clery Act").[8] The amendments expanded college and university obligations to track and report instances of sexual violence.[9] Second, in April 2014, OCR issued a 52-point sub-regulatory guidance document that clarified new and expanding compliance obligations. And third, also in April 2014, the White House prioritized the issue of campus sexual misconduct by launching the "Not Alone" campaign, which included additional guidance to help colleges and universities address sexual misconduct.

Throughout recent years, and during the issuance of the 2014 Dear Colleague Letter, White House initiatives and VAWA, OCR has been rigorously enforcing Title IX compliance. In May 2014, it published a list of 55 colleges and universities that were under investigation for non-compliance.[10] That number has since increased to over eighty colleges and universities, including three in Maryland.[11] Although OCR has not yet divested any college or university of federal funding, Catherine Lhamon, Assistant Secretary of the Department of Education Office of Civil Rights, has indicated intent to exercise the Office's authority to pull federal funds in egregious instances of non-compliance.[12]

Apart from federal legislation and guidance, Maryland has long been aware of the problem of sexual misconduct in higher education. In 1993, the Maryland General Assembly enacted Chapter 226, Higher Education- Sexual Assault Policy law, which required every college and university in the State to adopt and submit for review a written policy on sexual assault.[13]

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[8] Jeanne Clery Disclosure of Campus Security and Campus Crime Statistics Act, 20 U.S.C. § 1092(f); 34 C.F.R. § 668.46.
[9] *Id.*
[10] U.S. Dep.'t of Ed. (May 1, 2014), http://www.ed.gov/news/press-releases/us-department-education-releases-list-higher-education-institutions-open-title-i
[11] Nick Anderson, "Ohio State Accord on Sexual Assault Ends Federal Investigation," THE WASHINGTON POST (Sept. 14, 2014), http://www.washingtonpost.com/local/education/ohio-state-reaches-accord-with-feds-on-steps-to-prevent-sexual-assault/2014/09/14/a304f50e-3c19-11e4-9587-5dafd96295f0story.html
[12] Meredith Clark, "Official to Colleges: Fix Sexual Assault or Lose Funding," MSNBC (July 15, 2014), http://www.msnbc.com/msnbc/campus-sexual-assault-conference-dartmouth-college.
[13] MD. CODE ANN., EDUC. §11-601.

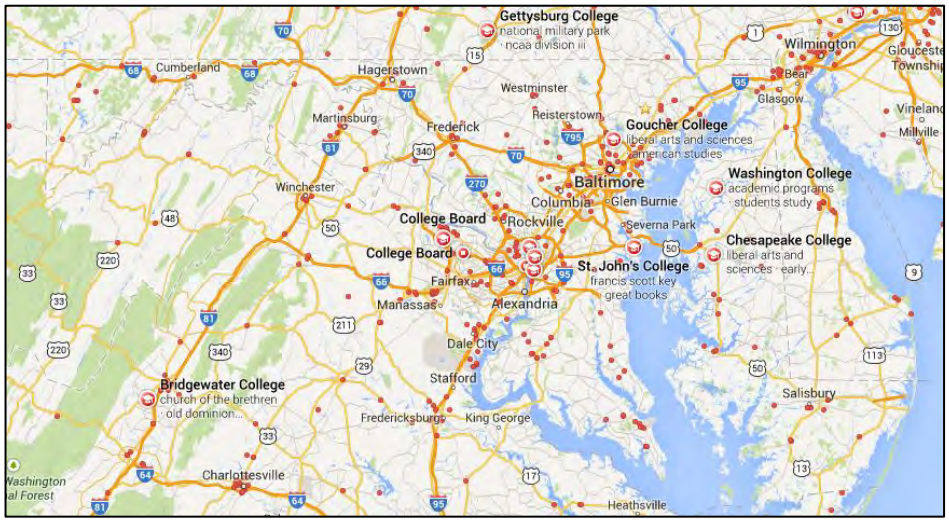
Each institution was also required to implement, distribute, and post the policy. The law has remained substantively unchanged since enactment.

For a more in-depth timeline of the evolution of sexual assault laws and regulations, see Appendix C.

IV. Landscape of Maryland Higher Education

On October 26, 2014, a female student at a Maryland college was grabbed from behind and fondled by an unidentified male. Fortunately, she was physically unharmed. Campus security and police response alerted students of the sexual assault via text message, email, and phone. In March 2013 at an off-campus, privately-owned fraternity house a female student alleged three men forced her into non-consensual sexual acts at a party.

Sexual assaults like these, and worse, are occurring at colleges and universities across Maryland. The Campus Safety and Security Data Analysis Cutting Tool[14] operated by the U.S. Department of Education, collects data on forcible sex offenses[15] at colleges and universities



across the country, including the more than 90 educational institutions in Maryland. According to the data, forcible sex offenses occur at every type of Maryland institution

[14] U.S. Dep't of Education, The Campus Safety and Security Data Analysis Cutting Tool, http://ope.ed.gov/security/. However, data for 2014 is not yet available.
[15] Forcible sex offenses is defined as any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent.

of higher education irrespective of geographical location, student body or campus size. Between 2009 and 2013, there were 340 such offenses at Maryland colleges and universities.[16] *See* Table 1. Public 4-year institutions reported the largest number of offenses at 176 while private 4-year institutions reported 96 offenses, community colleges reported 46 offenses, religiously affiliated institutions reported 19 offenses, and other private non-4-year institutions reported 3 offenses during that period.

Table 1. Total Forcible Sex Offenses by Educational Institution Type

	2009	2010	2011	2012	2013	2009-13
Community College	10	13	7	9	7	**46**
Public 4-year	26	30	39	39	42	**176**
Private 4-year	14	6	12	18	46	**96**
Religiously Affiliated[17]	4	2	3	5	5	**19**
Private, Other[18]	0	1	0	1	1	**3**
Total	**54**	**52**	**61**	**72**	**101**	**340**

Though the colleges and universities reporting offenses varied each year, 21 schools on average reported at least one offense between 2009 and 2011. . *See* Table 2. In 2012, however, 27 schools reported at least one offense meaning nearly one-third of all Maryland schools reported having a forcible sex offense. Meanwhile, across the United States, only 13% of rape survivors report their assault. As such, the prevalence of these offenses is likely far higher since sexual assault and harassment are generally greatly underreported.

Table 2. Number of Educational Institutions Reporting At Least 1 Forcible Sex Offense

	2009	2010	2011	2012	2013
Community College	6	5	3	5	4
Public 4-year	6	9	9	13	8
Private 4-year	5	3	4	6	9
Religiously Affiliated	3	1	2	2	2
Private, Other	0	1	0	1	1
Total	**22**	**22**	**19**	**27**	**24**

[16] The Tool does not provide data for the United States Naval Academy located in Annapolis, Maryland.
[17] "Religiously affiliated" institutions refer to Loyola University Maryland, Mount St. Mary's University, and Washington Adventist University.
[18] "Private, Other" refers to Baltimore International College and Hair Academy II.

Moreover, 6 out of 10 schools with the highest on-campus sex offenses were Maryland public 4-year universities. *See* Table 3. Of course, there are any number of reasons why this may be the case, including the fact that Maryland's 4-year public universities are all residential. Residential colleges and universities likely report more instances of sexual violence than commuter colleges and universities, since students live in residence halls, attend on-campus parties, and spend greater amounts of time on-campus than commuter students.

The higher numbers may also be attributable to the State's efforts to create safe spaces in which students feel empowered to report instances of sexual violence. St. Mary's College of Maryland is a good example of this phenomenon. While St. Mary's is the smallest public 4-year university other than University of Maryland, Baltimore, enrolling about 1,900 students each year or 1.6% of all students attending public 4-year universities in Maryland, it has reported a disproportionate number of on-campus sex offenses during the 5-year period, relative to other colleges and universities. St. Mary's College's 16 on-campus sex offenses exceeded that of larger public institutions like Frostburg State University and Bowie State University, who both have student enrollment above 4,000. The increased statistics at St. Mary's College follow an admirable massive effort on the part of the college to change a culture of non-reporting into an environment encouraging students and employees to report instances of sexual violence.

Increases in reporting can be found at private schools as well as public institutions. The Washington Post compiled a list of colleges with the most per-capita reports of sexual assault.[21] The list shows that those schools with a higher ranking tend to be small, liberal arts colleges. However, it is very plausible that these campuses have cultivated an environment where survivors feel more comfortable speaking out. At smaller schools, students may feel more comfortable with counselors or know more about the available resources. As public awareness increases and colleges and universities commit greater resources to training and programs, it is extremely likely for the numbers to increase at every school as more victims start to come

[21] Nick Anderson, *Sex offenses on U.S. college campuses*, WASHINGTON POST, http://apps.washingtonpost.com/g/page/local/sex-offenses-on-us-college-campuses/1077/. St. Mary's College is the highest ranking Maryland school on the list at #67.

forward. This level of transparency and engagement may explain why some schools like McDaniel College had a notable increase in reported oncampus sex offenses in 2013. *See* Appendix B. While it is too early to draw any conclusions from reported statistics, one thing is for certain: a single instance of sexual violence is one instance too many.

Table 3. Educational Institutions with Highest On-campus Reported Forcible Sex Offenses (2008-12 Descending Order)

	2009	2010	2011	2012	2013	2009-13
University of Maryland-College Park	4	9	4	9	19	**45**
McDaniel College	4	1	3	2	19	**29**
Towson University	3	2	7	2	5	**19**
Salisbury University	2	6	1	6	3	**18**
University of Maryland-Baltimore County	3	1	6	4	4	**18**
Goucher College	3	3	3	4	4	**17**
Montgomery College	2	5	4	1	4	**16**
St Mary's College of Maryland	0	1	9	4	2	**16**
Frostburg State University	0	3	6	2	4	**15**
Johns Hopkins University	0	0	1	5	7	**13**

As mentioned, earlier this year the U.S. Department of Education Office for Civil Rights, which monitors sexual misconduct occurring at colleges and universities across the country, issued a list of the higher education institutions under investigation for possible violations of federal law over the handling of sexual violence and harassment complaints. The list continues to grow and has reached over eighty institutions. Three Maryland universities are among the institutions receiving national attention in connection with claims of sexual misconduct—Frostburg State University, Morgan State University, and Johns Hopkins University. The fact that these schools are being investigated is not necessarily an indication that there is a problem with the way the campus is addressing sexual misconduct.

Frostburg State University's incident concerns a reported 2013 off-campus sexual assault of a female student.[22] In 2014, the student filed a complaint against the university with the U.S. Department of Education Office for Civil Rights claiming that the University mishandled her case. She asserts that not only was her rapist allowed to remain on campus, but he continued harassing her throughout the university's investigation of the incident. On February 28, 2014, a female Morgan State University student reported that she was sexually assaulted in off-campus student housing by a fellow classmate she knew at the university.[23] The victim did not report the incident to the university until March 20, 2014. Because of the length of time between the assault and the time it was reported, the university chose not to report the sexual assault to the campus community. Upon learning of the incident, university officials contacted the Baltimore City Police Department. The Baltimore City State's Attorney's Office, however, declined to prosecute the case. Afterward, the university initiated its own investigation to determine possible violations of university policies and procedures. The Johns Hopkins University incident arises from a reported March 2013 gang-rape of a female Towson University student at a Hopkins fraternity.[24] Though the incident was reported to the Baltimore City Police, the Baltimore City State's Attorney's Office declined to prosecute the case. Hopkins is also a defendant in a federal lawsuit under the Title IX and Clery Act for its alleged failure to alert the university community of the alleged rape.

A university's responsibilities under Title IX include distributing a policy against sex discrimination, publishing grievance procedures for sex discrimination complaints, responding to reports of sexual violence, and taking appropriate steps to resolve incidents.[25] Under the Clery Act, universities are required to disclose crime statistics for incidents that occur on or near campus and disclose campus safety policies and procedures relating to sexual assault

[22] Carrie Wells, *Morgan State under federal investigation for handling of sexual assault case*, BALTIMORE SUN, July 2, 2014, *available at* http://articles.baltimoresun.com/2014-07-02/news/bs-md-morgan-title-ix-investigation-20140702_1_morgan-state-university-sexual-assault-case-federal-investigation.
[23] *Id*.
[24] Colin Campbell, *JHU failed to notify students of sexual assault*, BALTIMORE SUN, Oct. 1, 2014, *available at* http://articles.baltimoresun.com/2014-10-01/news/bs-md-ci-hopkins-letter-20141001_1_sexual-assault-towson-university-fraternity-house.
[25] Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 *et seq*.; 34 C.F.R. § 106.1 *et seq*.

prevention.[26] All three universities have a campus public safety escort program and full-time 24-hour university police authorized to investigate all crimes and incidents on campus and respond to emergencies. They all provide information relating to sexual assault, including information on immediate emergency help, expert advice, dating violence, stalking resources, and other campus and community resources.[27,28,29] They also provide some level of student sexual assault prevention training, make their sexual assault and sexual harassment policies available online, and report Clery Act information.[30,31,32]

Although each individual school is required to post their policy and crime statistics, there is no state clearinghouse of information on the policies and programs offered at every Maryland college and university. Each school is currently in the process of updating their sexual misconduct policies as requested by the Maryland Higher Education Commission (MHEC), pursuant to Section 11-601 of the Education Article. MHEC had advised Maryland's higher education community about the recent White House initiative to combat sexual violence on college campuses and the advice from the U.S. Department of Education, Office of Civil Rights, on legal compliance, and asked each institution to submit an updated sexual violence policy to MHEC. The new federal policies and the Maryland statutory requirements have been discussed at several meetings of representatives of all Maryland higher education institutions. Under Section 11-601, MHEC will review and comment on the institutions' sexual assault policies, and is currently assessing methods for assisting the institutions on this subject. For example, MHEC has received a request from the Maryland Association of Community Colleges to provide

[26] Clery Act, 20 U.S.C. § 1092(f).
[27] Frostburg State University, Advisory Council Against Gender-Based Violence, http://www.frostburg.edu/gbv/
[28] Morgan State University, "Sexual Assault…What is it?" http://www.morgan.edu/campus_life/counseling_center/sexual_assault.html
[29] Johns Hopkins University, Sexual Assault Response & Prevention: Help & Support, http://sexualassault.jhu.edu/index.html
[30] Frostburg State University, Policy Statements 2014-2015, http://static.frostburg.edu/fsu/assets/File/Administration/policies/policystatements.pdf
[31] Morgan State University, Policy Prohibiting Sexual Harassment and Procedures for Complaints of Sexual Harassment, http://www.morgancounsel.org/files/Sexual-Harassment.pdf
[32] Johns Hopkins University, Sexual Assault Response & Prevention: Policies and Laws. http://sexualassault.jhu.edu/policies-laws/

training to the colleges. Resources may limit MHEC's ability to provide assistance on an individual institutional basis and to be aware of school specific initiatives.

V. In Partnership: The Attorney General's Office and the University System of Maryland

The University System of Maryland (hereinafter "the System" or "USM") and its constituent institutions--which together comprise almost all of Maryland's public 4-year universities--are all represented by Assistant Attorneys General who advise and handle much of their legal affairs.[33] The Office of the Attorney General has worked diligently with the University System to ensure that not only is the overall guidance legally sufficient but that the best practices and highest standards are followed in developing and implementing each school's sexual misconduct policy. This section outlines the Office of the Attorney General and the University System's most recent efforts in that regard.

In 2014, in light of the new and expansive compliance obligations discussed earlier, the Office of the Attorney General's Educational Affairs Division worked with University System Vice Chancellor for Academic Affairs Dr. JoAnn Boughman and her staff to determine what changes, if any, needed to be made to the System's policies. They determined that the separate USM Policies on Sexual Assault and Sexual Harassment should be revised and combined into one comprehensive Policy on Sexual Misconduct. The Chancellor designated this new Policy on Sexual Misconduct as a top priority and created a fast-paced timeline for stakeholder and Board of Regents review by June 27, 2014.

Assistant Attorneys General in the Educational Affairs Division undertook a comprehensive review of the existing policies for compliance with recent updates to federal law and federal guidance regarding Title IX. In particular, the Educational Affairs Division

[33] System institutions include Bowie State University, Coppin State University, Frostburg State University, Salisbury University, Towson University, University of Baltimore, University of Maryland- Baltimore, University of Maryland- Baltimore County, University of Maryland, College Park, University of Maryland Eastern Shore, and the University of Maryland University College. Although not a part of the University System, Morgan State University and St. Mary's College are also public universities represented by Assistant Attorneys General.

referenced the 2011 Dear Colleague Letter (Title IX)[34] issued by the U.S. Department of Education Office for Civil Rights which provides subregulatory guidance pertaining to Title IX's prohibition against sexual harassment and sexual violence. The Division also referenced subsequent guidance, issued by OCR in 2014,[35] which provided additional clarification on proactive efforts schools can take to prevent and remedy sexual violence. Using these and other tools,[36] the Educational Affairs Division and USM worked to develop a comprehensive sexual misconduct policy that would replace, update, and expand the two existing System policies and provide System institutions with direction and guidance as they worked to better foster a climate free from sexual misconduct.

The Office of the Attorney General also helped the System identify campus stakeholders to participate in the development of the updated sexual misconduct policy. Stakeholders were a key part of the process in order to ensure not only future compliance but greater understanding among all parties on the process and the practicalities of the policy's implementation on campus. Stakeholders included institution presidents, faculty and staff representatives, human resources officers, academic affairs and student affairs representatives, students, and campus general counsel. The System and its constituent institutions and stakeholders met several times between March and June 2014 to develop a Policy on Sexual Misconduct that would provide clear guidance to institutions regarding requirements for Title IX compliance through mandated training, education, and prevention programs, mandatory reporting, timely, fair and impartial investigations, and prompt resolutions of sexual misconduct.

The final document includes a section devoted to defining the language used throughout the policy. While each institution may adopt its own definitions, they are encouraged to adopt elements as defined in the System's policy. Paying close attention to defining consent, dating violence, domestic violence, as well as sexual exploitation, harassment, intimidation, misconduct and violence was critical to make certain all stakeholders were clear about each element. Thus,

[34] U.S. Department of Education, Office for Civil Rights, "Dear Colleague Letter" (2011), available at https://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html.
[35] U.S. Department of Education, Office for Civil Rights, "Dear Colleague Letter" (2014), available at http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201405-charter.pdf.
[36] See Appendix A for additional resources.

while allowing for variation, an important objective was ensuring consistency and a shared level of expectation across institutions.

The USM Sexual Misconduct policy appropriately focuses on institutional obligations as required by Title IX and the Clery Act. Compliance oversight is a key part of the requirements and calls for an individual to be responsible for coordinating the institution's efforts to comply with and carry out its responsibilities under Title IX. Depending on the size and needs of an institution a full Title IX team may be warranted and is encouraged to ensure that activities across various departments of the school are fully coordinated. Another important obligation is the requirement of notice. An institution must publish a notice of nondiscrimination that contains the appropriate Title IX language; it must also disseminate such notice so that it is available and easily accessible on an ongoing basis. Notice is also important when updating certain campus authorities and law enforcement, as well as informing the parties concurrently about the outcome of the complaint.

Due to the collaborative efforts throughout the drafting process, the approval of the Policy was able to proceed relatively quickly without substantial revisions. On June 3, 2014, the Office of the Chancellor of the University System presented a revised Sexual Misconduct Policy to the USM Board of Regents' Education Policy and Student Life Committee. On June 27, 2014, the Board of Regents approved the revised Policy on Sexual Misconduct.[37] See the Policy in Appendix D.

University System institutions are now reviewing their own policies for compliance with the revised Policy on Sexual Misconduct; they have been directed to complete necessary changes to their campus policies and procedures by December 31, 2014. The Office of the Attorney General is assisting the public institutions with their efforts.

In an effort to continue the dialogue beyond the written policy process, in the spring of 2014, the University System convened a Sexual Misconduct Policy Workgroup. The Workgroup, consisting of approximately twenty institutional representatives and advised by the

[37] The final USM BOR VI-1.60-Policy on Sexual Misconduct is available via the following link: http://www.usmd.edu/regents/bylaws/SectionVI/.

Office of the Attorney General's Educational Affairs Division, has been charged with guiding the System's institutions as they review policies, work through implementation issues, and consider emerging best practices. The Workgroup aspires to bring consistency to the implementation process and address the practical and psychological issues that are embedded in the problem of sexual assault. Workgroup members include institution legal counsel, Title IX coordinators, human resources, student affairs, academic affairs representatives, law enforcement, faculty, and student council members. At present, the Workgroup's efforts are ongoing, and the Office of the Attorney General will remain active as the response to sexual misconduct on campuses continues to evolve.

VI. It's On All Of Us

The progress by our colleges and universities shows their steadfast commitment to the issue, but the work must be done off campus as well. Over time, colleges, universities, governmental bodies, and students have not only participated in a national discussion about sexual misconduct, they have also responded to the sexual misconduct crisis in a variety of ways that draw on different strengths and expertise. For example:

- Several national college fraternities created the Fraternal Health and Safety Initiative Consortium where members participate in curriculums focused on stopping dangerous behaviors exhibited by college-aged men and implementing prevention strategies.[38] Just launched September 2014, it is an effort to make their more than 75,000 fraternal members around the country change agents. The Consortium expects to reach 35,000 young men with the program during the 2014-2015 school year. Using an individualized plan, each fraternal organization in the Consortium offers the curriculum to their members such as, "Taking a Stand: Preventing Sexual Misconduct on Campus" which teaches members to recognize the warning signs and proactively intervene in situations where sexual misconduct may occur. Maryland institutions participating in the Consortium are the University of Maryland- Baltimore County, University of Maryland-College Park, University of Maryland- Eastern Shore, Frostburg State University, Johns Hopkins University, McDaniel College, Towson University, and Washington College.

[38] The eight participating fraternities are: Lambda Chi Alpha, Phi Delta Theta, Pi Kappa Alpha, Sigma Alpha Epsilon, Sigma Alpha Mu, Sigma Chi, Tau Kappa Epsilon, and Triangle. More information found at: http://fhsi.jrfco.com/.

- This year the National Association of Attorneys General hosted its first-ever regional meeting dedicated solely to the issue of addressing sexual misconduct on college campuses. Attorneys General, their staff, federal regulators, members of campus departments of public safety, Title IX coordinators, and law enforcement officers from around the country gathered to discuss pertinent issues and identify best practices to protect the rights of both survivors and the accused while ensuring public safety. Highlights included a presentation from Cindy Southworth, the Founder of the Safety Net Project at the U.S. National Network to End Domestic Violence, who stressed the importance of services for survivors on campus being confidential as outlined in both the Violence Against Women Act and Title IX. Many presentations interlaced the importance of collaborative sexual assault investigations from the law enforcement perspective. The Chief of Police at Cornell University, Kathy Zoner, who oversees 74 full time staff (50 of whom are sworn officers) who are charged with protecting 33,400 students, faculty and staff has a protocol in place on campus that works in tandem with other local law enforcement. Notably, many emphasized that the state criminal code applies equally to conduct that occurs on college campuses and that local police and prosecutors have the authority to perform all aspects of their job on campus. As such a thorough, sensitive investigation by trained, specialized police investigators in conjunction with a specially trained prosecutor are the preferred personnel to put on a sexual assault case.

- Shortly after the White House launched its campaign, Senator Claire McCaskill introduced the Campus Accountability and Safety Act (CASA).[39] CASA has garnered wide support from lawmakers from both parties. Among other things, it requires that colleges and universities appoint confidential advisors and train forensic interviewers to investigate allegations of sexual harassment.[40] In its current form, CASA provides for a fine of up to 1% of the college or university operating budget for noncompliance.

- There is also a burgeoning use of technology to impact the security, privacy and safety of survivors. In response to the "Apps Against Abuse" challenge[41] launched by the Office of the Vice President, the Department of Health and Human Services and the White House Office of Science and Technology Policy, a group of sexual assault survivors

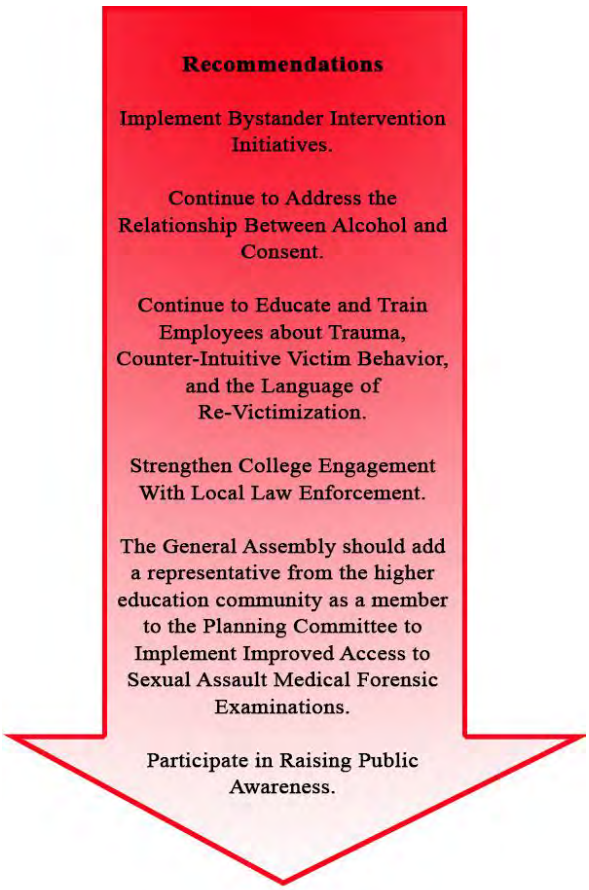
[39] Campus Accountability and Save Act, 113th Cong., 2d available at http://www.nacubo.org/documents/campussafetyandaccountabilityactbill.pdf.
[40] *Id.*
[41] More information found at: U.S. Department of Health and Human Services, "The Department of Health and Human Services challenged developers to create apps that empower young adults to prevent abuse and violence," http://appsagainstabuse.challengepost.com/.

developed the Circle of 6 app. One of the winning apps, Circle of 6 allows students to easily and quickly access their personal networks when they feel unsafe. The app also gives students the ability to tap into national hotlines and emergency numbers with just a few touches to their mobile device. Another example is WitnessOne Safe Campus, a mobile and web solution allowing first responders to instantly respond to a crisis situation or active campus threat. During an emergency, students and others on campus can broadcast real-time photos, video to campus security.

These programs, conferences, and technology advances are examples of efforts aimed at reducing the number of sexual assaults at higher education institutions. There is much more that must be done in order to really change the culture on campuses about sexual misconduct; however, each initiative not only extends the dialogue but helps to raise awareness, shift expectations and change the culture about how sexual assault, harassment and misconduct are viewed and treated by students, administrators and the community at large.

VII. Recommendations for Maryland Colleges and Universities

While the work to date by our colleges and universities should be applauded, Maryland's public and independent four-year colleges and universities, and community colleges can continue to do more to combat sexual misconduct on campus. Many schools have formed a Title IX review committee while also seeking guidance from relevant governmental agencies and attorneys in order to develop and revise their policies and provide better practices of prevention and response. In addition, the State's colleges and universities must better train and expose their students on bystander intervention, consent, and the effects of alcohol consumption on consent. Our colleges and universities must likewise better train their staff on appropriate methods for conducting sexual misconduct investigations, and build



on existing relationships with local law enforcement agencies so that law enforcement may effectively aid investigations of campus sexual violence.

1. Implement Bystander Intervention Initiatives.

Every college and university in Maryland should have mandatory bystander intervention initiatives for its students and employees. Although bystander intervention training is mandatory for all University System of Maryland institutions per USM BOR VI-1.60 Policy on Sexual Misconduct, not all schools in Maryland have mandatory training. Some, like Johns Hopkins, mandate bystander intervention training for certain groups at heightened risk like varsity athletic teams.[42] Bystander intervention programs are not unique to Maryland; schools around the country have a variety of programming.[43]

Bystander intervention education teaches students safe and positive ways to intervene when they witness sexual misconduct or events that could lead to sexual misconduct. They empower students with the skills to intervene and protect one another from dangerous and harmful situations. The concept is analogous to the designated driver initiative, which during the late 1980s and 1990s was seen on the news, popular television shows and commercials with the phrase "friends don't let friends drive drunk".[44] Designated driving became a national movement as then President Bill Clinton participated in public service announcements and an extensive range of organizations and civic leaders endorsed the efforts. Similarly, effective bystander intervention programs foster platforms for witnesses of sexual misconduct to speak out against sexist attitudes, rape myth beliefs, and sexual violence. Such programs help community members develop an awareness of sexual misconduct and learn the appropriate skills to intervene safely and effectively, in both direct and indirect ways.

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[42] Megan Ditrolio, *Entire Student Body Needs to Do Bystander Intervention Training*, THE JOHNS HOPKINS NEWS-LETTER, Oct. 29, 2014, available at http://www.jhunewsletter.com/2014/10/09/entire-student-body-needs-to-do-bystander-intervention-training-22535/.

[43] For other bystander intervention initiatives *See* University of NH, http://cola.unh.edu/prevention-innovations/bystander; MIT, http://web.mit.edu/bystanders/; University of Iowa, http://www.uni.edu/cvp/bystander-engagement; Michigan State University, http://studentlife.msu.edu/sarv; and the University of Northern Iowa http://www.uni.edu/cvp/bystander-engagement.

[44] Mandy Shaivitz, CTR. FOR EXCELLENCE IN GOVERNMENT AND THE USC ANNENBERG NORMAN LEAR CTR., HOW PRO-SOCIAL MESSAGES MAKE THEIR WAY INTO ENTERTAINMENT PROGRAMMING, http://www.learcenter.org/pdf/MCDReport.pdf (last visited Nov. 10, 2014.) (referencing Jay A. Winsten, THE HARVARD ALCOHOL PROJECT: PROMOTING THE 'DESIGNATED DRIVER'," Advocacy Groups and the Entertainment Industry, (Michael Suman and Gabriel Rossman eds., 2000).

Some Maryland schools already have specialized programming geared towards their unique student populations. The Ten Man Plan/Ten Woman Plan at the University of Maryland College Park offers fraternity and sorority members an opportunity to examine how they can intervene to prevent sexual assault and other interpersonal violence, as well as support individuals who may be victims.

One promising bystander intervention training program is the Green Dot Initiative. Green Dot is a for-profit organization that aspires to reduce violence using a community-based, intervention approach. The goal is to foster a cultural shift from bystander inaction to bystander intervention. The Green Dot Initiative empowers individuals to actively participate in dismantling a culture of bystander inaction, and in so doing, build a safe community. For example, Green Dot is very active on the campus of St. Mary's University's where they have a Facebook page regularly updated with information, alerts and student comments. For more information about the green dot initiative, visit www.livethegreendot.com.

Green Dot trainings have been conducted around the state, specifically:

Adam's House
Anne Arundel Community College
Bowie State University
Community College of Baltimore County
Community Advocates-Family/Youth
Coppin State University
Domestic Violence/Sexual Assault Center
at Dimensions Healthcare System
For All Seasons Inc., Easton, MD
Frostburg State University
Goucher College
Heartly House
Interfaith Community Against Domestic
Violence, Beltsville, MD
Johns Hopkins University
Loyola University, Maryland
Marriage Nectar, Suitland, MD
Maryland Coalition Against Sexual Assault
Morgan State University
Mount St. Mary's University
Prince George's Community College
Salisbury University
St. Mary's College of Maryland
Student Success, Rockville, MD
University of Maryland, College Park
University of Maryland, Baltimore County
US Naval Academy

2. Continue to Address the Relationship Between Alcohol and Consent.

Colleges and universities must continue to address the relationship between alcohol and consent with their students as part of their sexual misconduct training.

According to the July 2014 survey of Maryland colleges and universities entitled *High-risk Drinking among College Students in Maryland: Identifying Targets for Intervention*, sexually-related consequences experienced as a result of other's alcohol consumption, rather than directly from their own drinking behavior, exceeded 17% of the student population.[45] Specifically, according to the survey, unwanted sexual advances were experienced by 15.1% and sexual assaults or "date rape" were experienced by 2.3% of all college students in Maryland. Although the percentage may appear small, it translates into significant numbers when juxtaposed against student populations. Mathematically, this means that as a result of student drinking it is more likely that 857 out of 37,248 students at the University of Maryland College Park[46] experienced a sexual assault or "date rape." Likewise, for 460 out of nearly 20,000 students at Johns Hopkins University,[47] 41 out of 1,788 enrolled students at St. Mary's College of Maryland[48] and 34 out of 1,481 students at Goucher College[49]-- and the list goes on. Also, according to a 2007 survey conducted by the National Criminal Justice Reference Service, 89% of sexual assault survivors who were incapacitated at the time of the assault had consumed alcohol prior to the assault.[50] The consequences of alcohol abuse on student safety are very real regardless of whether it takes place at a large public university or a small private college.

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[45] *High-risk Drinking among College Students in Maryland: Identifying Targets for Intervention - Results of the First Annual Maryland College Alcohol Survey (MD-CAS)* – July 2014, http://marylandcollaborative.org/wp-content/uploads/2014/09/MD-CAS-Report_FINAL.pdf

[46] University of Maryland Highlights (2013), http://umdrightnow.umd.edu/sites/umdrightnow.umd.edu/files/2013_fact_card_final.pdf.

[47] The Schools of the Johns Hopkins University, http://webapps.jhu.edu/jhuniverse/academics/schools/. The Johns Hopkins University enrolls nearly 20,000 full-time and part-time students on three major campuses in Baltimore, one in Washington, D.C., one in Montgomery County, Md., and facilities throughout the Baltimore-Washington area and in China and Italy.

[48] St. Mary's College of Maryland, Key Facts, http://www.smcm.edu/about/key-facts.html.

[49] Goucher College Facts and Stats, http://www.goucher.edu/about/facts-and-stats.

[50] Christopher P. Krebs et al., The Campus Sexual Assault Study: Final Report xiii,5-5 (Nat'l Criminal Justice Reference Serv., Oct. 2007), *available at* https://www.ncjrs.gov/pdffiles1/nij/grants/221153.pdf

3. **Continue to Educate and Train Employees about Trauma, Counter-Intuitive Victim Behavior, and the Language of Re-Victimization.**

Because victim behavior bear on credibility assessments, it is imperative that employees who participate in sexual assault investigations be trained in trauma and counter-intuitive victim behavior. Survivors of sexual assault may engage in ways that seem counter-intuitive. In addition, survivors of sexual assault are often required to endure long waits without eating, drinking or urinating and undergo multiple interviewers and examiners all of whom are not experienced with trauma patients. All of these factors may affect how they respond to requests for information.

Nurses and counselors on campus should be trained in caring for victims of violence. Sexual assault nurses and forensic examiners can be critical on-campus resources as they are health care providers who have been specially educated to provide comprehensive care for the sexual assault patient. These providers demonstrate competency in conducting a forensic examinations and they have the ability to be expert or fact witnesses in court. These specialized health care providers promote patient safety but can also serve as an important liaison with law enforcement since they understand certain legal elements like maintaining the chain of custody. The Maryland Coalition Against Sexual Assault (MCASA) organizes and presents some of the trainings, which they advise can cost approximately $8,500, and has a capacity of about 10 nurses.

Likewise, untrained first responders can use language that sometimes inadvertently blames the victim. Colleges, universities, and local law enforcement should continue to train first responders and those involved in sexual assault investigations on the use of

non-judgmental language when communicating with victims so that survivors are not subjected to re-victimization when they report instances of sexual assault.

4. Strengthen College Engagement With Local Law Enforcement.

Colleges and universities should strengthen their relationships with local law enforcement to partner in efforts to eradicate sexual misconduct. Each college and university should have an assigned Assistant State's Attorney from its respective local jurisdiction available to work with the campus administration. Each States' Attorney would dedicate an Assistant States Attorney to be a point of contact in case of a reported sexual assault. Acting as a liaison, this person would be kept up to date on new trainings and initiatives aimed at preventing sexual assault at the school. This prosecutor would also coordinate with campus, local and state law enforcement.

Local law enforcement is uniquely situated to gather forensic evidence and conduct interviews that are forensically sound. It is a best practice to have a Memorandum of Understanding (MOU) with local police that is Title IX compliant. Although USM policy requires that institutions review any MOU for legal compliance, it should be a universal practice by Maryland colleges and universities to have an MOU with local law enforcement. Most states are at least updating their MOU's with local law enforcement per recommendations in the 2011 Dear Colleague Letter. OCR has indicated that it will be providing a draft MOU for colleges and universities to use in connection with sexual misconduct matters.

Many Maryland schools already have Title IX Coordinating Committees or Sexual Assault Response Teams but all schools across the state should have a multidisciplinary collaboration dedicated to creating and maintaining an effective response to sexual violence on campus. These teams may include on a campus sexual assault victims' advocate, resident advisors, the campus Title IX coordinator, nursing/medical professionals from the campus clinic, and other law enforcement agencies. When the school proactively establishes cooperation among internal offices as well as law enforcement, it diminishes the likelihood that victims will have a complicated maze of governmental and community agencies to navigate following an assault. Victims, the accused and their families often have legal questions and safety concerns that can be better addressed when campus and law enforcement entities are cooperating.

Accordingly, colleges and universities will benefit tremendously from a strong partnership with law enforcement. Law enforcement, including State's Attorneys and

police departments, should work with colleges and universities to delineate plans for coordination and information sharing so that the fight against sexual misconduct is a coordinated effort with clear and consistent roles and practices.

5. **The General Assembly should add a representative from the higher education community as a member to the Planning Committee to Implement Improved Access to Sexual Assault Medical Forensic Examinations.**

During the 2014 legislative session, the General Assembly passed House Bill 963, sponsored by Delegate Ariana Kelly, that required each hospital that provides emergency medical services to have a protocol to provide timely access to a sexual assault medical forensic examination by a forensic nurse examiner or a physician to a victim of an alleged rape or sexual offense who arrives at the hospital for treatment. Prior to legislation, not all hospitals had the capability nor any protocol in place to perform sexual assault medical forensic examinations.

In addition to the above, House Bill 963 created the Maryland Planning Committee to Implement Improved Access to Sexual Assault Medical Forensic Examinations in an effort to ensure deeper analysis and attention on this important issue. The Committee includes representatives from a number of Maryland agencies, medical professionals, law enforcement, nursing, and advocates, but no one from the higher education community. As such, the General Assembly should amend the Committee composition to include at least one representative from a higher education institution. The Maryland Higher Education Commission, which is in the process of collecting updated sexual misconduct policies from every college and university, should also be included as a member of the Committee.

6. Participate in Raising Public Awareness.

One of the ways that we can curb sexual assaults is for everyone to get involved and make it a part of our culture to be informed and stay engaged on the issue. Society recognizes the role of the designated driver and the importance of not littering because of concerted efforts involving public service announcements and media campaigns to bring awareness to the general public. Elected officials and civic leaders spoke out on these issues for years and advocated for greater public scrutiny and resources. The same level of attention should be given to raising awareness and changing the culture around sexual assaults.

Coppin State University and Bowie State University students have joined Historically Black Colleges and Universities from around the country to mobilize the campus around sexual assault awareness in an event called Denim Day where students wear jeans and a Denim Day t-shirt as a visible sign to support ending sexual violence on campuses.

The White House launched the It's On Us public awareness campaign to create an environment in which sexual assault is unacceptable and survivors are supported. It is a pledge to not be a bystander to the problem but be a part of the solution to help keep women and men safe from sexual assault. Attorney General Doug Gansler took the pledge and invited his entire office to stand with him. To see his It's On Us pledge video, go to: http://youtu.be/PmTiEtNBLHs. He also included it in his monthly office update and wrote an op-ed piece on the issue. Don't be silent. Stand up. Get Involved. Do More.

VIII. CONCLUSION

Our colleges and universities are integral to our communities in so many ways: We are college students, college alumni, college employees, college professors, college neighbors, college parents, college siblings, and college sports fans. Given this, campus sexual misconduct is all of our concern, and we must all be part of the solution.

In this report, I have highlighted important issues that Maryland's colleges and universities should consider as they work to address and eradicate sexual misconduct in higher education. While I applaud the excellent work that Maryland's institutions have done thus far to comply with federal and State requirements, they can do more to end sexual misconduct on their campuses. Maryland's colleges and universities do not stand alone, however. All of us—elected officials, law enforcement, and concerned citizens—can and must help make Maryland's campuses safe and secure.

IX. ACKNOWLEDGEMENTS

This document is the collaborative effort of many dedicated individuals in the Office of the Attorney General of Maryland. Many thanks are due to the hard working Assistant Attorneys General of the Educational Affairs Division who diligently represent Maryland's public higher education institutions every day.

Contributors include:

Douglas F. Gansler
Maryland Attorney General

Kisha A. Brown
Director of Civil Rights
Director of Legislative Affairs

Alan Brody
Deputy Director of Communications

David Paulson
Director of Communications

Fritz Schantz
Media Specialist

Richard Tabuteau
Deputy Director of Civil Rights and
Legislative Affairs

X. Appendix A: Sexual Misconduct Prevention and Awareness Related Resources

Government Sites & National Organizations

- US Department of Education, www.ed.gov
- US Department of Justice, www.justice.gov
- Office of Violence against Women (OVW), http://www.justice.gov/ovw
- Not Alone, https://www.notalone.gov/
- It's On Us, http://itsonus.org/
- National Organization for Women (NOW), http://www.now.org/
- Rape, Abuse & Incest National Network (RAINN), https://www.rainn.org/
- National Sexual Assault Online Hotline, https://ohl.rainn.org/online/
- 2011 Dear Colleague Letter: http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html
- 2014 Dear Colleague Letter: http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201405-charter.pdf
- White House Checklist: https://www.notalone.gov/assets/checklist-for-campus-sexual-misconduct-policies.pdf

Maryland Organizations

- Maryland Coalition Against Sexual Assault (MCASA), http://www.mcasa.org/
- SARC Sexual Assault/Spouse Abuse Resource Center, http://www.sarc-maryland.org/

Other Potentially Helpful Sites:

- Red Flag Campaign, www.TheRedFlagCampaign.org
    - Designed to encourage college students to intervene when they see a warning sign ("a red flag") of intimate partner violence. This social marketing campaign works by breaking the silence regarding sexual violence and gender myths and communicating the expectation that all intimate relationships be respectful and safe.

    - Delivers the message through social marketing and public awareness primarily based on a series of posters, each focusing on a particular component of dating violence.
- White Ribbon Campaign, http://www.whiteribbon.ca
    - Worldwide organization targeting men and boys of all ages and cultures to promote gender equality & prevent violence against women.
    - This program uses an environmental change strategy, in which participants speak at schools and communities about the problem of violence against women to raise awareness and encourage men to join; men are encouraged to wear a white ribbon as a personal pledge to never commit, condone, or remain silent about violence against women.
- Culture of Respect, https://cultureofrespect.org/
    - A new American Association of State Colleges and Universities partnership with an organization called Culture of Respect, which was founded by a group of concerned parents. The website offers various tools and resources in an actionable famework.
- Walk a Mile in Her Shoes, http://www.walkamileinhershoes.org/
    - Sponsors an annual, international men's march against sexual violence against women. The campaign literally encourages men to walk one mile in women's high-heeled shoes to raise awareness.
- Green Dot Campaign, https://www.livethegreendot.com/
    - Targets all community members as potential bystanders and seeks to engage individuals through awareness, education, and skill practice in developing proactive behaviors establishing intolerance of violence.
    - This is a social marketing campaign, where a "green dot" is an action countering each "red dot" of violence by promoting safety and intolerance of violence.
- Men Can Stop Rape Campus Strength Program, www.mencanstoprape.org
    - Engages college and university men in preventing violence against women, developing and supporting healthy masculinity, and organizing to create violence-free campuses through mentorship, peer education, activism, and social events.
    - Provides workshops, training sessions, and campus chapters.
- Mentors in Violence Prevention, www.mvpnational.org
    - Engages college students in raising awareness about the level of men's verbal, emotional, physical and sexual abuse of women.
    - Provides interactive trainings for college and community-based leadership groups, sports teams, teachers, coaches, administrators, as well as campus-based professionals based on a bystander approach to violence prevention.
- Men stopping violence, http://www.menstoppingviolence.org

    - Targets male college students; enables men to take action to stop male sexual violence and encourages bystander intervention.
    - Provides a multi-session, curriculum based program for a classroom setting.
- National Sexual Violence Resource Center, http://www.nsvrc.org/saam/campus-resource-list
    - A resource list dedicated to campus sexual violence awareness and prevention which includes campus policy information, statistics, and resources.
- kNOw MORE, http://www.knowmoresaymore.org
    - Engages college students in a social norms campaign by encouraging the audience to say "no more" to sexual violence and "know more" about how to stop it. The program encourages survivors of violence to speak about their experience and bystanders to intervene, as well as educates the audience about reproductive health consequences of sexual violence.
    - Provides a Campus Toolkit to help college students develop events, programs, and trainings on violence against women and its link to reproductive health.
- Students Active For Ending Rape (SAFER), http://www.safercampus.org/
    - Volunteer-run organization that fights sexual violence and rape culture by empowering student-led campaigns to reform college sexual assault policies.
    - Facilitates student organizing through a comprehensive training manual, in-person workshops and trainings, free follow-up mentoring, a Campus Sexual Assault Policies Database, and a growing online resource library and network for student organizers.

XI. Appendix B: Charts on Sexual Assaults at Maryland Colleges and Universities

On-campus Reported Forcible Sex Offenses by Educational Institution (Alphabetical)

	2009	2010	2011	2012	2013	2009-13
Allegany College of Maryland	1	0	0	1	1	**3**
Anne Arundel Community College	1	3	0	1	0	**5**
Baltimore International College	0	1	0	0	0	**1**
Bowie State University	2	2	2	4	2	**12**
Cecil College	0	0	1	0	0	**1**
Coppin State University	0	1	0	1	0	**2**
Frostburg State University	0	3	6	2	4	**15**
Garrett College	1	0	0	1	0	**2**
Goucher College	3	3	3	4	4	**17**
Hagerstown Community College	0	0	0	0	1	**1**
Hair Academy II	0	0	0	0	1	**1**
Harford Community College	1	0	0	0	0	**1**
Hood College	3	0	0	0	0	**3**
Howard Community College	0	2	0	1	0	**3**
Johns Hopkins University	0	0	1	5	7	**13**
Loyola University Maryland	2	2	1	2	4	**11**
Maryland Institute College of Art	1	0	0	1	1	**3**
McDaniel College	4	1	3	2	19	**29**
Montgomery College	2	5	4	1	4	**16**
Morgan State University	0	0	1	1	2	**4**
Mount St Mary's University	1	0	2	3	1	**7**
Prince George's Community College	0	0	0	0	1	**1**
Salisbury University	2	6	1	6	3	**18**
Sojourner-Douglass College	2	0	0	0	0	**2**
St John's College	0	0	0	0	2	**2**
St Mary's College of Maryland	0	1	9	4	2	**16**
Stevenson University	0	0	0	1	3	**4**
The Community College of Baltimore County	3	2	1	3	0	**9**
Towson University	3	2	7	2	5	**19**
University of Maryland Eastern Shore	3	2	1	2	0	**8**
University of Maryland-Baltimore County	3	1	6	4	4	**18**
University of Maryland-College Park	4	9	4	9	19	**45**
University of Maryland-University College	0	0	0	1	0	**1**
Washington Adventist University	1	0	0	0	0	**1**
Washington College	0	2	4	2	2	**10**
Total	**43**	**48**	**57**	**64**	**92**	**304**

XII. Appendix C: Laws and Regulations Timeline

The following timeline highlights key events in the history of campus sexual misconduct laws and regulations:[51]

1972: Title IX of the Education Amendments of 1972 is enacted ("Title IX"). Title IX prohibits discrimination on the basis of sex in all federally assisted education programs and activities.

1975: Department of Health, Education and Welfare (HEW) issues final Title IX regulations; colleges are given three years to comply. HEW publishes "Elimination of Sex Discrimination in Athletics Programs" and sends it to college and university presidents.

1980: Department of Education is established; Title IX oversight assigned to its Office for Civil Rights (OCR). OCR issues Title IX compliance Interim Investigators' Manual to investigators in its regional offices.

1986: The rape and murder of Lehigh University student Jeanne Clery puts national spotlight on the issue of campus crime and violence.

1987: OCR publishes "Title IX Grievance Procedures: An Introductory Manual" to assist schools with their obligations to establish a Title IX complaint procedure and designate a Title IX coordinator to receive those complaints.

1990: The Crime Awareness and Campus Security Act is first enacted, requiring colleges and universities participating in federal student aid programs to disclose campus security

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[51] Sources:
http://now.org/blog/some-history-behind-womens-history-month/
http://www.equalrights.org/title-ix-timeline/
https://www2.ed.gov/pubs/TitleIX/part3.html
http://www.ncwge.org/PDF/Title%20IX%20Timeline.pdf
http://www.nowldef.org/history-vawa
http://www.justice.gov/ovw/about-office
http://clerycenter.org/summary-jeanne-clery-act
http://www.justice.gov/ovw/responding-campus-sexual-assault
http//notalone.gov
http://www.whitehouse.gov/http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201104.html
http://www2.ed.gov/about/offices/list/ocr/whatsnew.html

information. In 1998, the law expands reporting requirements and is formally named in the memory of Jeanne Clery ("Clery Act"). In 2000 and 2008, Clery Act amendments add provisions dealing with registered sex offender notification, campus emergency response, and protection of crime victims and whistleblowers from retaliation.

OCR updates and finalizes its Title IX Investigator's Manual, originally issued in 1980.

1993: The Maryland General Assembly enacts Chapter 226, entitled "Higher Education- Sexual Assault Policy," which requires each institution of higher education to adopt and submit a written policy on sexual assault to the Maryland Higher Education Commission for review and make recommendations.

1994: Congress passes Violence Against Women Act of 1994 (VAWA 1994) as part of the Violent Crime Control and Law Enforcement Act of 1994. VAWA is expanded in 2000 and again in 2005 to cover not only domestic violence, but sexual assault and stalking.

1995: The Department of Justice, Office on Violence Against Women (OVW) is created. OVW administers financial and technical assistance to communities across the country that are developing programs, policies, and practices aimed at ending domestic violence, dating violence, sexual assault, and stalking.

1997: OCR issues "Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties." This document describes standards for Title IX compliance for schools' sexual harassment policies and details OCR's standard procedures for investigating and resolving allegations of sexual harassment; it also emphasizes that institutions are responsible for student-on-student sexual harassment.

1998: OVW's Grants to Sexual Assault, Domestic Violence, Dating Violence, and Stalking on Campus Program is authorized, funding higher education institutions to adopt comprehensive responses to domestic violence, dating violence, sexual assault, and stalking.

U.S. Supreme Court rules in *Gebser v. Lago Vista Independent School District* that a student may sue a school for damages for a teacher's sexual harassment only if the school had actual notice of the teacher's misconduct and acted with deliberate indifference to the harassment.

1999: U.S. Supreme Court rules in *Davis v. Monroe County Board of Education* that Title IX covers student-on-student harassment. To be actionable, the harassment must be so severe, pervasive, and objectionably offensive that it deprives the victims of access to the benefits of education. Damages are available only if the school had actual notice of the misconduct and acted with deliberate indifference to the harassment.

2001: OCR issues "Revised Sexual Harassment Guidance."

2011: OCR issues policy guidance, in the form of a Dear Colleague Letter, that clarifies Title IX's protections against sexual harassment and sexual violence.

2013: President Obama signs into law the reauthorization of VAWA, Violence Against Women Reauthorization Act of 2013. This legislation updates the Clery Act.

The Campus Sexual Violence Elimination (SaVE) Act is enacted to address violence faced by women on college campuses. This legislation is passed as part of VAWA and similarly updates the Clery Act.

2014: The website NotAlone (www.notalone.gov) is launched in connection with the White House Task Force to Protect Students from Sexual Assault. The website includes links to non-governmental organizations, websites and other resources.

OCR further clarifies Title IX legal requirements regarding sexual harassment and sexual violence in its 2014 Dear Colleague Letter.

The White House Task Force to Protect Students from Sexual Assault publishes its first report in April 2014, and launched its "1is2many" Public Service Announcement.

For the first time, OCR releases the names of colleges and universities under investigation for possible Title IX violations related to their responses to incidents of sexual violence and other gender discrimination on campus.

The U.S. Department of Education promulgates a final rule on amendments to the Clery Act under VAWA, and issues guidance to institutions regarding the implementation of those changes.

The White House launches the "Its On Us" public awareness campaign to Protect Students from Sexual Assault.

XIII. Appendix D: University System of Maryland Policy on Sexual Misconduct

Begins on the next page.

UNIVERSITY SYSTEM OF MARYLAND

VI-1.60 – POLICY ON SEXUAL MISCONDUCT (Approved by the Board of Regents, June 27, 2014)

PURPOSE & APPLICABILITY

The University System of Maryland (USM) is committed to providing a working and learning environment free from Sexual Misconduct, including sexual and gender-based harassment, sexual violence, dating violence, domestic violence, sexual exploitation, and sexual intimidation. USM prohibits and will not tolerate Sexual Misconduct. Sexual Misconduct is a form of sex discrimination prohibited by state and federal laws, including Title IX of the Education Amendments of 1972 as amended ("Title IX") and Title VII of the Civil Rights Act of 1964 as amended, and also may constitute criminal activity.

USM endeavors to foster a System-wide climate free from Sexual Misconduct through training, education, prevention programs, and through policies and procedures that promote prompt reporting, prohibit retaliation, and promote timely, fair and impartial investigation and resolution of Sexual Misconduct cases in a manner that eliminates the Sexual Misconduct, prevents its recurrence, and addresses its effects. All USM community members are subject to this policy, regardless of sex, sexual orientation, gender identity and gender expression. This includes all students, faculty, and staff of USM institutions (including USM offices and regional centers), as well as third parties and contractors under USM or USM constituent institution control. This Policy applies to Sexual Misconduct in connection with any USM institution, office or regional center education programs or activities, including Sexual Misconduct: (1) in any USM institution facility or on any USM institution property; (2) in connection with any USM or USM institution sponsored, recognized or approved program, visit or activity, regardless of location; (3) that impedes equal access to any USM institution education program or activity or adversely impacts the employment of a member of the USM community; or (4) that otherwise threatens the health or safety of a member of the USM community. Nothing in this policy is intended to supersede or conflict with any federal compliance obligation.

I. Definitions

For purposes of this Policy, the following definitions apply. While institutions may adopt their own definitions that do not conflict with the language below, institutions are strongly encouraged, at a minimum, to adopt the elements of these definitions in institution policies/procedures:

A. Consent means a knowing, voluntary, and affirmatively communicated willingness to mutually participate in a particular sexual activity or behavior. It must be given by a person with the ability and capacity to exercise free will and make a rational

and reasonable judgment. Consent may be expressed either by affirmative words or actions, as long as those words or actions create a mutually understandable permission regarding the conditions of sexual activity. Consent may be withdrawn at any time. Consent cannot be obtained by force, threat, coercion, fraud, manipulation, reasonable fear of injury, intimidation, or through the use of one's mental or physical helplessness or incapacity. Consent cannot be implied based upon the mere fact of a previous consensual dating or sexual relationship. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another.

B. Dating Violence means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the complainant. The existence of such a relationship shall be determined based on a consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

C. Domestic Violence means violence committed by a current or former spouse or intimate partner of the complainant, by a person with whom the complainant shares a child in common, by a person who is cohabitating with or has cohabitated with the complainant as a spouse or intimate partner, by a person similarly situated to a spouse of the complainant, or by any other person against an adult or youth complainant protected from those acts by domestic or family violence laws of Maryland.

D. Interim Measures means reasonably available steps an institution may take to protect the parties while a Sexual Misconduct investigation is pending.

E. Responsible Employee includes any employee who (1) has the authority to take action regarding Sexual Misconduct; (2) is an employee who has been given the duty of reporting Sexual Misconduct; or (3) is someone another individual could reasonably believe has this authority or duty. At a minimum, Responsible Employees must include: the Title IX Coordinator and any Title IX Team members, all institution administrators, all non-confidential employees in their supervisory roles, all faculty, all athletic coaches, institution law enforcement, and all other non-confidential first responders.

F. Retaliation means intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by law or USM policy relating to Sexual Misconduct, or because an individual has made a report, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing related to Sexual Misconduct. Retaliation includes retaliatory harassment.

G. Sexual Assault

Sexual Assault I. – Non-Consensual Sexual Intercourse
Any act of sexual intercourse with another individual without Consent. Sexual intercourse includes vaginal or anal penetration, however slight, with any body part or object, or oral penetration involving mouth to genital contact.

Sexual Assault II. – Non-Consensual Sexual Contact
Any intentional touching of the intimate parts of another person, causing another to touch one's intimate parts, or disrobing or exposure of another without Consent. Intimate parts may include genitalia, groin, breast, or buttocks, or clothing covering them, or any other body part that is touched in a sexual manner. Sexual contact also includes attempted sexual intercourse.

H. Sexual Exploitation means taking non-consensual or abusive sexual advantage of another person for one's own advantage or benefit or for the advantage or benefit of anyone other than the person being exploited.

I. Sexual Harassment is any unwelcome sexual advance, unwelcome request for sexual favors, or other unwelcome verbal or physical conduct of a sexual nature when: (1) Submission to or rejection of such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment, evaluation of academic work, or participation in any aspect of a USM or USM institution program or activity; (2) Submission to or rejection of such conduct by an individual is used as the basis for academic, employment, or activity or program participation related decisions affecting an individual; or (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work or academic performance, i.e., it is sufficiently severe or pervasive to create an intimidating, hostile, humiliating, demeaning or sexually offensive working, academic, residential or social environment.

J. Sexual Intimidation means (1) threatening to sexually assault another person; (2) gender or sex-based Stalking, including cyber-Stalking; or (3) engaging in indecent exposure.

K. Sexual Misconduct is an umbrella term that includes Dating Violence, Domestic Violence, Sexual Exploitation, Sexual Harassment, Sexual Intimidation, Sexual Violence, and Stalking.

L. Sexual Violence is a form of Sexual Harassment and refers to physical sexual acts perpetrated without Consent. Sexual Violence includes rape, Sexual Assault, sexual battery, and sexual coercion. Sexual Violence, in any form, is a criminal act.

M. Stalking means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or suffer substantial emotional distress.

II. Institutional Obligations

A. Title IX Compliance Oversight

1. Title IX Coordinator

Each Chief Executive Officer of a USM institution shall designate a Title IX Coordinator responsible for coordinating the institution's efforts to comply with and carry out its responsibilities under Title IX.

The Title IX Coordinator must have adequate training on the requirements of Title IX, including what constitutes Sexual Misconduct, Consent, credibility assessments, and counter-intuitive behaviors resulting from Sexual Misconduct. The Coordinator must understand how relevant institution procedures operate and must receive notice of all reports raising Title IX issues at the institution.

2. Title IX Team

Depending on the size and specific needs of the institution, the institution may want to identify a Title IX Team, which may include the Title IX Coordinator, Deputy Title IX Coordinators, Title IX investigators, and representatives from campus safety, Student Affairs, the Provost's Office, and Human Resources. The Title IX Coordinator shall be responsible for coordinating the activities of the Title IX Team.

B. Notice of Nondiscrimination

1. Content

Each institution must publish a notice of nondiscrimination that contains the following content:

a. Title IX prohibits the institution from discriminating on the basis of sex in its education program and activities;

b. Inquiries concerning the application of Title IX may be referred to the institution's Title IX Coordinator or the Office for Civil Rights; and

c. The Title IX Coordinator and any Title IX Team Member's title, office address, telephone number and email address.

2. Dissemination of Notice

The notice must be widely distributed to all students, employees, applicants for admission and employment, and other relevant persons. The notice must be prominently displayed on the institution's web site and at various locations throughout the campus, and must be included in publications of general distribution that provide information to students and employees about the institution's services and policies. The notice should be available and easily accessible on an ongoing basis.

C. Prompt Investigation and Resolution

1. Investigation

Once an institution knows or reasonably should know of possible Sexual Misconduct, it must take immediate and appropriate action, in accordance with its internal procedures, to investigate or otherwise determine what occurred. This obligation applies to Sexual Misconduct covered by this Policy regardless of where the Sexual Misconduct allegedly occurred, regardless of whether a parallel law enforcement investigation or action is pending, and regardless of whether a formal complaint is filed.

2. Prompt Resolution

If the institution determines that Sexual Misconduct has occurred, the institution must take prompt and effective steps to eliminate the Sexual Misconduct, prevent its recurrence, and address its effects.

a. In this subsection, "prompt" generally means within 60 calendar days from the time a report is brought to the institution's attention until an initial decision is rendered.

b. There may be circumstances that prevent an institution from meeting the 60-day timeline. When an institution is unable to meet the 60-day timeline, the institution should document the reasons why it was unable to meet the 60-day timeline.

3. Notice of Outcome

As permitted by law, the institution must notify the parties concurrently, in writing, about the outcome of the complaint and whether or not Sexual Misconduct was found to have occurred. The institution must also concurrently inform the parties of any change to the results or outcome that occurs before the results or outcome become final, and the institution must inform the parties when the results or outcome become final.

D. Policy & Procedures

1. General

a. Each institution shall adopt and publish policies and procedures, as needed, that:

i. Prohibit Sexual Misconduct;

ii. Prohibit Retaliation against any individual who reports, testifies, assists, or participates in any manner in a Sexual Misconduct investigation, hearing, or proceeding;

iii. Maintain employee and student procedures that provide for the prompt and equitable reporting, investigation, and adjudication of Sexual Misconduct and/or Retaliation cases;

iv. Require prompt Interim Measures be implemented, as necessary, to protect the parties during the investigation and adjudication processes;

v. Apprise the institution community of various USM institution resources and education programs, as well as other community resources and programs, geared to promote the awareness of and eliminate Sexual Misconduct, prevent its recurrence; and, as appropriate, remedy its effects; and

vi. Are easily understood, easily located, and widely distributed.

b. Each institution shall ensure that Sexual Misconduct cases undergo an appropriate legal sufficiency review by counsel prior to any decision.

2. Required Content

At a minimum, policies and procedures must:

a. Include a statement prohibiting Sexual Misconduct and Retaliation;

b. Define Consent, Dating Violence, Domestic Violence, Retaliation, Sexual Harassment, Sexual Exploitation, Sexual Intimidation, Sexual Misconduct, Stalking, and Sexual Violence;

c. Identify Responsible Employees required to report any knowledge of Sexual Misconduct to the Title IX Coordinator;

d. Identify confidential and non-confidential medical, counseling and advocacy resources on and off campus to assist individuals affected by Sexual Misconduct, including sexual assault centers, victim advocacy offices, women's centers, and health centers;

e. Identify options and procedures for immediate and ongoing assistance following an incident of Sexual Misconduct, including encouragement to obtain immediate medical help and notify law enforcement as appropriate (especially to receive guidance in the preservation of evidence needed for proof of criminal assaults and the apprehension and prosecution of assailants), institution resources available to help obtain such medical or law enforcement assistance, and available Interim Measures; and

f. Detail the following:

i. Identify who can file a complaint of Sexual Misconduct with the institution (to include students, institution employees, and third parties);

ii. Explain how to file a complaint;

iii. Identify to whom such complaints should be directed;

iv. Describe any institutional policies governing confidentiality;

v. Identify any USM or institution policies that may grant amnesty to a party or witness for a violation of drug, alcohol and other student conduct policies;

vi. Inform the parties about Interim Measures and how to request them. Each institution must provide notice, in writing, to the parties about options for, and available assistance in, obtaining no contact or protective orders, enforcing existing and lawful no contact or protective orders, and changing academic, transportation, residential, and working situations, if such an accommodation is reasonably available. The institution also must advise the parties of existing options for counseling, health, mental health, victim advocacy, legal assistance, and other services available on and off campus;

vii. Explain the parties' options and rights, as well as institution responsibilities, regarding notification of law enforcement and campus authorities, as well as student conduct options;

viii. Afford an investigative process and adjudicative process that provides the parties equal opportunity to present relevant witnesses and evidence throughout the process, and affords the parties similar and timely access to information to be used during any process;

ix. Explain that the parties are entitled to the same opportunities to have others present during an institution disciplinary proceeding, including the opportunity to be accompanied to any related meeting or proceeding by an adviser of their choice, and explain the scope of any adviser's role or potential involvement;

x. Specify "preponderance of the evidence" as the standard of review;

xi. Identify the range of possible employment and student sanctions for those found responsible for Sexual Misconduct, up to and including suspension, dismissal, expulsion and termination of employment;

xii. Provide an appeal process that is equally available to the parties;

xiii. Require the institution, after a legal sufficiency review, to inform the parties, concurrently and in writing, as permitted by law, about the outcome of any investigation, adjudication, and appeal conducted under this policy;

xiv. Designate reasonably prompt timeframes for the major stages of the process, and set forth the procedure for extending such timeframes, to include the timeframes within which (1) the institution will conduct a full investigation, (2) the parties will receive a notice of outcome, and (3) the parties may file an appeal;

xv. Provide an affirmative statement to the institution community that the institution will take steps to prevent the occurrence of any Sexual Misconduct and remedy its discriminatory effects;

xvi. Advise the community of institutional programs that endeavor to promote the awareness of Sexual Misconduct and prevent its occurrence; and

xvii. Advise the community of external options for reporting Sexual Misconduct, including local law enforcement, the Equal Employment Opportunity Commission and the U.S. Department of Education Office for Civil Rights.

3. Prohibited Content

Policies and procedures may not include any of the following content:

a. Requirement that the parties attempt to resolve any Sexual Misconduct matter informally;

b. Requirement for or allowance of mediation in Sexual Assault cases;

c. Allowing a party to personally cross-examine the other party, if an institution allows cross-examination;

d. Allowing or requiring the institution to wait until a concurrent law enforcement proceeding concludes to begin any Sexual Misconduct investigation, Interim Measures or adjudication;

e. Allowing questioning or evidence about the complainant's sexual history with anyone other than the respondent during any adjudication proceeding (in a proceeding where such evidence or questioning may be appropriate); and

f. Discouraging a reporter from notifying local law enforcement of alleged Sexual Misconduct.

III. Clery Act Compliance

In handling Sexual Misconduct reports, each institution remains responsible for complying with the requirements of the Crime Awareness and Campus Security Act of 1990 ("Clery Act") and its amendments. Institutions must comply with Clery Act requirements, including crime recording and reporting requirements, where compliance is not otherwise reached by actions under this policy.

IV. MOU with Local Law Enforcement

Each institution must review any Memoranda of Understanding ("MOU") with local police forces to ensure that the terms of any MOU allow the institution to meet its legal obligations.

V. Training

A. Prevention and Awareness Education

Each institution must develop and implement preventive education, directed toward both employees and students, to help reduce the occurrence of Sexual Misconduct. At a minimum, these educational initiatives must contain information regarding what constitutes Sexual Misconduct, definitions of consent and prohibited conduct, the institution's procedures, bystander intervention, risk reduction, and the consequences of engaging in Sexual Misconduct. These educational initiatives shall be for all incoming students and new employees. Each institution also must develop ongoing prevention and awareness campaigns for all students and employees addressing, at a minimum, the same information.

B. Training for Persons Involved in Sexual Misconduct Cases

All persons involved in any way in responding to, investigating, or adjudicating Sexual Misconduct reports, including but not limited to, the Title IX Team, Responsible Employees, law enforcement, pastors, counselors, health professionals, resident advisers, and complainant advocates, must have annual training in receiving, reporting and handling complaints of Sexual Misconduct; must be familiar with the institution's procedures; and must understand the parameters of confidentiality.

VI. Record Keeping

Each institution must keep records of actions taken under this policy, including, but not limited to, records of any reports of Sexual Misconduct, records of any proceedings or resolutions, and records of any Sexual Misconduct trainings (including, but not limited to, lists of trainees, dates of training, and training content), and must maintain such records in accordance with the institution's Records Retention Schedule.

VII. Implementation

Each Chief Executive Officer shall promptly communicate this policy and applicable procedures to his/her institutional community after the Board of Regents approves the policy. Each Chief Executive Officer also shall promptly identify his/her Title IX Coordinator and other designee(s), as appropriate for this policy. No later than December 31, 2014, each institution must develop procedures as necessary to implement this policy; and shall forward a copy of its Title IX designations and

procedures, and any subsequent changes in such designations and procedures, to the Chancellor.

Replacement for: USM Policy on Sexual Harassment (VI-1.20) and USM Policy on Sexual Assault (VI-1.30) in their entirety

Cross-reference with: USM Policy on the Reporting of Child Abuse & Neglect (VI-1.50)

MARYLAND OFFICE OF THE ATTORNEY GENERAL
WWW.OAG.STATE.MD.US

DOUGLAS F. GANSLER
MARYLAND ATTORNEY GENERAL