

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

UNITED STATES
OF AMERICA,

Plaintiff,

v.

BALTIMORE POLICE
DEPARTMENT, et al.,

Defendants.

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CIVIL NO. JKB-17-0099

SUBMISSION OF MONITORING TEAM'S THIRD SEMIANNUAL REPORT

Under the Amended Second-Year Monitoring Plan ("Monitoring Plan"), the Baltimore Police Department Monitoring Team ("Monitoring Team") hereby submits its Third Semiannual Report ("Report"). *See* ECF No. 208-1, Row 272 (approved in ECF No. 210). The Report is attached as **Exhibit 1**.

As the Monitoring Plan provides, the Monitoring Team held its quarterly community meeting to discuss the contents of the Report on July 16 from 6:00 – 8:00 p.m. at Out for Justice, 1400 East Federal Street, Baltimore, MD. On July 25 at 10:00 a.m., the Court will hold its next quarterly hearing, which will be devoted in part to discussing the contents of the Report.

Respectfully submitted,

/s/

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Exhibit 1



BALTIMORE CONSENT DECREE MONITORING TEAM THIRD SEMIANNUAL REPORT

July 19, 2019

CD
Monitoring
Team

Venable LLP and 21CP Solutions LLC

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OVERVIEW

THIRD SEMIANNUAL REPORT – July 19, 2019

THE MONITORING TEAM'S ACTIVITIES

- Assessed and provided technical assistance on policy revisions
- Assessed and provided technical assistance on training curricula
- Observed and provided technical assistance on in-class training on use of force and fair and impartial policing
- Assessed and provided technical assistance on improvements in the Public Integrity Bureau (PIB)
- Assessed and provided technical assistance on plans and tools for collecting data on interactions with individuals in crisis and stops, searches and arrests
- Continued work on community and arrestee surveys and completed officer focus groups
- Finalized instruments for assessing internal investigations and use of force incidents
- Commenced comprehensive assessment of internal investigations
- Met community stakeholders, including from the faith community, to engage them in the reform process, and obtained public input on draft policies and training programs
- Continued to deploy a team of neighborhood liaisons to educate community members about the Consent Decree and obtain feedback on BPD performance
- Finalized a Second-Year Monitoring Plan

THE MONITORING TEAM'S KEY FINDINGS

- BPD and City leadership continue to show genuine commitment to broad institutional reform
- The appointment of P.C. Harrison promises to intensify and accelerate reform efforts
- BPD is still in the preliminary stages of reform, and its ability to achieve broad institutional reform remains uncertain, but it has made reasonable progress on its threshold obligations
- BPD successfully finalized additional Consent Decree-mandated policies
- BPD moved swiftly to adopt best practices in police training, add ten instructors to the Training Academy, and finalize and begin delivering effective training on use of force
- Upcoming training initiatives are ambitious and will present implementation challenges
- PIB continues to require structural overhaul
- The forthcoming Staffing Plan must prescribe realistic, achievable measures for addressing BPD's acute staffing shortages, particularly in Patrol and PIB
- Required improvements in BPD's defective IT systems seem paused and must begin in earnest

THE NEXT SIX MONTHS

- BPD will continue training officers on revised policies addressing use of force and aspects of fair and impartial policing
- BPD will prepare newly-designed training on stops, searches and arrests and additional aspects of fair and impartial policing, as well as body-worn cameras, crisis intervention, and sexual assault investigations, to be delivered later in the year
- BPD will finalize most remaining policies requiring revision
- BPD and the City will complete a thorough analysis of the City's behavioral health system
- BPD will prepare Community Policing and Staffing Plans
- The Monitoring Team will conduct assessments of internal affairs investigations, use of force incidents, and if feasible given BPD's inadequate data, stops, searches and arrests

INTRODUCTION

The Consent Decree

In May 2015, the Civil Rights Division of the United States Department of Justice (“DOJ”) initiated an investigation of the Baltimore Police Department (“BPD”). The investigation, completed in 2016, found that BPD was engaged in a pattern-or-practice of constitutional violations, including using excessive force, infringing on the First Amendment freedoms of speech and assembly, and stopping, searching, and arresting people without probable cause and based on their race. After making these findings, DOJ entered into negotiations with BPD and the City of Baltimore in an effort to settle the parties’ differences. BPD and the City did not admit DOJ’s allegations, but they recognized that the allegations raised long-standing issues of considerable importance to City residents. As a result, BPD and the City agreed to resolve DOJ’s allegations through a Consent Decree. The Consent Decree is a court-approved settlement agreement between DOJ, the City and BPD. United States District Court Judge James K. Breder is the judge who approved the Consent Decree. Judge Breder now oversees the Consent Decree’s implementation. Because the Consent Decree is a court order, Judge Breder has the power to enforce its provisions and ensure that BPD and the City do what it requires.

The Consent Decree obligates BPD and the City to adopt a comprehensive set of reforms designed to promote fair and constitutional policing, rebuild BPD’s relationships with Baltimore’s communities, and ensure public safety. The Consent Decree prescribes corrective action in a number of areas, including: community engagement; community policing; stops, searches, arrests, and voluntary police-community interactions; impartial policing; interacting with people with behavioral health disabilities and in crisis; use of force; interactions with youth; transportation of persons in custody; First Amendment protected activities; handling of reports of sexual assault; technology; supervision; misconduct investigations and discipline; coordination with Baltimore City School Police; recruitment, hiring, and retention; staffing, performance evaluations, and promotions; and officer assistance and support.

The Consent Decree, in short, requires transformational institutional change. BPD will achieve compliance with the Consent Decree and free itself from Court oversight when it demonstrates not only that it has successfully implemented all of the required foundational improvements required in policies, training, technology and operations, but that those improvements have translated, measurably and sustainably, into constitutional, community-oriented policing.

Achieving transformational change in a large police department does not happen overnight. As the Consent Decree envisions, it takes time, and it requires adherence to a rigorous, methodical reform process. In each area of the Consent Decree that addresses how officers discharge their duties (*e.g.*, stops/searches/arrests, use of force, and transportation of persons in custody, to name a few), BPD first must draft and adopt revised *policies*. Then BPD must develop and conduct *training* on those revised policies. At the same time, to ensure that the new policies and the new training take root, BPD must revamp vital components of its infrastructure. For instance, BPD must overhaul its technology to become a modern, data-driven, efficient police force, must fortify its system of internal investigations and discipline to enhance officer accountability, must improve the training and supervision of rank-and-file officers to ensure lawful, effective job performance, and must increase the number of qualified patrol officers to promote community-oriented policing. It is only after officers have been trained on the new policies, and after infrastructure upgrades are well underway, that community members can expect to see sustained, tangible changes in the conduct of BPD officers. The Consent Decree contemplates that this process will take several years or more.

The Monitoring Team

On October 3, 2017, Judge Bedar appointed a Monitoring Team to assist him in overseeing implementation of the Consent Decree. The Monitoring Team consists of a lead monitor, Kenneth Thompson, and a team of experts in policing and police reform, civil rights enforcement, psychology, social science, organizational change, data and technology, and community engagement. Serving as an agent of the Court, the Monitoring Team plays three principal roles: arbiter, technical advisor, and facilitator. As *arbiter*, the Monitoring Team oversees the day-to-day efforts of BPD and the City to comply with the reforms the Consent Decree requires. The Monitoring Team reviews, provides feedback on, and ultimately recommends Court approval or disapproval of the changes BPD makes in its policies, its training and, ultimately, its policing practices. As *technical advisor*, the Monitoring Team draws upon decades of collective experience to provide BPD with technical assistance, including advice about national best practices, to help guide BPD toward satisfying the requirements of the Consent Decree. As *facilitator*, the Monitoring Team seeks to ensure that all stakeholders from within BPD and across Baltimore's diverse communities have the opportunity to participate in the reform process. (CD 442).¹

¹ All citations to a specific paragraph of the Consent Decree follow the text that relies on that paragraph and appear in parentheses containing "CD" and the number of the cited paragraph. Thus, the citation above, which is to Paragraph 442 of the Consent Decree, follows the relied-on provision of Paragraph 442 and appears as "(CD 442)."

While the work of the Monitoring Team is key to the successful implementation of the Consent Decree, the Monitoring Team's authority is limited. The Consent Decree expressly provides that "the Monitor will only have the duties, responsibilities, and authority conferred by [the Consent Decree]. The Monitor will not, and is not intended to, replace or assume the role and the duties of the City or BPD, or any duties of any City or BPD employee..." (CD 445). The Monitoring Team is, therefore, restricted to what the Consent Decree authorizes. It does not have the power or the ability to weigh in on all police-related matters. For instance, although the Monitoring Team assesses compliance with mandated reforms in the investigation and discipline of BPD officer misconduct, the Monitoring Team cannot bring, determine whether to bring, or recommend criminal charges against police officers accused of wrongdoing in specific cases. It is not a substitute for local or federal prosecutors. Likewise, the Monitoring Team cannot intervene in employment or disciplinary matters within BPD. It does not conduct independent investigations of allegations of misconduct by BPD officers or make employment or disciplinary recommendations or decisions affecting BPD officers. What the Monitoring Team does is assess whether BPD administers its disciplinary process—from intake to investigation to outcomes—consistent with the requirements of the Consent Decree. Under the terms of the Consent Decree, the Monitoring Team's job is to assess BPD's conduct, not direct it.

It should also be noted that the Court and the Monitoring Team are not alone in overseeing BPD's implementation of the requirements of the Consent Decree. DOJ continues to play an active role. As the plaintiff in the lawsuit that produced the Consent Decree, DOJ retains the right to enforce the Consent Decree when BPD fails to comply with its terms. Accordingly, like the Monitoring Team, DOJ is assessing BPD's progress toward compliance and will let the Monitoring Team and the Court know when it believes BPD is making progress and when it believes BPD is not. In addition, like the Monitoring Team, DOJ provides technical assistance to BPD as BPD works toward compliance. The reform process under the Consent Decree thus involves four fully-engaged entities: BPD, the City, the Monitoring Team/the Court, and DOJ.

This Report

One of the essential duties of the Monitoring Team is to issue semi-annual public reports that inform the Court and the community about the progress BPD is making toward compliance with the Consent Decree's requirements. The reports explain: (1) which compliance measures BPD has taken in the preceding six months; (2) whether those measures demonstrate compliance, substantial progress toward

compliance, reasonable progress toward compliance, or non-compliance with Consent Decree requirements; (3) what challenges BPD will continue to face as it strives to achieve compliance; and (4) what to expect from BPD in the next reporting period.

This document is the Monitoring Team's third semi-annual report. The first report was filed in July 2018; the second in January 2019. *See* ECF Nos. 126-1 & 178-1. When reading this report, keep in mind what is explained above: achieving transformational change in a large police department takes years, not months, and requires adherence to a rigorous process for reform. Also keep in mind that the reform process began in earnest a year and half ago, with the Court's approval of the First-Year Monitoring Plan, a detailed, structured blueprint for the initial year of reform. *See* ECF No. 91-1 (initial First-Year Monitoring Plan), as modified by ECF Nos. 112, 124 & 125, and ECF No. 138-1 (Updated First-Year Monitoring Plan), as modified by ECF Nos. 147 & 165. Thus, while BPD has begun to put in place the building blocks for reform, it has not yet had substantial time to make significant progress toward lasting change. The First- and Second-Year Monitoring Plans implicitly acknowledge that not every Consent Decree requirement can be met in the first two years. BPD, its officers and community members need sufficient time and opportunity to focus on each area of the Consent Decree, and on each requirement within each area, to ensure that reform is real and enduring. Change that is rushed, haphazard and superficial is not sustainable and does not qualify as true reform.

For these reasons, this report will not address BPD's progress on each and every one of the Consent Decree's requirements. Even a year and a half into the reform process, it remains the case that, for the many of those requirements, BPD has neither satisfied them, made reasonable progress toward satisfying them, nor failed to satisfy them. Rather, it is still getting started. Indeed, while BPD has worked diligently to revise key policies and practices, develop new training curriculum, and complete critical studies on technology and staffing, it is still completing even these initial, foundational steps. To use an analogy: if the Consent Decree requires BPD to rebuild a house from the ground up, BPD is still laying the foundation for the new house; it has not yet finished the foundation, much less started construction. For instance, BPD has only begun to train officers on policies that have successfully undergone revision; it has yet to fix structural deficiencies in its Public Integrity Bureau (formerly the Office of Professional Responsibility), which conducts internal investigations and recommends discipline; and, realistically, it remains two years away—maybe more—from fully revamping its IT systems so that they are capable of storing and aggregating the data necessary for comprehensive evaluation of the integrity of BPD's law enforcement actions. Therefore, the Monitoring Team remains

a long way from being able to comprehensively assess whether BPD officers are consistently and sustainably engaged in constitutional, community-oriented policing.

That said, the Monitoring Team continues to examine snapshots of BPD's institutional performance, and continues to develop methods for measuring over the long-term whether BPD is making tangible improvements. For instance, the Monitoring Team regularly follows and assesses the progress of internal investigations of certain noteworthy disciplinary matters by the Public Integrity Bureau; periodically reviews random samples of internal investigation files to determine, for diagnostic purposes, whether investigations are thorough and properly documented and whether PIB's conclusions and disciplinary recommendations are supported by the evidence; and recently began its first comprehensive qualitative compliance review of internal investigation files using a newly-developed assessment tool. This initial compliance review will establish a "baseline" for evaluating BPD's future progress toward compliance in the area of misconduct investigations and discipline. In the next reporting period, the Monitoring Team will similarly begin conducting preliminary compliance reviews and establishing baselines in the areas of use of force and, depending on whether the Monitoring Team can work with the inadequate integrity of BPD data, stops, searches and arrests.

Rather than inventorying BPD's efforts to satisfy each and every one of the Consent Decree's separate provisions, this report assesses BPD's progress toward satisfying the provisions that the First- and Second-Year Monitoring Plans require BPD to address. In addition, this report gauges BPD's current position along the long arc of compliance in each area of the Consent Decree and identifies the challenges BPD will have to overcome to make meaningful progress toward compliance in each area. In this way, the report implicitly demonstrates that, although crucial, BPD's nascent work to satisfy the Consent Decree's foundational requirements—revising policies, conducting studies, preparing plans, training, performing audits, implementing officer assistance programs—is only part of the compliance equation. Full compliance will not be achieved until, *in practice*, those reforms result in policing that is community-oriented, accountable and constitutional.

EXECUTIVE SUMMARY

Over the past six months, BPD and the City have worked in good faith toward satisfying the requirements of the last month of the First-Year Monitoring Plan and the first five months of the Second-Year Monitoring Plan. *See* ECF No. 208-1 (approved in ECF No. 210). By identifying and establishing dozens of deadlines for Consent Decree “deliverables,” these Plans present a detailed roadmap for the progress BPD is expected to make during the first two years of monitoring, which run through February 15, 2020. Like the First-Year Plan, the Second-Year Plan focuses on the front-end of the reform process: finalizing policy revisions, developing training curriculum and training officers on the revised policies, and completing studies and action plans for improving technology, data collection, staffing, community policing, and interactions with both youth and people with behavioral health disabilities.

To their credit, BPD and the City have satisfied many of the requirements in the First- and Second-Year Plans. However, due to the ten-month absence of a permanent commissioner and the complexity of various deliverables, certain deadlines initially included in the Second-Year Plan had to be extended. BPD needed additional time to allow the new Commissioner, Michael Harrison, to formulate his vision for the Department and to ensure that changes in crucial areas, such as misconduct investigations and discipline, are neither inappropriately rushed nor superficial. *See* ECF Nos. 208 & 210. The Monitoring Team expects the pace of reform to accelerate now that Commissioner Harrison has settled into his position.

It remains too early to assess BPD’s progress toward satisfying the vast majority of the Consent Decree’s provisions. Consistent with the First- and Second-Year Monitoring Plans, BPD is still working on compliance with the Consent Decree’s foundational requirements. BPD will not get around to addressing the rest of the requirements until subsequent years. Thus, BPD and the City have finalized, or are finalizing, revisions to a number of policies; have begun devising and implementing training programs covering those policies; and have completed or are completing studies and implementation plans on technology, staffing, officer recruitment, hiring and retention, youth diversion, community policing, interactions with individual with behavioral health disabilities, and BPD’s relationship with Baltimore School Police. But BPD and the City have not completed certain foundational requirements—for instance, BPD is still developing most of its new training programs—and have not even begun, much less completed, work on numerous other requirements. BPD has not yet implemented new IT systems or a new IT governance structure (which likely will take at least another two years to complete). It has not increased the number of qualified officers, particularly in the Patrol Division. Nor has BPD improved the

overall quality of internal affairs operations and investigations; implemented reforms for supervisors; or overhauled its systems for reporting, collecting and maintaining data so as to facilitate effective supervision, meaningful discipline, and useful analysis of Department trends in key areas of the Consent Decree, including stops, searches, arrests, and uses of force.

Because of the vital work BPD still must do—work that will require considerable time and effort—it remains unclear, at this point, whether BPD will be able to achieve effective and substantial compliance with all of the Consent Decree’s provisions. BPD and the City have demonstrated the will to reform. And the Monitoring Team is encouraged by the foundational work BPD and the City have done and by the appointment of a permanent commissioner who understands the imperative of change. But the challenges ahead are no less daunting than they were at the very beginning of the Consent Decree process.

The following summary describes noteworthy developments in this reporting period, as well as noteworthy challenges ahead. It does not cover all developments in the reporting period or all continuing challenges. Rather, it is a short recap of what the Monitoring Team views as certain key developments over the past six months and certain key challenges. The body of this report provides more detailed treatment of these and many other achievements and challenges.

Notable Developments

Leadership

The appointment of Commissioner Harrison has been a shot in the arm for the reform process. It is a credit to BPD—and, in particular, to the Consent Decree Implementation Unit, the Best Practices Unit, and former Acting Commissioner Gary Tuggle—that BPD made as much progress as it did in the absence of permanent leadership. However, in a few short months, Commissioner Harrison has made a difference, taking swift, decisive actions that demonstrate a firm commitment to intensifying and accelerating reform efforts. Among other things, Commissioner Harrison has:

- Sought to win the trust and support of the community by, for instance, holding “meet and greet” sessions in each police district immediately after he was appointed and by routinely attending community events

- Named Danny Murphy as Deputy Commissioner of Compliance; Murphy ably led the New Orleans Police Department's consent decree compliance efforts when Commissioner Harrison led NOPD
- Recruited Michael Sullivan to become Deputy Commissioner of Operations; Sullivan was Deputy Chief of the Louisville Police Department, well-respected for his knowledge of best practices and crime-fighting experience
- Renamed the division that handles internal affairs investigations the "Public Integrity Bureau," elevated the head of PIB to the position of deputy commissioner, and conducted a soon-to-be-concluded nationwide search to hire an experienced misconduct investigations official to serve as deputy commissioner
- Conducted nationwide searches for top talent for the positions of Chief Technology Officer, Chief Financial Officer, and Training Academy commander
- Prioritized improving the operational efficiency of PIB by quickly advancing a new draft policy—coupled with a pilot program—for handling minor misconduct complaints at the District level in order to free up PIB investigators to focus on more serious complaints, including complaints involving civilian encounters
- Drafted a new mission statement to reflect Consent Decree imperatives
- Shown a commitment to transparency by, *e.g.*, issuing a first-ever policy governing the public release of body worn camera footage of critical incidents
- Bolstered efforts to recruit new officers (including by producing a new production video encouraging Baltimoreans to be "part of the greatest comeback story ever") and prioritized expediting the historically languid pace of processing employment applications, and
- Made clear his intolerance for unconstitutional behavior when he recommended charges against a sergeant who, in his view, had unlawfully arrested and used force against an individual who had merely questioned police actions

Training

BPD has taken seriously the Monitoring Team's admonition to prioritize the revitalization of its training operations. Its rapid progress toward establishing a training program consistent with national best practices is perhaps the most promising development to date.

Over the past six months, BPD finalized curriculum for its first tranche of Consent Decree training, which covers use of force and aspects of fair and impartial policing that relate to use of force (*e.g.*, police legitimacy, procedural justice, and the effect of implicit bias on officer threat assessment). BPD worked diligently with the Monitoring Team and DOJ to draft an e-learning program, which covers the core provisions of BPD's use of force policies. BPD officers must complete the e-learning program and score 100% on the evaluations before they can take the in-class training. BPD also worked closely with the Monitoring Team and DOJ to draft and pilot test a two-day in-class curriculum that incorporates adult learning methods, including facilitated classroom discussion based on videos and written summaries of real-world scenarios and live role-playing in the Academy gymnasium and using a simulation device. The adoption of these adult learning methods is a crucial move toward establishing a top-flight training program.

Significantly, BPD incorporated community feedback into the curriculum. It solicited and received public comments on drafts of the curriculum and established a Community Training Review Committee to take part in the pilot testing of certain course modules.

On June 10, after most officers had successfully completed the e-learning program, BPD began utilizing the new in-class curriculum to conduct in-service training for four classes of 30-36 officers each week, with the objective of training all officers in the Department by October. To facilitate this training, BPD added ten new instructors to its Academy staff, consistent with prior Monitoring Team advice. Most of the new instructors have come from Patrol, which enhances their credibility. Without the addition of these instructors, BPD would not have been able to move forward with the new training, much less deliver it effectively to the entire Department within a period of four months, as the Second-Year Monitoring Plan requires.

Academy instructors experienced a few rough patches in the initial classes, which is unsurprising given that they were utilizing facilitative, non-lecture-oriented

teaching methods for the first time. But based on the Monitoring Team's in-person observation, key concepts have been conveyed effectively, and instruction over the past six weeks has steadily improved. Critically, the vast majority of officers have engaged with the course material.

In addition to the admirable progress it has made on its use of force training, BPD has completed initial drafts of both an e-learning curriculum and a two-day in-class curriculum for the second tranche of Consent Decree training, which cover stops, searches and arrests and aspects of fair and impartial policing that relate to those encounters. BPD is also far along in the development of e-learning training on sexual assault investigations.

One final positive development: in this reporting period, BPD has been actively pursuing the relocation of the Training Academy to more modern facilities at the University of Baltimore. With the relocation, which could take place as soon as the end of the next reporting period, BPD will be able to host more recruit classes, provide better space and better support for interactive adult-oriented instruction, and offer an attractive learning environment that inspires pride and professionalism.

Youth Diversion Assessment

On April 1, BPD and the City published the Youth Diversion Assessment required by paragraph 219 of the Consent Decree. Prepared by the Children's Center for Law and Policy, a well-respected, nationally-recognized nonprofit, the Assessment presents a comprehensive analysis of the impediments to, and opportunities for, diverting youth from juvenile justice system outcomes. It relies on extensive arrest and juvenile justice system processing data, as well as interviews with youth, community advocates and law enforcement personnel, to explain the benefits of effective diversion, evaluate existing diversion programs in Baltimore, identify barriers to diversion, and offer realistic recommendations for overcoming those barriers and reducing the number of youth entering the juvenile justice system.

The Youth Diversion Assessment provides an extremely useful guide for helping City officials achieve the Consent Decree's goal of using alternatives to arrest (e.g., warn and release, counseling, referral to community services and resources; warnings, civil citations) to divert youth from formal juvenile justice system processing. (CD 218). The Mayor, and specifically the Mayor's Office of Criminal Justice, can begin the process by promptly bringing together all stakeholders to consider the Assessment's recommendations. BPD can do its part by revising its policies to outline options for diverting youth from arrest, develop criteria for

mandatory or presumptive diversion for certain offenses, and restrict the criteria for transport to the Baltimore City Juvenile Justice Center to youth who are eligible for detention.

Notable Challenges Ahead

Misconduct Investigations and Discipline

The first and second semiannual report describe the immense challenges that reforming the Public Integrity Bureau (“PIB”) presents. *See* ECF No. 126-1 at 11-13, 34-38; 178-1 at 12-13, 34-37. BPD must transform one of its most dysfunctional units into its most capable one. And to regain both the trust of the community and the respect of BPD members, it must do so as quickly as possible.

Change is underway. As previously reported, BPD has finalized PIB’s complaint intake policy and complaint classification system; altered PIB’s case assignment system to ensure investigator impartiality; and ended the practice of detailing PIB investigators to the Patrol Division, where they might be assigned to work alongside the same officers they are investigating. In addition, within the past six months, BPD finalized a first-ever protocol for information-sharing between PIB and the Civilian Review Board; worked diligently with the Monitoring Team and DOJ to develop a PIB manual that will provide comprehensive guidance to PIB personnel on misconduct investigations; drafted a policy addressing officer obligations to disclose exculpatory evidence to prosecutors in criminal cases; and drafted another policy—and is beginning a pilot program—that will permit District commanders to handle minor misconduct complaints (*e.g.*, reporting late to roll call, failure to appear in court or for a medical appointment, loss of BPD property other than a firearm) so that PIB investigators will have more time to focus on more serious complaints, including complaints arising from officer encounters with civilians. Finally, as noted, Commissioner Harrison has prioritized hiring an experienced commander with impeccable credentials to lead PIB, and will have that individual serve in the position of deputy commissioner, one of only four in the department.

Despite these encouraging developments, there remains a long way to go before PIB is functioning properly. Baltimore City Circuit Court recently dismissed twelve separate cases involving sustained findings of misconduct, some of them quite serious, because PIB failed to initiate charges within the statute of limitations. The inexcusable negligence of PIB in these cases exposes many of PIB’s problems: too many cases for too few investigators, investigations of minor allegations crowding out investigations of more serious allegations, inadequate and unreasonably tardy

supervisory review of investigative findings, and lack of accountability for the timeliness and thoroughness of investigations.

Failing to promptly and correctly resolve misconduct complaints erodes community trust, depletes officer morale, and diminishes officer accountability. It erodes community trust because it reinforces the perception that BPD is incapable of policing itself. It depletes officer morale because it requires officers to work for many months under a cloud, ineligible for transfer or promotion, even when a complaint is plainly unfounded or minor. And it diminishes accountability for the obvious reason that officers who engage in misconduct go undisciplined and may feel emboldened to break the rules again.

Ensuring that disciplinary investigations, findings and recommendations are both timely and thorough must be the top priority of the incoming PIB deputy commissioner. To meet that priority, BPD, at the outset, must take several readily achievable measures: provide PIB investigators with specialized training on internal investigations; require and ensure uniform documentation and organization of investigative files, which will prompt investigators to perform full, proper investigations in each case; and upgrade BPD's version of IAPro, which will allow supervisors to track information more effectively and manage cases under investigation more dynamically. BPD has promised this upgrade for months, and it has begun the process, but it has not yet delivered.

Nor has BPD delivered on its pledge to fully address the fallout from the Gun Trace Task Force scandal. PIB has not yet completed investigations of officers who were allegedly involved in incidents with GTTF officers but not charged criminally. BPD also has not yet authorized the promised independent investigation of the root causes of the scandal.

Staffing

As explained in prior reports, BPD's staffing deficiencies are acute and continue to deplete officer morale. This is particularly true in the Patrol Division and PIB.

By putting officers on eight hour shifts five days a week, rather than ten hour shifts four days a week, the new contract between the City and the police union has alleviated part of the problem—but only a small part. “Drafting,” *i.e.*, forced overtime, still occurs. That is because significant shortages remain. And although recruitment numbers appear to be improving, they still do not appreciably outpace attrition.

Delayed many months due to the absence of a permanent commissioner, the draft Staffing Plan mandated by the Consent Decree—which BPD is scheduled to deliver to the Monitoring Team and DOJ in October—must prescribe realistic, achievable objectives for increasing the number of officers in Patrol and PIB and for maintaining an appropriate number of officers in other divisions. It is promising that, over the past year, BPD has rigorously evaluated its recruiting and hiring practices and begun implementing a robust recruiting and hiring plan that appears to be attracting larger classes of new officers. But recruitment and hiring alone will not cure BPD’s staffing shortages, certainly not as quickly as needed. As the Staffing Study suggests, BPD must develop and implement a concrete plan for civilianizing certain administrative functions that are now performed by sworn officers who should be reassigned to units desperate for them. Improvements in technology can facilitate the civilianization process. Additionally, BPD must assess the utility of each specialized unit currently in existence, identify which units are duplicative or non-essential, and reassign officers from those units.

None of this will be easy. It will require a painful diagnosis of BPD’s structural flaws and potentially radical surgery to fix them.

The Next Reporting Period

In the next six months, BPD will continue to invest substantial time and resources in officer training. It will finish training officers on use of force; finalize curriculum for and begin training officers on stops, searches, and arrests; finalize and deliver to all officers e-learning on sexual assault investigations; finalize specialized curriculum for training detectives who handle sexual assault investigations; finalize curriculum for training on fair and impartial policing, body-worn cameras, and crisis intervention; and develop and implement a plan for training PIB investigators.

In addition, BPD will complete most remaining policy revisions required by the Consent Decree. These include: a PIB manual covering transparency, complaint intake, classification and investigations; protocols for supervision effectiveness; a policy prescribing rapid, negotiated resolution of minor misconduct complaints at the District level; policies governing stops, searches, and arrests for “quality of life” misdemeanor offenses; a policy addressing the disclosure of exculpatory evidence in criminal cases; a policy on BPD’s mobile field force; a policy for BPD’s peer support program; a policy on officer-involved sexual assaults; a policy on technology procurement; and policies on interactions with youth.

In the next six months, BPD will complete diagnostic reports on officer retention, gaps in the City's behavioral health systems, and BPD's memorandum of understanding with Baltimore School Police. BPD also will prepare comprehensive plans for community policing and staffing. Finally, BPD will expand its early, Consent Decree-mandated efforts at self-evaluation. It will prepare reports analyzing its responses to First-Amendment-protected activities and its progress toward developing the capacity (which it now lacks) to collect and analyze data on stops, searches and arrests. BPD also will continue monthly inspections of transport vehicles to ensure they are properly equipped and begin full quarterly audits of two randomly-selected transport events in each district to ensure transport officers are complying with BPD's revised transport policies.

In addition to continuing to assess BPD's reform efforts and offer technical assistance, the Monitoring Team will publish its initial surveys gauging community, custodial arrestee, and officer attitudes toward BPD and reform. Further, the Monitoring Team will continue to ramp up its evaluation of BPD performance. It will complete its first comprehensive qualitative review of PIB investigations (from 2018), and begin comprehensive qualitative reviews of use of force reports/incidents and, if feasible, stops, searches and arrests. The Monitoring Team also will work with BPD and DOJ to develop proper methodologies for both qualitative and quantitative assessments in several areas of the Consent Decree, including stops, searches, and arrests.

SUMMARY OF MONITORING TEAM ACTIVITIES

Over the past six months, the Monitoring Team has done work in each of its three roles—arbiter, technical advisor and facilitator. As arbiter, the Monitoring Team, among other things, has assessed BPD’s progress in developing and implementing new training programs, evaluated various policy revisions, reviewed and analyzed a study of City programs designed at diverting youth from the criminal justice system, reviewed BPD’s handling of various misconduct investigations, and examined BPD’s initial Department reports on stops, searches and arrests and sex assault investigations. As technical advisor, the Monitoring Team has drawn on the expertise of its members to provide BPD guidance on officer training, policy revisions, technology improvements, internal investigations and discipline, staffing issues, officer wellness issues, and interactions with individuals in crisis. As facilitator, the Monitoring Team has sought to engage both community stakeholders and BPD officers in the reform process.

The Monitoring Team’s work in this reporting period is summarized below. The details of the Monitoring Team’s work, recorded on time sheets for each Monitoring Team member in 1/10 hour increments, are reflected in the Monitoring Team’s approved invoices, which are available on the Monitoring Team’s website at <https://www.bpdmonitor.com/monthly-statements>. The Consent Decree provides that the Monitoring Team will be paid \$1,475,000 per year in fees and expenses. For the first 19 months of its work (October 2017 through April 2019), the City paid the Monitoring Team \$2,318,021.00 in fees and \$105,887.21 in expenses. In addition, from October 2017 through April 2019, the Monitoring Team contributed pro bono services for its work on the Consent Decree in an amount equal to \$1,215,801.05, meaning that 33% of the Monitoring Team’s work during the 19 months was at no cost to the City.

Engagement with Stakeholders

Community Engagement

The Monitoring Team continues to engage in active, affirmative community outreach. In addition to holding Consent Decree-mandated community forums in January, April and July 2019, the Monitoring Team and its community engagement team are meeting with community members where they live. In the past six months, Monitoring Team members have attended or convened community meetings in different parts of the City, including meetings of neighborhood associations, faith-based organizations, civic leaders, and affinity groups (e.g., advocates for returning

citizens). The meetings are intended to inform community members about the Consent Decree process and to listen to their views about BPD.

The Monitoring Team's community engagement team, including Monitoring Team leadership, continue to participate in bimonthly Facebook Live sessions from the offices of the Baltimore Community Mediation Center ("BCMC"). During these sessions, community members are given the opportunity to post questions online and obtain real-time answers from the Monitoring Team. In addition, the Monitoring Team now publishes a monthly newsletter called "The Monthly Monitor." The newsletter is emailed to the Monitoring Team's distribution list and linked from the Monitoring Team's Facebook and Twitter accounts. The newsletter provides information about recent and upcoming developments under the Consent Decree, with a focus on opportunities for community members to engage in the reform process.

The Monitoring Team continues to utilize neighborhood liaisons to engage community members. In the past reporting period, the Monitoring Team hired three new liaisons. As a result, there is now one liaison in each of the City's nine police districts. Overseen by the team's head community liaison, Ray Kelly, and community engagement coordinator, Darnyle Wharton, the neighborhood liaisons educate their neighbors about the Consent Decree and the work of the Monitoring Team and serve as the Team's initial points of contact for information and opinions about the performance and conduct of BPD officers, which the Team will need to fully assess BPD's compliance with the Consent Decree. The neighborhood liaisons have held "office hours" at local libraries and community centers, attended community meetings and events in their districts, and canvassed neighborhood civic organizations, businesses, and faith-based institutions to educate community members about the Consent Decree. Going forward, the neighborhood liaisons will place even greater emphasis on meeting community members where they are, especially at community gatherings.

In addition to conducting affirmative, localized outreach to inform and hear from community members about the reform process and BPD, the Monitoring Team has pursued targeted engagement with community members around specific Consent Decree requirements. In this reporting period, the Monitoring Team continued to elicit written community input on proposed BPD policies and training programs. Under the First- and Second-Year Monitoring Plans, the Monitoring Team built a community feedback component into the process for revising each policy and training program. (BPD and DOJ also have their own feedback mechanisms). As the Monitoring Team's Second-Year Monitoring Plan submission explains:

For each policy that is being revised, and for each training curriculum that is being developed, the Second-Year Plan furnishes community members two separate opportunities to provide input and feedback. BPD will issue each draft policy or training curriculum for public comment after collaborating with the Monitoring Team and DOJ on the draft. The Initial Public Comment Period, which typically lasts a month, will be the community's first opportunity to provide input and feedback. Following the Initial Public Comment period, BPD, again in collaboration with the Monitoring Team and DOJ, will consider and incorporate the comments received. BPD will then issue the revised policy or training curriculum for public comment in an Abbreviated Public Comment Period, which typically lasts two weeks. That will be the community's second opportunity to provide input and feedback. It will give community members a chance to see if the initial set of comments were addressed, as well as a chance to weigh in again before the policy or training curriculum is finalized.

ECF No. 181 at 6.

Over the past six months, the Monitoring Team, BPD and DOJ sought and received meaningful public comment on a draft curriculum for training on use of force and use of force-related aspects of fair and impartial policing, as well as policies addressing misconduct investigations and discipline (including civilian review), disclosure of exculpatory evidence in criminal cases, interactions with individuals with behavioral health disabilities and in crisis, use of force, and procurement of law enforcement equipment and technology. To solicit community feedback on these draft training lesson plans and policies, the Monitoring Team posted and received comments in response to surveys on its website, received detailed letters and e-mails from community members and organizations, and welcomed more informal oral feedback from community members. The Monitoring Team shared whatever feedback it received with BPD. In turn, BPD revised each draft lesson plan or policy in response to all feedback provided (that is, feedback provided to BPD, the Monitoring Team and DOJ), collaborated with the Monitoring Team and DOJ to ensure that the revised drafts properly reflected that feedback, and then published a final curriculum or policy following approval by DOJ and the Monitoring Team.

In addition, as explained in more detail below, BPD established a Community Training Review Committee consisting of community members who attend and provide feedback on training programs while they are being developed. In late May 2019, together with Monitoring Team members and DOJ representatives, the

Community Training Review Committee participated in and provided feedback on one of the key modules of the use of force/fair and impartial policing training curriculum. Monitoring Team members and DOJ representatives also attended and provided feedback at earlier pilot sessions, one for Training Academy instructors and another using officers.

Subsequent sections of this report address the use of force training curriculum and revised policies that BPD finalized over the past six months.

Communications with the Parties

The Monitoring Team communicates with BPD, the City and DOJ multiple times on a daily basis—in in-person meetings, in conference calls, and by email. Monitoring Team members have worked exhaustively with the parties to make sure BPD produces all of the “deliverables” the First- and Second-Year Monitoring Plans require. In the past six months, the Monitoring Team and DOJ have collaborated with BPD and provided extensive oral and written comments and written line edits on the following deliverables, among others:

- (1) Drafts of revised policies due under the First- and Second-Year Monitoring Plans, including policies on misconduct investigations and discipline (including civilian review), disclosure of exculpatory evidence in criminal cases, interactions with individuals with behavioral health disabilities and in crisis, and procurement of law enforcement equipment and technology, and clarifying revisions to previously approved use of force policies.
- (2) Numerous drafts of e-learning and in-class curriculum for training on use of force. *See* ECF No. 212, as well as pilot tests of that training;
- (4); A draft workplan for the Collaborative Implementation and Review Committee (“CPIC”), which establishes deadlines for Year Two deliverables involving police interactions with individuals with behavioral health disabilities and in crisis, *see* ECF No. 201; and
- (5) A draft BPD report on stops, searches and arrests and corresponding drafts of a revised report form that captures all data the Consent Decree requires BPD to track (and which, ideally, will become an electronic report form once BPD’s technology plan is fully implemented).

Police Engagement

In addition to conferring daily with members of BPD's Consent Decree Implementation Unit, City Law Department attorneys representing BPD, and BPD command staff to work on implementing the requirements of the Consent Decree, the Monitoring Team continues to engage BPD members. Monitoring Team members have established relationships with union leaders and spent substantial time at BPD's Training Academy (where recruit, in-service, and field training officer training is conducted) and Public Integrity Bureau (which investigates allegations of officer misconduct).

The Monitoring Team also has established and meets periodically with an informal group of rank-and-file officers to obtain their candid feedback on the Consent Decree, the positive attributes of BPD, and the challenges facing BPD. Moreover, in May 2019, as required by the Consent Decree, the Monitoring Team conducted formal focus groups of BPD officers, detectives, and supervisors to listen to their thoughts and gather their ideas about effective reform.

As previously indicated, the Monitoring Team, soon after its appointment, established a protocol for notification and potential response to critical incidents involving BPD officers, such as officer-involved shootings. The notification is immediate and allows for local Monitoring Team members or out-of-town members in Baltimore to respond to the scene and observe BPD officers in action. The notification protocol has been used several times in this reporting period to respond to critical incidents.

Meetings with the Court

The Monitoring Team's leadership, including Ken Thompson, Seth Rosenthal, Chuck Ramsey, Hassan Aden and Theron Bowman, communicate regularly with Judge Bedar—in person, by telephone, and by email—to update him on developments and to take direction from him.

In the very first stage of the reform process, Judge Bedar determined that each month he would hold a three-hour working session with the Monitoring Team and the parties to discuss developments and challenges in a specific area of the Consent Decree. In this reporting period, Judge Bedar has convened working sessions to discuss sexual assault investigations (February 2019), recruitment, hiring and retention (March 2019), fair and impartial policing (April 2019), interactions with youth (May 2019), and staffing and supervision (June/July 2019).

Assessments and Technical Assistance

For the past six months, the Monitoring Team's work under the First- and Second-Year Monitoring Plans has focused on assessing BPD's performance, and assisting BPD, in the following areas: completing the process of revising BPD policies; developing and providing training on revised policies; completing studies and plans assessing the City's youth diversion programs and BPD's personnel and technology needs; and conducting reviews of BPD's performance in certain areas.

Policy Revisions

Although its focus for the past six months has turned to training assessment and assistance, the Monitoring Team has continued to spend time assessing BPD's efforts to revise policies and helping BPD with those efforts based on Monitoring Team's members' expertise and knowledge of national best practices. In the first monitoring year, the Monitoring Team assessed and advised BPD on revisions to approximately forty policies covering nearly every area under the Consent Decree. Over the past six months, the Monitoring Team has helped BPD with policy revisions not undertaken during the first year. As explained in more detail in the Findings section below, those policies address:

- Misconduct investigations and discipline
- Disclosure of exculpatory evidence in criminal cases
- Interactions with individuals with behavioral health disabilities and in crisis
- Procurement of law enforcement equipment and technology

Training

In this reporting period, the Monitoring Team has worked extensively with BPD and DOJ to develop e-learning and in-class training curriculum on use of force, fair and impartial policing, and stops/searches/arrests, and e-learning curriculum on sexual assault investigations. The Monitoring Team also actively participated in and critiqued pilot testing of the first tranche of Consent Decree training, which covers use of force and aspects of fair and impartial policing. In recent weeks, as this first tranche of training has gone live in the Training Academy—the first class began June 10—Monitoring Team members have assessed the efficacy of the training by sitting in on and observing numerous classes. Based on their observations, Monitoring Team members and DOJ attorneys have provided extensive feedback to Academy personnel to encourage refinements in training delivery.

Foundational Assessments and Reform Plans

Some of the foundational work required by the Consent Decree entails assessing BPD's present capacity to implement reforms and, where BPD falls short, developing a plan for ensuring that those reforms are achievable. To date, the Monitoring Team has reviewed and worked with BPD and DOJ to develop the following:

- A comprehensive Technology Resource Plan, which builds on the previously completed Technology Study (described in the first semiannual report) to establish a detailed blueprint for fixing BPD's extensive technology shortcomings and making the improvements needed to (1) facilitate more efficient recording, collection and synthesis of data on all facets of police work (e.g., stops, pat-downs, searches, arrests, uses of force, internal investigations and discipline), (2) effectively review officer performance and ensure officers are following the law, (3) in the short term, permit the Monitoring Team and the Court to comprehensively assess BPD's compliance with the Consent Decree; and (4) ensure transparency into and accountability for BPD's performance, which the community expects and the Consent Decree requires. In late March 2019, BPD prepared and provided the Monitoring Team and DOJ with an implementation timeline for the Technology Resource Plan. The timeline, which is contingent on the receipt of funding, provides approximate dates for implementation of a host of IT upgrades between the current fiscal year and fiscal year 2023 (July 2022 – June 2023).
- A comprehensive Staffing Study, which identifies BPD's personnel shortcomings and needs. A Staffing Plan will be prepared during the next reporting period. As noted elsewhere in this Report, BPD has had to delay its publication because of the absence of permanent Department leadership until recently.
- A detailed assessment of City programs dedicated to diverting youth from the criminal justice system, released April 1, 2019.
- Plans for improving the collection of data on use of force incidents and stops, searches and arrests.

Surveys

Over the life of the Consent Decree, the Monitoring Team must conduct three different types of surveys at regular intervals to measure community attitudes about BPD and whether those attitudes change over time. These surveys include a representative survey of community residents, a survey of detained arrestees, and a survey of BPD officers. In this reporting period, the Monitoring Team has done considerable work on developing the first of each type of survey.

- The Monitoring Team is partnering with the Institute for Urban Research at Morgan State University (“IUR”) to devise, conduct, analyze the results of, and prepare a report on the community survey. IUR completed data collection for the community survey at the end of June 2019. The Monitoring Team will publish a report of the results of the survey by the end of August.
- The Monitoring Team is partnering with researchers from the University of Toronto and Rose Street Community Center, a local organization that assists returning citizens, to conduct the custodial arrestee survey. The University of Toronto researchers have extensive experience with arrestee surveys, including, most recently, an arrestee survey they completed last year in connection with the Cleveland Division of Police’s consent decree. The University of Toronto researchers, Rose Street Community Center associates and Monitoring Team members have developed an interview protocol and have finalized logistics for the survey, which will be conducted at Central Booking in Baltimore. The interviews have been delayed because it took the ethics board at the University of Toronto several months to approve the survey instrument. The interviews will be completed by the end of July 2019. A final report detailing the team’s findings will be published by the end of August.
- With assistance from the Crime and Justice Institute, the Monitoring Team conducted a series of eight focus groups of BPD personnel from May 21 – 23, 2019. The eight groups consisted of (1) two patrol officer groups of mixed race and ethnicity, but gender specific—one male, one female—to allow for comparison by gender, (2) three patrol officer groups, separated by race/ethnicity—one African American, one White, one Latinx—in order to make comparisons across race/ethnicity, and (3) detective, sergeant, and lieutenant groups of mixed race/ethnicity and gender. Officers from every shift and every district were represented. In total, a total of 68 sworn personnel—40 patrol officers, nine detectives, ten sergeants, and nine lieutenants—

participated. A final report detailing the Monitoring Team's findings will be published by the end of July.

Diagnostic and Compliance Reviews

In this reporting period, the Monitoring Team conducted its second preliminary diagnostic review of internal investigations files from the Public Integrity Bureau. The Monitoring Team conducted its first such review a year earlier. The purpose of these preliminary reviews has been to get a general sense of whether PIB investigators are correctly classifying complaints, regularly communicating with complainants, thoroughly investigating allegations of misconduct, making appropriate determinations and disciplinary recommendations based on the evidence, and properly documenting all of their work in the files, and then to provide PIB with guidance to shore up deficiencies. The Monitoring Team's assessment from the recent diagnostic review is included in the Findings section below.

The Monitoring Team used the recent diagnostic review to refine the assessment tool it will use for its formal compliance reviews of PIB investigations. The Monitoring Team's first formal compliance review of PIB investigations is presently underway. The results will be reported in the next reporting period.

In addition to its first formal compliance review of PIB investigations, the Monitoring Team will soon begin its first formal compliance review of incidents involving use of force. The Monitoring Team recently finalized its assessment tool. As previously reported, the Monitoring Team also has begun developing assessment instruments for sexual assault investigations, incidents involving First Amendment-protected activities, and stops, searches and arrests.

As explained in more detail in the Findings section below, the Monitoring Team regularly reviews BPD's audits of both transport vehicle equipment and transport events.

As part of the work it must do to assess BPD's compliance, the Monitoring Team also has been conducting diagnostic analyses of BPD's performance in discrete matters. The purpose of these analyses is not to formally gauge BPD's compliance with the Consent Decree, but rather to get a sense of how certain core functions are currently being performed and, if they are not being performed effectively or in compliance with the Consent Decree, to provide BPD guidance on how to improve performance. The ultimate objective is for BPD to meaningfully engage in its own

after-action assessments so that when it finds problems, it will self-correct and take remedial action on its own, without prompting from the Monitoring Team or DOJ.

During the initial reporting period, the Monitoring Team conducted one of these diagnostic analyses by evaluating the propriety of BPD's interactions with civilians in the Harlem Park neighborhood following the shooting death of BPD Detective Sean Suiter. In December 2018, as a result of the Monitoring Team's findings (as well as the findings of an Internal Review Board that conducted a separate assessment of BPD's investigation of Detective Suiter's death), BPD prepared and delivered a full-day training for all command staff on both constitutional requirements for conducting stops, searches and arrests and proper use of an Incident Command System for responding to significant events. In addition, BPD prepared and delivered to all officers a mandatory e-learning training program on BPD policies and constitutional requirements on stops, searches and arrests through its PowerDMS system. The Monitoring Team and DOJ provided input on the lesson plan for the command staff training, attended that training (as did Judge Bedar), and provided BPD with feedback following the training. The Monitoring Team and DOJ also provided input on the e-learning lesson plan for the officer training on stops, searches and arrests.

The Monitoring Team has continued to perform diagnostic analyses of various discrete matters over the past year. As explained in the last report, the Monitoring Team and DOJ evaluated the quality of PIB's internal investigation and findings regarding recent allegations that an officer gave false testimony during a criminal trial. The Monitoring Team and DOJ reviewed the officer's testimony, the PIB file and PIB's findings, and delivered an assessment of what PIB could have done better. The assessment has led to fruitful discussions, and PIB has prepared a training program for PIB investigators that uses the case as a tool for training on proper investigative procedures and case analysis.

The Monitoring Team and DOJ have been actively monitoring approximately twenty other PIB investigations, receiving regular updates from PIB supervisors. Once the investigations are concluded, the Monitoring Team will assess whether they were conducted and resolved properly.

Finally, the Monitoring Team routinely reviews BPD-civilian encounters that draw public scrutiny—though, as noted above, it does not independently investigate such encounters. In the past two months, for instance, the Monitoring Team has examined the following:

- In one encounter in the Southwestern District, which led to the initiation of criminal charges, a sergeant, assisted by a patrol officer, chased down, tackled, and arrested an individual after the individual, while passing by a handcuffed man seated on a curb, questioned why the man had to be placed on the wet ground. Monitoring Team members have carefully reviewed BWC footage and police reports of the encounter, and will closely monitor the State's Attorney's Office's prosecution of the sergeant for second degree assault, false imprisonment, and misconduct in office, as well as PIB's investigation of the incident.
- In an encounter in the Cherry Hill neighborhood, two officers responded to a complaint that one woman had maced another woman (a neighbor) in the face, which is an aggravated assault. After the officers spent approximately 10 minutes gathering information and de-escalating the dispute between the residents of the neighboring homes, the alleged victim confirmed for the officers that she wanted to press charges. In an effort to question the suspect, one officer obtained consent to enter the home where the suspect was located, while the other officer went around to the rear of the building. When the first officer entered the home, the suspect ran out the back door and down the street. The first officer gave chase, followed by the officer who had gone around the rear. The first officer caught up to the suspect and placed his hands on her arm to detain her, at which point she sat down on the ground. The officer began cuffing her but had difficulty doing so because she refused to give up her hands voluntarily. After a short period, during which the suspect's brother tried to physically intervene in the arrest and had to be restrained, a third officer who arrived on the scene used an approved pressure point technique, placing his knuckle or thumb behind the suspect's ear, to gain compliance and get the suspect to place her hands behind her back for cuffing. One portion of the incident, which shows the third officer applying the pressure point technique, was captured on video on a personal cell phone and posted to social media. The Monitoring Team has viewed BWC footage of the incident from beginning to end and will review BPD's incident and use of force reports.
- As with all police-involved shootings, the Monitoring Team showed up to the scene of a police-involved shooting in the Northern District outside a methadone clinic on July 15, assessed the situation, attended BPD briefings, and reviewed BWC footage and police reports.

FINDINGS

BPD and City leadership continue to demonstrate a firm commitment to implementing the reforms required by the Consent Decree. BPD's Consent Decree compliance team and Training Academy staff have worked diligently with the Monitoring Team and DOJ to draft, revise and implement a brand new training program on use of force. That program, and forthcoming programs on stops, searches and arrests and fair and impartial policing, incorporate adult learning principles and replace static, lecture-based instruction with dynamic, scenario-based, learner-involved instruction. BPD also is successfully moving toward completion of the initial round of policy revisions required by the Consent Decree. As previously reported, the new, revised policies are a marked improvement over the old policies. BPD also remains focused on the dramatic structural improvements that genuine reform requires: meeting staffing needs (especially in the Patrol Division, Public Integrity Bureau ("PIB") and Training Academy), overhauling its technology, transforming PIB and fortifying its internal affairs function, and engaging community members.

However, 18 months into the reform process, BPD still has a long way to go. Indeed, compliance efforts in a number of areas have not yet begun, nor under the First- and Second-Year Monitoring Plans are they required to have begun. Certain building blocks—policies, training—are still being put in place, while other essential foundational measures remain purely conceptual. These include advancements in technological capability, improvements in PIB operations, and reinforcements for the Patrol Division through civilianization of certain administrative functions, elimination of certain specialized units, and improved recruitment, hiring and retention.

In the first and second semiannual reports, the Monitoring Team observed that, while BPD and City leadership should be commended for their willingness to reform, there were concerns about BPD's capacity for reform. Eighteen months into the reform process, those concerns linger. To its credit, BPD has risen to several early challenges. But too much remains to be done to be certain about the long-term success of this enterprise. The Monitoring Team is undoubtedly encouraged by the hard work and thoughtfulness BPD has put into improving its policy writing, training, recruitment and hiring functions. It is similarly encouraged by the early actions of Commissioner Harrison, who has prioritized Consent Decree compliance and what he calls "culture change" in both word and deed. But will BPD correct its systemic deficiencies and usher in a new era of constitutional, community-oriented policing? That is, will it successfully address the shortcomings identified in its Staffing Study? Or fix the operational problems that continue to plague the Public Integrity Bureau and internal affairs investigations? Or overhaul its outdated information technology

systems, as the Technology Resource Plan envisions? Or ensure that officers use the new technology, once adopted, to properly record stops, searches, arrests, and uses of force, supervise and evaluate junior officers and intervene when there are policy violations, and analyze aggregated data to assess and improve both individual officer performance and performance across the Department? Furthermore, will its officers routinely de-escalate potentially volatile situations where possible, only use force that is necessary, reasonable and proportional to the threat posed, and consistently perform stops, searches and arrests in compliance with constitutional commands? At this moment, the answers to all of these questions remain unknown. Indeed, although 18 months sounds like ample time for change to firmly take root, and although BPD has accomplished a great deal in that period (especially as compared to certain similarly situated departments operating under consent decrees), it is still too soon to know. Accordingly, in this report, the Monitoring Team continues to focus on BPD's progress toward implementing the foundational reforms the Consent Decree prescribes.

This section sets forth the Monitoring Team's findings regarding BPD's progress to date in a number of areas of the Consent Decree. For each area, the Monitoring Team explains (1) what BPD will be required to do over the long term and what BPD has been required to do under the First- and Second-Year Monitoring Plans, (2) what progress has been made and whether it is reasonable or not, (3) the challenges facing BPD, and (4) immediate next steps. It bears repeating that the Monitoring Team is *not* evaluating BPD's progress toward satisfying each and every paragraph and each and every requirement within each area of the Consent Decree. Again, that kind of report card would not reveal much, if anything, about BPD's performance at this point in the reform process. The Monitoring Team instead assesses BPD's progress on the limited number of Consent Decree requirements that are included in the First- and Second-Year Monitoring Plans in each area, and then describes the road ahead.

For several reasons, this report contains fewer standalone sections than the first two reports. It does not include standalone sections on either use of force or impartial policing, because the section on training covers all of the work done in those two areas over the past six months. This report also does not cover First Amendment-protected activities because, consistent with the First- and Second-Year Monitoring Plans, BPD completed all policy revisions in that area in the first year, will not begin developing training in that area until subsequent reporting periods, and thus did no direct work in that area in this reporting period. In addition, this report does not include a section on community policing. That is because BPD had to postpone

preparation of a community policing plan until the next reporting period in order to give Commissioner Harrison time to incorporate his own vision into the plan.

Nor does this report not include a standalone section on compliance reviews and outcome assessments. While these comprehensive evaluations of BPD's performance will be the focus of the Monitoring Team's work in the coming years, the Monitoring Team, to date, necessarily has prioritized evaluating and providing technical assistance on the foundational work required by the Consent Decree, such as revisions to policies, training, and core operations. In subsequent reporting periods, the Monitoring Team will increasingly prioritize formal evaluations of BPD's performance in a host of areas in order to measure BPD's progress toward constitutional, community-oriented policing over time. The Monitoring Team already has begun its first systemic assessment of the quality of PIB internal affairs investigations. Similar evaluations of uses of force and, if feasible, stops, searches, and arrests are scheduled for the next reporting period. In subsequent reporting periods, the Monitoring Team will commence assessments in additional areas, including responses to calls for service, First Amendment-protected activities, and interactions with individuals in crisis, among others (CD 459). Accordingly, as BPD achieves compliance with and moves past the foundational requirements of the Consent Decree, the Monitoring Team's reports will focus increasingly on such performance assessments.

This section begins in the area that has been at the heart of the reform effort over the past six months: training. It then addresses the areas of the Consent Decree that present among the most pressing threshold challenges facing BPD: misconduct investigations and discipline, technology, and staffing, followed by areas where DOJ found or expressed concerns about a pattern or practice of constitutional violations, including stops, searches and arrests and transportation of persons in custody. This section concludes by assessing BPD's progress in other areas of the Consent Decree.

Training

The Monitoring Team has previously observed that the many new or revised policies required by the Consent Decree will be ineffectual unless BPD officers understand and adhere to them. Therefore, BPD must provide its officers with training that gives clear guidance on policy requirements and meaningful opportunities to apply that guidance to simulated real world scenarios.

The Consent Decree recognizes that “proper, effective, and comprehensive training is a necessary prerequisite to constitutional policing.” (CD 291). It contains a number of specific training requirements on stops, searches, and arrests (CD 67–68); crisis intervention (CD 106–08, 112–113); use of force (CD 166–68); transportation of persons in custody; (CD 238); First Amendment-protected activities (CD 251); sexual assault investigations (CD 259); supervision and management (CD 303, 308–10); and misconduct investigations (CD 409–15). BPD must also enhance its Field Training Officer Program for new Academy graduates. (CD 301–02). In other areas, the Consent Decree does not expressly require training. But training remains imperative because, without it, officers will not understand some of the revised policies that the Consent Decree requires BPD to implement. For instance, the Consent Decree requires BPD to revise its body-worn camera policy (which BPD has done), so even though it does not require training on body-worn cameras, BPD must provide instruction to its officers on the revisions so that officers are fairly held accountable to them.

BPD’s previous approach to training was inadequate. Consequently, the Consent Decree requires BPD to make significant changes. BPD must ensure that its training programs and Training Academy are “reasonably funded,” which includes ensuring sufficient training facilities and “an adequate number of qualified instructors . . . assigned to the training academy.” (CD 292, 293). Instructors will be qualified when they “are proficient in their subject matter,” proficient in adult learning techniques, and have an adequate performance history. (CD 296).

In this reporting period, as the remainder of this section explains, BPD has made encouraging progress in transforming its training function. Indeed, it is hard to overstate the speed and significance of the improvements BPD has made. By rapidly incorporating a wealth of best practices in adult education, BPD has embraced a fresh approach to curriculum development and instructional delivery. Moreover, by having officers attend several shorter training programs during the course of a year, rather than one extended two-week block of training, BPD will

become more nimble. The new schedule is less disruptive to other Department operations and more capable of more rapid implementation of policy revisions.

As of June 10, BPD began Department-wide training on its revised use of force policies and certain fair and impartial policing concepts. This training is the noteworthy culmination of several months of intensive work under BPD's new, multi-stage curriculum design process. Although it is only a first step, and although BPD has a long way to go before it achieves compliance with the Consent Decree's training provisions, BPD's determined effort to draft, refine, pilot-test and implement the new curriculum has established a foundation for successful execution of the ambitious training program that the Consent Decree requires.

Areas of Progress

Changes to Training Model

The Monitoring Team previously reported that, to meet Consent Decree requirements, BPD has switched from providing officers all annual in-service training in a single, long block to offering shorter blocks on different topics throughout the year. This staggered approach allows BPD to complete training for all officers on a particular subject more quickly and, as a result, to effectuate and hold officers accountable to new, Consent Decree-mandated policies on that subject sooner.

It bears emphasizing that this staggered model for annual training does not require more training time than BPD's old model. The same amount of training will be provided each year. It will simply be in one or two day segments, rather than all at once. And importantly, the new model will allow BPD to be more flexible, reducing the operational impact of taking officers away from their assigned duties for training. Officers may be pulled away from their assignments for one or two days at a time but will quickly return. In contrast, under the old model, officers were out for longer blocks of time, which posed a clear impediment to shifting resources when needed to respond to public safety emergencies.

BPD has made other positive changes to its training model. For one, it is adopting a new approach to electronic learning ("e-learning"). For certain subjects, e-learning will be paired with, and serve as a prerequisite for, in-class instruction; for other subjects, e-learning will be the primary method of training delivery. E-learning will focus on the core requirements of revised policies, freeing up in-class instruction for opportunities to apply the policies in practice. The goal is to transform the in-class learning environment from static and lecture-based to dynamic and scenario-based.

In recent months, BPD personnel received guidance from the Los Angeles Police Department and the University of Baltimore on optimal e-learning practices. The early results, seen in a finalized e-learning curriculum on use of force and draft e-learning curricula on search and seizure and sexual assault investigations, show that the Training Academy is thoughtfully crafting e-learning presentations to engage officers with essential content on BPD policy and laying the necessary groundwork for the scenario-based in-class instruction that will follow.

The most significant change in BPD's training model, as the Monitoring Team has explained before, has been the content of in-class instruction. Embracing adult learning principles, BPD will offer in-class training that is far less lecture-based and far more interactive, using videos from real world events, case studies, hypothetical scenarios, role playing, and group discussions that make learning more engaging and more practical.

Increasing Academy Staffing

Changing the training paradigm underscored how inadequately the Training Academy has been staffed. As recently as late 2018, there were only a handful of full-time officers assigned to the Academy. As the Monitoring Team previously observed, departments of 150 or 200 officers typically have more training personnel than BPD—an agency of 2500 officers—had. The Monitoring Team has been encouraged that, over the past six months, BPD has assigned ten additional, full-time personnel to the Academy and has made delivery of in-service training their primary responsibility. This infusion of additional instructors was absolutely essential; BPD's revamped training program would not have been able to move forward without it. The benefits of the expanded complement of instructors are already apparent in the use of force training that is now underway.

Use of Force and Fair and Impartial Policing Training

In late 2018 and early 2019, BPD, DOJ and the Monitoring Team convened on a number of occasions to determine training priorities for 2019 and 2020. The priorities the group established were dictated by the policy revisions that BPD finalized in 2018 and, correspondingly, by the key areas of concern identified in DOJ's investigation: use of force, stops/searches/arrests, and fair, impartial and non-discriminatory policing. Accordingly, BPD plans to provide training on use of force and related fair and impartial policing concepts ("UOF/FIP I") between June and October 2019; training on stops, searches, and arrests and related fair and impartial

policing concepts (“SSA/FIP II”) between November 2019 and March 2020; and a standalone training on additional fair and impartial policing concepts (“FIP III”) between April 2020 and August 2020.

Work began in earnest on the construction of the UOF/FIP I curriculum in January 2019. Throughout a period of robust collaboration among BPD, DOJ and the Monitoring Team, BPD demonstrated a genuine commitment to transforming its approach to training and adopting contemporary adult learning practices. The collaboration period included two opportunities for public comment. BPD considered community and officer feedback and directly incorporated much of it into subsequent revisions of the curriculum.

The UOF/FIP I curriculum consists of two critical, related components. The first component is an electronic learning requirement. Across three modules, the e-learning addresses the substantive requirements of BPD’s newly revised use of force policies. The second component is two full, eight-hour days of in-person instruction at the Training Academy. Officers must successfully complete the e-learning component by scoring a 100% on an evaluation before qualifying to attend the in-class component. The in-class instruction uses adult learning techniques—including role-playing and group discussions prompted by videos of real-world police encounters and by hypothetical cases—to enhance officer understanding of BPD’s use of force policies and, crucially, to allow officers the opportunity to practice applying those policies to real-world situations.

Together, the e-learning and in-class training begin to address many of the requirements of paragraph 166 of the Consent Decree regarding training on use of force. They provide officers with guidance on, among other things, use of force decision-making under a Critical Decision-Making Model; de-escalation techniques; the use of various weapons and techniques; the relationship between subject threat or compliance level and the permissible force (if any) authorized in response; and writing use of force reports. Additional requirements, such as the supervisor-specific requirements of paragraph 166(n) and the foot-pursuit-related requirements of paragraph 166(m), should be addressed in subsequent training.

The in-class training also addresses, in part, certain requirements of paragraph 93 of the Consent Decree regarding training on fair and impartial policing. In particular, it provides officers with guidance on the existence of implicit bias and the importance of police legitimacy. BPD deserves credit for incorporating into the UOF/FIP I curriculum instruction on how the use of force affects police legitimacy and on how BPD’s mission and core values must broadly guide use of force decision-making.

The UOF/FIP I curriculum is the first product of BPD's effort to overhaul its approach to curriculum development. In establishing this curriculum, BPD completed a successful, multi-stage pilot process that allowed Training Academy staff to refine the curriculum following pilot sessions before rolling it out Department-wide. BPD conducted the pilot sessions with Training Academy instructors and officers from across the Department, with the Monitoring Team, DOJ and Training Academy and Consent Decree Implementation Unit personnel observing and providing feedback. Importantly, the pilot process included presenting parts of the training to, and obtaining feedback from, a newly-formed Community Training Review Committee, which consists of one resident from each of the City's nine police districts, plus representatives from various community organizations.

On June 10, BPD began presenting the UOF/FIP I training to officers across the Department. For the first time, all ranks are required to attend the training together, which means that, in a given classroom, one may find patrol officers, detectives, SWAT team members, sergeants, lieutenants, majors, and senior command staff participating together. The Monitoring Team and DOJ will be conducting audits of the training sessions to ensure fidelity to the curriculum and instructional objectives. At the same time, the Monitoring Team and DOJ will continue to provide Academy staff technical assistance, as needed, to refine course content and instructional techniques.

It remains too early to determine whether officers who have completed the training have successfully internalized it and are applying it day-to-day in their work. However, BPD is receiving generally positive feedback from participating officers in post-instruction surveys, which is encouraging.

Work on Additional Training Curricula

In addition to commencing instruction on UOF/FIP I, BPD is making reasonable progress on the development of other curricula, including e-learning for all BPD officers on sexual assault investigations, and e-learning and in-class instruction on stops, searches, and arrests and additional fair and impartial policing concepts. The e-learning curriculum on sexual assault investigations is further along than the curriculum on stops, searches, and arrests, which remains a work in progress.

Long-Term Needs for Enhancing the Training Function

As the Monitoring Team, DOJ and the Court have all repeatedly made clear, the Training Academy's facilities are inadequate. The Academy is located in a run-down school building with substandard amenities. The facilities send precisely the

wrong message to BPD personnel about the professionalism that is expected of them. Police officers are professionals, and the resources utilized to train them must convey to them that they are professionals.

In this reporting period, BPD and the City began exploring options for moving the Academy to newer, more modern facilities at the University of Baltimore. Although BPD and the City have yet to finalize the arrangements, the relocation of the Academy to larger modern space that is more conducive to learning will enhance the training BPD can conduct and, equally important, communicate to officers that the City and BPD are committed to investing in their professional development.

Separately, as noted above, BPD has established a panel of community representatives—the Community Training Review Committee (“CTRC”)—to provide input on training curricula as they are being developed. The Monitoring Team commends BPD for beginning to make good on its commitment to include community members in officer training. The establishment of the CTRC is among the many partnership-building measures BPD needs to implement and sustain in order to improve its relationship with the community.

Finally, BPD is hiring an Academic Director, a professional with PhD qualifications to ensure adherence to best practices in curriculum writing, learning outcome objectives measurements, and instructor development.

Challenges Ahead

Ensuring All Officers Receive Training

In the first few weeks of UOF/FIP I training, the Training Academy is encountering some difficulty filling all of the spaces for scheduled in-class instruction. For BPD’s training plan to work, the Academy must provide the UOF/FIP I training to 144 officers per week, which means 36 officers per course across four courses each week. BPD has struggled to get this number of officers to the training. Additionally, BPD appears to be having some difficulty gaining compliance with the preliminary e-learning requirement. Some officers have not completed the e-learning by set deadlines, and others have had to be turned away from in-class training because they did not successfully complete the e-learning first.

New Training Initiatives

To date, BPD has been able to focus on general systemic enhancements to its training program and on development and implementation of the UOF/FIP I training. In the next reporting period, however, the Consent Decree puts much more on the Training Academy's plate, including construction of several sets of in-class curricula and supportive e-learning material, as well as standalone e-learning programs. Under the Second-Year Monitoring Plan, Training Academy staff will have to try to accomplish these tasks even as they continue to deliver UOF/FIP training four full days a week through the beginning of October. DOJ and the Monitoring Team will continue to provide BPD with intensive technical assistance to ensure fulfillment of the Consent Decree's training requirements. Nevertheless, the Academy's workload will become progressively more intensive in the coming months, which makes it even more imperative for BPD to provide the Academy with the resources it needs to deliver high quality training.

Long-Term Planning and Resources

The assignment of ten additional instructors to the Training Academy for in-service training was a necessary and significant development. However, given how depleted the Training Academy staff had become, BPD will need to determine a realistic, sustainable level of staffing to support the training function over the long-term—not only to satisfy the Consent Decree's training requirements, but to ensure that officers receive ongoing opportunities for meaningful professional development well after BPD achieves full compliance with the Consent Decree and is released from Court oversight.

Further, to establish a first rate training program, BPD must thoughtfully address certain improvements, referenced above, that could require additional financial support: relocating the Academy to more suitable facilities; hiring either full-time specialist personnel or outside consultants to assist with curriculum development; and leveraging community resources not only to provide input on training curricula, but to actually help teach and facilitate certain training modules.

BPD has set an appropriately aggressive training schedule through mid-2020. Nevertheless, as it moves through that schedule, it will have to continue to identify training imperatives and adopt effective ways to realize them. To that end, the Training Academy must establish a system for routinely forecasting the Department's training needs and identifying the resources available to meet them.

The Next Six Months

In the next reporting period, BPD will finalize and begin delivering e-learning training on sexual assault investigations and e-learning and in-class training on stops, searches, and arrests, and additional aspects of fair and impartial policing. BPD also will build training curricula (1) for all officers on its revised body-worn camera policy, (2) for recruits, officers and dispatchers on crisis intervention; (3) for sexual assault investigators on its revised policy on sexual assault investigations, and (4) for PIB investigators on the new PIB investigative manual and other new policies. Additionally, BPD is in the process of replacing its existing fleet of Tasers with newer models that have different functionality. Academy instructors, therefore, will begin training to introduce both the new Tasers and the policy changes that accompany them.

As noted above, BPD also must start to plan a detailed training calendar for 2020, which will be included in the Third-Year Monitoring Plan scheduled to begin in mid-February 2020.

Misconduct Investigations and Discipline

The need for BPD to repair its Public Integrity Bureau (“PIB”)—known until recently as the Office of Professional Responsibility—is at the heart of the Consent Decree reform effort. Conversations the Monitoring Team has had with community members continue to focus on BPD’s ability to effectively police itself, underscoring that a properly functioning PIB is essential to re-establishing the community’s trust.

As the Monitoring Team explained in its previous reports, the Misconduct Investigations and Discipline section of the Consent Decree is the longest and most comprehensive, spanning 87 paragraphs and 38 pages. It covers the location, independence, resources and authority of PIB (CD 330-34); the process for receiving complaints, classifying them, and communicating with complainants about them (CD 335-42); requirements for conducting fair, thorough, reliable misconduct investigations and making misconduct determinations (CD 343-58); requirements for handling and referring allegations of criminal misconduct (CD 359-71); the lodging of disciplinary charges, the administration of disciplinary hearings, and the imposition of discipline (CD 372-88); the process for community-centered mediation as an alternative to investigation for certain minor allegations of officer misconduct affecting civilians (CD 389-91); record-keeping for misconduct investigations (CD 392-95); measures for ensuring transparency, including issuance of quarterly public reports of aggregate data (CD 396-405); a testing program designed to evaluate the efficacy of the civilian complaint intake process (CD 406-08); and training of PIB investigators and supervisors (CD 409-15).

The ultimate goals of the Consent Decree’s provisions implicating PIB are the full, fair, objective, and timely investigation of all potential officer misconduct; the rigorous review of all misconduct investigations; and an impartial, transparent, uniform process for the imposition of discipline and corrective action where appropriate. To ensure that BPD meets these ambitious goals, the Monitoring Team and DOJ continue to meet frequently with BPD and to visit PIB to engage with PIB personnel and observe operations.

BPD is making slow but steady progress toward meeting the foundational policy/procedure revision requirements of the Consent Decree in the area of misconduct investigations and discipline. BPD has not yet begun to satisfy the myriad other requirements in this area.

Areas of Progress

Policies

Over the last six months, BPD successfully finalized complaint intake and classification protocols for PIB and the Civilian Review Board (“CRB”). These protocols identify the responsibilities of both PIB and CRB for intake and classification of complaints of officer misconduct and for exchanging information at the outset of investigations of such complaints. The issuance of the protocols is an important step toward fortifying civilian oversight of BPD. Although PIB and CRB must interact and coordinate with each other to fulfill their respective statutory roles, PIB and CRB have never—until now—developed formal protocols for information-sharing. The new protocols should foster closer coordination and improved cooperation between PIB and CRB, and should help to repair the historically troubled relationship between PIB and CRB. At bottom, as the Monitoring Team explained in its last semiannual report:

Establishing an effective information-sharing system is vital to the work of the CRB. Without ready access to routine police records like incident reports and body-worn camera footage, and without [PIB] casebooks that include additional records like witness interview recordings, CRB cannot fulfill its statutorily-mandated civilian oversight function. Establishing an effective information-sharing system is also important for BPD. Without accepting and facilitating meaningful civilian oversight, BPD will be hard-pressed to achieve the Consent Decree’s goal of rebuilding community trust.

ECF No. 178-1 at 34.

The PIB-CRB intake and classification protocols are the product of intensive, months-long collaboration among BPD, CRB, DOJ and the Monitoring Team, and also reflect input from community stakeholders. In addition to the hard work that development of such extensive operational protocols always requires, development of these protocols required careful consideration of intricate and sometimes difficult-to-navigate provisions of law found in the Maryland Public Information Act, Md. Ann. Code, Gen’l Provisions §§ 4-311, *et seq.*, and case law interpreting the Act; the Law Enforcement Officers’ Bill of Rights, Md. Ann. Code, Public Safety §§ 3-101, *et seq.*; and Public Local Law §§ 16-41, which is the enabling statute for CRB. The Monitoring Team believes that, by working together so closely and so intensely on such a complex project for so many months, BPD/PIB and CRB have begun to bridge the historic gap between them and appear poised to cooperate more fully with each other to advance their shared goal of police accountability in Baltimore.

With substantial input from the Monitoring Team and DOJ, BPD also has produced a solid working draft of a policy governing the disclosure of exculpatory evidence in criminal cases. The public comment period for the draft policy recently concluded. The draft will be finalized in the next reporting period. Issuance of the policy is a noteworthy development because, once the policy is implemented, BPD will be one of the few departments in the country that prescribes specific procedures for ensuring that officers fulfill their solemn constitutional obligation to provide prosecuting authorities with evidence that might disprove the guilt of the accused, show that the accused should receive less severe punishment, or cast doubt on the credibility of a witness for the government.

The Monitoring Team notes that the draft policy tries to resolve a problem identified in the last report: the expungement of disciplinary records in cases that BPD “administratively closed” with no disciplinary action though PIB sustained findings of misconduct. *See* ECF No. 178 at 13, 28-31, 40. These records qualify as potential exculpatory evidence, because if an officer has investigated or will testify as a witness in a criminal case, evidence of that officer’s prior misconduct, especially evidence of prior untruthfulness, could affect the jury’s assessment of that officer’s credibility. The draft policy requires PIB to attempt to locate records of any expunged disciplinary files (including those that were administratively closed after sustained findings of misconduct) within its electronic misconduct investigations database, IAPro, which often archives disciplinary files even after expungement. If such records do not appear in IAPro, the draft policy requires PIB, where practicable, to search its voluminous hardcopy files for them.

In addition to finalizing the PIB/CRB intake and classification protocols and issuing a sound draft of an exculpatory evidence disclosure policy, BPD has worked closely with the Monitoring Team and DOJ to draft an investigative manual for PIB. The manual is intended to guide PIB investigators so that they conduct objective, comprehensive and timely investigations of complaints against BPD personnel. In the fall, BPD will issue a refined draft of the manual for public comment.

Quality of Investigations

The Monitoring Team is presently conducting a methodical, comprehensive review of PIB investigations from 2018 to determine whether PIB investigators are correctly classifying complaints, regularly communicating with complainants, thoroughly investigating allegations of misconduct, making appropriate determinations and disciplinary recommendations based on the evidence, and properly documenting all of their work in the files. Accordingly, the Monitoring Team

is not prepared to say that the quality of PIB investigations is either good or improving. However, in the past reporting period, the Monitoring Team observed faintly encouraging signs.

In the spring of 2018, a group of Monitoring Team members spent a day reviewing a random sample of approximately 60 PIB files from 2017. As previously reported, the Monitoring Team observed that, based on that limited set of files, PIB investigations often were incomplete, the accompanying files were in disarray, the outcomes relied on faulty or insufficiently explained reasoning, and files from different cases were organized in different, non-uniform ways. Several months ago, in March 2019, a group of Monitoring Team members conducted a similar diagnostic, non-rigorous review of a random sample of several dozen PIB files from 2018. That quick overview suggested a number of the same, unacceptable deficiencies: too much time between the date of the complaint and the required communications with the complainant; excessive time to complete civilian-initiated investigations; files that were not uniformly organized and did not contain a task checklist; interviews and attempted interviews of subjects that were often delayed too long; and supervisory review and approval that too often came too late—well beyond the date the investigation was completed and investigative report was finalized. Nonetheless, the Monitoring Team’s overview also hinted at certain improvements. For instance, the Department-initiated complaints that were reviewed (as opposed to civilian-initiated complaints) generally appeared to be resolved in a timely manner; some files were quite well-organized and could serve as a model for other investigations; and with limited exceptions, the cases appeared to be properly classified by the most serious alleged policy violation, and all implicated policy provisions were identified. Moreover, most Department-initiated investigations in the reviewed files appeared to be more uniformly thorough than the investigations reviewed last year—*i.e.*, the correct documents were gathered, the right witnesses were interviewed, the file was properly documented, and justifiable, evidence-based conclusions were reached. It bears repeating, however, that this was a brief, non-rigorous review—a snapshot—conducted for the purpose of honing the Monitoring Team’s tool for conducting more rigorous reviews and for the added purpose of providing PIB technical guidance on how to improve its investigations and record-keeping.

Challenges Ahead

Data and Technology

The past year has highlighted the need for PIB to re-evaluate the way it uses IAPro. It needs to be able to track information more effectively and manage cases

under investigation more dynamically. BPD is presently seeking to discontinue using its existing, essentially unsupported version of IAPro, upgrade its server infrastructure in order to host a more user-friendly version of IAPro, and reassess IAPro's capabilities to better serve PIB's needs.

Staffing and Personnel

The Monitoring Team is encouraged that Commissioner Harrison has streamlined BPD's organizational structure and placed a deputy commissioner—a direct report to the Commissioner—at the head of PIB. Over the last two years, each of the previous three Commissioners had unique views on the structure, staffing and composition of PIB, and all have acted on those views, making it difficult to monitor, provide technical assistance on, and work with BPD to revise PIB policies and practices. It is the Monitoring Team's hope that the new structure implemented by Commissioner Harrison will end the recent, constant turnover in PIB command staff and usher in an era of long-needed stability. But that hope has yet to be realized. PIB remains without a permanent leader. Commissioner Harrison continues to search for the right person, but as of the date of this report, he has not yet found one. The Monitoring Team has emphasized the need to swiftly, but responsibly, find a well-qualified professional to lead PIB. This is a critical position. The deputy commissioner will have to be prepared to immediately address the need for both structural reform of PIB and a change in departmental culture regarding accountability.

Now that BPD is more stable and has clear guidance on agency priorities, it also needs to make tough decisions to address its acute staffing shortages. As noted in prior reports, adding investigators to PIB must be one of the priorities. There remain too few to handle the workload responsibly.

Timeliness of PIB Investigations

PIB investigations are too often left open too long. This has several adverse consequences. For one, officers are not promptly held accountable for misconduct when it occurs, and individuals with bona fide complaints are deprived of swift justice. In fact, in some cases, delay means no accountability at all. Last month, for instance, a Baltimore City Circuit Court judge dismissed a dozen sustained misconduct cases prior to trial board adjudication because BPD failed to obtain the required approvals and finalize charging documents within the one year statute of limitations. That is plainly unacceptable.

There is another problem: officers who are subjects of open complaints, including complaints of minor rule violations, are ineligible for transfer or promotion. This is particularly frustrating for officers who are subjects of minor complaints that could be promptly resolved as unfounded, unsustained, or sustained through negotiated resolution. A constant refrain the Monitoring Team has heard in officer focus groups and from PIB investigators is that the length of the PIB investigative process is among the major contributors to low officer morale.

The principal cause of the problem is that, in recent years, PIB has been understaffed and PIB investigators have been required to investigate every allegation of misconduct, no matter how minor. That includes less serious allegations of rule violations that were once investigated and resolved by commanders in the subject officers' districts or units. The result is that PIB investigators, who should be focused on more substantial complaints, such as those arising from officer-civilian interactions, often spend substantial time and resources on less serious, often Department-initiated complaints that, even if sustained, can be resolved through counseling or reprimand. This reflects what Judge Bedar has called "the filtration problem."

The solution to this problem—in addition providing PIB with more investigators and training those investigators specifically on conducting misconduct investigations—is to have less serious allegations that do not involve police-civilian encounters investigated and resolved at the district or unit level, with the results reported to and approved by, but not independently investigated by, PIB. That would free up PIB investigators to spend their time investigating, and more promptly resolving, more serious allegations, particularly those that, if not properly handled, breed community mistrust (e.g., false arrest, excessive force, harassment, discrimination, overtime theft). At the same time, PIB would have to remain vigilant in ensuring that district commanders do not classify more serious allegations as minor and effectively sweep them under the rug; that all investigations, no matter how minor, are handled properly; that discipline meted out at the district level is consistent, uniform and fair across the department; and that all district commanders are properly trained on classifying and investigating misconduct complaints. That is crucial to the functioning of an effective disciplinary system.

BPD is currently developing policies that would delegate primary responsibility for resolving allegations of minor rule violations to district commanders. Whether BPD and PIB can successfully put those new policies into practice remains to be seen. It will require: (1) district commanders to properly resolve complaints of minor violations, and properly report the results to PIB for

approval and record-keeping; (2) PIB to effectively oversee the investigation and discipline of officers for minor violations at the district level, ensuring that more serious allegations continue to be handled by PIB and not merely as “matters of supervision” at the district level; and (3) PIB to reset expectations for the comprehensive investigation and timely resolution of more serious complaints, including all complaints involving encounters with members of the public, which must remain the responsibility of PIB investigators.

In the next month, BPD will launch a pilot program to test a new policy aimed at efficiently resolving minor rule violations. The pilot will afford officers accused of minor violations the opportunity, at the district level, to enter into prompt negotiated settlements that achieve swift case closure and reduce disciplinary investigation workloads while at the same time imposing appropriate discipline. As the pilot gets underway, BPD will continue to develop a formal policy for negotiated settlements. Once a draft is finalized, it will be issued for public comment, consistent with the procedure for the adoption of other new policies under the Consent Decree.

Fallout from the Gun Trace Task Force Scandal

In the last report, the Monitoring Team emphasized that BPD must continue to deal with the fallout from the convictions of eight officers from its now-disbanded Gun Trace Task Force by (1) conducting thorough internal investigations of other, non-charged officers who were implicated in wrongdoing during the GTTF trial; and (2) conducting a full-blown investigation of the root causes of the scandal using an independent entity, with BPD’s full support and cooperation. *See* ECF No. 178-1 at 38-39.

The Monitoring Team understands that PIB is conducting internal investigations of certain non-charged officers, and the Monitoring Team has kept close watch over those investigations. The cases have been slow to conclude and are not yet completed, but the Monitoring Team understands that they are close to completion. By contrast, the Monitoring Team has not received any information that BPD is moving forward with an outside investigation of the root causes of the scandal. To prevent another scandal similar to GTTF, such an investigation remains imperative.

The Next Six Months

For BPD, the next six months will be consumed by completing the PIB investigations manual and associated policies and training. At the same time, BPD will finalize its new policy for disclosure of exculpatory evidence in criminal cases.

The Monitoring Team will continue to receive and evaluate routine updates regarding a number of ongoing PIB cases, including eight different PIB investigations that spun off from the GTTF trial. In addition, as noted above, the Monitoring Team will continue with its initial, systemic evaluation of PIB cases, which it recently began. The purpose of this evaluation, which is examining a statistically significant sample of 2018 internal investigations, is to determine whether the integrity, quality and timeliness of those investigations and associated disciplinary actions meet the requirements of the Consent Decree. The results of the evaluation will serve as a baseline against which the Monitoring Team will gauge, over time, BPD's progress toward achieving compliance with the Consent Decree in the area of misconduct investigations and discipline. It might also show whether there are systematic problems that continue to impede PIB's effectiveness as BPD's steward of accountability.

Technology

Paragraph 267 of the Consent Decree requires BPD to “provide its officers with the Technology necessary to implement the Material Requirements of this Agreement . . . [including] the data collection and review required by this Agreement . . .” Paragraphs 268-278 then outline the Consent Decree’s technology requirements. BPD and the City previously completed and submitted a Resource Study (CD 268, 270), which identified current BPD systems, described the current state of those systems, and made preliminary recommendations for improvements. Following completion of the Resource Study, BPD and the City produced and submitted a Resource Plan (CD 269-70, 272). The Resource Plan, which must be updated annually (CD 275), addressed how BPD will provide the necessary computer equipment and access required for personnel to discharge their duties, acquire a centralized records management system, and ultimately develop of an Early Intervention System (“EIS”). BPD is required to use its best efforts to implement the Resource Plan (CD 274).

The Technology provisions of the Consent Decree also require BPD to disclose to the public the acquisition of certain new equipment or activity to be used in enforcement activities (CD 278). Further, data collection and data analysis are required in nearly every area of the Consent Decree, not only to enable the Monitoring Team to assess compliance, but to enable BPD leadership to better manage the Department. Without technology improvements, BPD will not be in a position to come into compliance with the Consent Decree. As the Consent Decree states, compliance is truly “dependent upon BPD acquiring or developing the appropriate technology.” (CD 267).

By producing the Resource Study, the Resource Plan, and a timeline for implementing the Resource Plan, BPD has satisfied the threshold requirements of the Consent Decree. Based on the implementation timeline, however, BPD remains at least two years away from completing the reforms necessary to demonstrate substantial progress toward achieving the Consent Decree’s IT objectives.

Areas of Progress

Resource Plan

In the prior reporting period, BPD submitted its Technology Resource Plan, and the Monitoring Team filed its notice of approval on December 1, 2018. *See* ECF No. 164. The Resource Plan identifies specific IT system needs (e.g., Records Management System, staffing systems), and addresses foundational business and

management needs, including the need for proper IT governance, organizational change management, and IT staffing and resources. The Resource Plan also thoroughly addresses data management, governance and integration, which will be critical to Consent Decree compliance.

In this reporting period, BPD successfully identified funding to begin to hire the staff and obtain the resources needed to implement the Resource Plan. BPD also published a nationwide job posting and conducted interviews to fill a long-time vacancy for a Chief Technology Officer (“CTO”) to oversee—and ideally accelerate the pace of—all of BPD’s technology upgrades. BPD expects to identify a CTO in the near future.

In late March 2019, consistent with the Second-Year Monitoring Plan, BPD issued an implementation timeline for the Resource Plan. The timeline provides projected deadlines for every deliverable included in the Resource Plan. Among the timeline’s noteworthy deadlines, BPD is scheduled to implement an upgraded internal affairs records system by early 2020, a fully operational E-tix system by between April and June 2020, a fully upgraded Record Management System (“RMS”) (which is especially important for tracking data on stops, searches and arrests) by the end of 2020, an upgraded use of force records system in 2021, and an Early Intervention System within the first half of 2022.

Early in this reporting period, BPD engaged a consulting team to help begin implementation of a number of the action items in the Resource Plan, including documentation of RMS requirements, validation of staffing system requirements, and establishment of a governance process and IT Task Force. Recently, this effort appears to have stalled. The Monitoring Team is hopeful that the new leadership team under Commissioner Harrison will get these stalled efforts back on track and make progress in the next reporting period.

Public Disclosure of Technology Acquisitions

BPD is required to publicly disclose its acquisition of new law enforcement equipment and technology (CD 278). In furtherance of this requirement, BPD has drafted a policy governing such disclosure. The Monitoring Team and DOJ have had the opportunity to provide feedback on the draft policy, and is satisfied with the most recent draft produced by BPD. The public comment period for that draft recently closed. The policy will be finalized early in the next reporting period.

Upgrading IAPro

IAPro is the system BPD uses to track both use of force incidents and investigations and misconduct investigations and discipline. In this reporting period, BPD's IAPro vendor began to convert BPD's existing, outdated IAPro database from Oracle to Microsoft SQL. Once the database conversion is completed, the IAPro vendor will upgrade IAPro to the most recent non-customized version, which will allow BPD to utilize IAPro's full functionality, including all available reporting capabilities. The Monitoring Team has recommended that BPD document and walk through its user requirements with IAPro instructors so that those instructors can advise BPD about how to utilize IAPro to meet those requirements.

Challenges Ahead

Interviewing for a CTO and identifying funding for resources are important first steps toward implementing the Resource Plan. The City and BPD, however, must actually *begin* implementation, starting with resuscitation of its stalled efforts to document RMS and staffing system requirements and establish proper IT governance.

Further, the Resource Plan identifies inadequate IT staff as a Departmental deficiency, and recommends that BPD and the City create a Consent Decree IT Task Force with a specific organizational structure. Now that the City and BPD have identified funding to obtain the most critical staff and resources for the IT Task Force, they must work quickly to hire staff and acquire resources, while finding the right balance between hiring and contracting with IT professionals and utilizing sworn and civilian operational subject matter experts.

The Next Six Months

The Monitoring Team will closely follow the steps the City and BPD take to acquire the resources needed to establish the Consent Decree IT Task Force and implement the Resource Plan. It will also closely monitor whether the City and BPD stay on track to meet the deadlines in the Resource Plan implementation timeline, starting with documentation of RMS and staffing system requirements and development of the IT governance and organizational change management structures identified in the Resource Plan.

Staffing, Performance Evaluations and Promotions

BPD agreed to complete a comprehensive Staffing Study to determine the appropriate number of sworn and civilian personnel needed to effectively provide police services, enable supervision, and satisfy the requirements of the Consent Decree (CD 428). Based on the Staffing Study, BPD must develop a Staffing Plan that will ensure a sufficient number of deployed personnel to, among other things: implement and sustain effective community and problem-oriented policing; conduct timely misconduct investigations; supply sufficient patrol officers to each District without resorting to drafting (*i.e.*, forced overtime), except in unforeseeable circumstances; promote unity of command when feasible; provide a sufficient number of supervisors; and account for BPD's and the City's existing and projected resources (CD 429). BPD must implement the Staffing Plan, but may do so in a phased manner that reflects the City's and BPD's fiscal resources (CD 430).

As for performance evaluations and promotions, the Consent Decree obligates BPD to have supervisors meet with officers to discuss their annual performance reviews, which must include written discussions of the officers' performance during the rating period, any areas for growth and achievement, and any areas requiring further training and supervision (CD 431). Direct supervisors must use a formalized system to document annual performance evaluations for each officer and quarterly evaluations of probationary employees (CD 432). In addition to these formal evaluations, supervisors must meet with their subordinates on an ongoing basis to discuss performance and must document their communications regarding performance challenges and areas for growth (CD 433). The Consent Decree further requires BPD to conduct performance evaluations of each supervisor (from first line supervisor through commander), which will include assessments of ability and effectiveness in conducting performance reviews, including monitoring, deterring and addressing misconduct by officers they supervise (CD 434). Finally, BPD must ensure its promotional system has clear criteria prioritizing effective, constitutional, and community-oriented policing as factors for promotion (CD 435).

BPD has begun work only on the foundational requirements in the Staffing, Performance Evaluations and Promotions section of the Consent Decree. It has produced a Staffing Study and continues to work on a Staffing Plan, which has been delayed because of the ten-month absence of a permanent commissioner. BPD has not yet commenced efforts to comply with any of the other requirements, and because the foundational requirements must be satisfied first, neither the First- nor Second-Year Monitoring Plan has required BPD to do so.

Staffing Study and Plan

As explained in the last report, BPD met the deadlines for issuing the Staffing Study. On September 11, 2018, the Monitoring filed its notice of approval with the Court. *See* ECF No. 137. In the notice of approval, the Monitoring Team identified several concerns, including making sure that (1) Patrol Division staffing is tailored to BPD's unique needs, including its community policing needs, (2) BPD adequately accounts for the need for more first-line supervisors and unity of command, and (3) BPD adequately accounts for the need for additional personnel in both PIB and the training academy. The Monitoring Team understood then, and understands now, that the Staffing Plan will address these concerns.

BPD has not met prior deadlines for the Staffing Plan. In fact, the deadline for the initial draft has had to be extended twice. The first extension was required because, at the time the first draft was initially due, BPD still lacked a permanent Commissioner. A long-term Staffing Plan cannot be properly developed in the absence of clear direction from permanent leadership. The Court granted the second extension in May 2019 for a related reason: although a permanent Commissioner, Commissioner Harrison, is finally in place, he needs time to understand the Department's personnel needs and develop his own vision for meeting them, and also needs time to work with the consultant BPD hired to assist with the Staffing Plan (Alexander Weiss Consulting). The initial draft of the Staffing Plan—together with the initial draft of the Community Policing Plan, which similarly requires the informed input of the new Commissioner—is now due in October. BPD will continue to work with a third party contractor to develop the plan.

Because increasing the number of sworn personnel, particularly in Patrol, is among BPD's most pressing organizational needs, the delay in the preparation of the Staffing Plan has been frustrating. The delay is understandable—the Staffing Plan requires the input of a permanent leader—but it has been frustrating nonetheless. The Monitoring Team expects the Staffing Plan due in October to comprehensively address BPD's staffing needs, including plugging the gaps the Monitoring Team identified in the Staffing Study.

Challenges Ahead

The last report identified the long-term challenges BPD faces in achieving and sustaining adequate staffing levels. *See* ECF No. 178-1 at 45-46. Those challenges remain the same.

The short-term challenge is to develop a meaningful, realistic Staffing Plan. A successful Plan will be dependent, in part, on the integrity of the data regarding staffing levels and needs. The Monitoring Team identified data shortcomings in the Staffing Study in the last report. It is essential that the Staffing Plan resolve and account for these deficiencies. With valid data in hand, BPD must carefully consider how BPD will satisfy the Staffing Study's recommendations for civilianization of certain functions currently performed by sworn personnel. It must also consider the possibility of eliminating certain specialized units and redeploying their personnel to Patrol, as well as effective recruitment and hiring practices.

The Next Six Months

BPD will submit the draft Staffing Plan to the Monitoring Team and DOJ by October 15, 2019. The Plan will be finalized and submitted to the Court by January 20, 2020. In the interim, community members will have the opportunity to provide input. The Monitoring Team and DOJ will work with BPD to refine and finalize the Plan to ensure that it complies with the requirements of the Consent Decree.

Stops, Searches, Arrests and Voluntary Police-Community Interactions

In recognition of the importance of the Consent Decree’s requirements on stops, searches, arrests and voluntary police-community interactions (“S/S/A”), the Consent Decree’s provisions addressing those interactions are extensive. They compel BPD to revise its policies and training curricula; provide thorough prescriptions for communicating with individuals, performing field interviews, and conducting stops, pat downs, searches and arrests; and establish detailed training, documentation, supervisory, and data collection and review obligations (CD 29-86).

In this reporting period, BPD continued revising certain S/S/A-related policies that have not yet been revised. It also produced its first draft report on investigative stops, and worked on altering its forms for reporting stops, searches and arrests so that they capture presently uncaptured data required by the Consent Decree and simultaneously prepare officers for furnishing the data that, once adopted, electronic forms will require them to furnish. In addition, as explained in the section on training above (and not repeated here), Training Academy staff have spent considerable time preparing e-learning and in-class lesson plans for comprehensive S/S/A training.

With its work on these deliverables, BPD has made reasonable progress toward satisfying certain foundational requirements in the S/S/A section of the Consent Decree. Given that it is still early in the reform process, BPD has not begun to make progress on the bulk of the S/S/A requirements, and the Monitoring Plans have yet not called for BPD to do so.

Challenges Ahead

Finalizing Policy Revisions

In the first monitoring year, BPD successfully completed revisions to two different sets of S/S/A policies. Under the First- and original Second-Year Monitoring Plans, BPD was expected to finalize revisions to a third and final set, which includes Civil and Criminal Citation Procedures (Policy 808), Marijuana—Uniform Civil Citation (Policy 809), Misdemeanor Shoplifting Arrest Procedures (Policy 812), and Quality of Life Offenses—Core Legal Elements (Policy 1018) (collectively “S/S/A Policy Set III”). However, because these policies are closely related to community policing, and because the deadline for the Community Policing Plan was recently extended until mid-October 2019 to give Commissioner Harrison time to imbue the plan with his own vision, the deadline for producing a draft of these policies was also extended to mid-October. As a result, in this reporting period, DOJ and the

Monitoring Team have continued to collaborate with BPD to revise drafts of the policies in S/S/A Policy Set III.

At one point during the reporting period, BPD also produced to the Monitoring Team and DOJ newly revised versions of thirteen previously approved policies addressing S/S/A and impartial policing. BPD suggested that the proposed revisions addressed specific requirements in Maryland state law. But the Monitoring Team and DOJ agreed that the vast majority of the proposed revisions did not appear to be required by Maryland law. Thus, the Monitoring Team and DOJ asked BPD to revisit its suggested edits and remove any that were not specifically dictated by Maryland law. The Monitoring Team and DOJ found the suggestions to be potentially problematic unless Maryland law required them, given that the policies had just undergone a lengthy period of Consent Decree-mandated collaboration and public comment prior to final approval. In response, BPD produced a pared-down version of the proposed revisions. But the Monitoring Team and DOJ again concluded that the suggestions did not appear to be required by Maryland law. So the Monitoring Team and DOJ again asked BPD to include only changes necessitated by Maryland law, to explain why Maryland law compelled them, and to justify why the changes could not simply be made when, as the Consent Decree requires (CD 287), BPD performs its annual review of all revised policies. The Monitoring Team and DOJ have not heard back from BPD for several months, and presumes BPD has concluded that the changes are not in fact required by Maryland law, but that if they are nonetheless advisable for ensuring clarity, they can be made when BPD conducts its annual policy review under paragraph 287 of the Consent Decree.

Data Collection

In its previous reports, the Monitoring Team explained the myriad problems that afflict the reporting, collection and maintenance of BPD data on investigative stops. *See, e.g.* ECF No. 178-1 at 55-58. In short, stops are dramatically underreported and, even when reported, recorded in BPD's Record Management System either extremely late or not at all. Yet the Consent Decree obligates BPD to accurately record and maintain data on stops, and requires both the Monitoring Team and BPD to evaluate that data on a regular basis. In fact, accurate data on stops is arguably among the most important data for BPD to maintain under the Consent Decree. That is because DOJ's findings emphasized that BPD was engaged in a pattern or practice of unconstitutional stops, and that alleged pattern or practice is one of the primary causes of community mistrust.

BPD's stops documentation deficiencies should be resolved once BPD implements an upgraded, modern Record Management System. But full implementation of a new RMS is at least 18 months away. Thus, BPD has been exploring the feasibility of revising, and possibly consolidating, its paper report forms to facilitate accurate reporting of stops in the short-term. In this reporting period, the Monitoring Team and DOJ worked with BPD to devise a comprehensive, yet easy-to-use method for recording stops, as well as all other S/S/A actions that must be evaluated under the Consent Decree. The Monitoring Team provided BPD with sample paper forms from other departments and offered edits to a revised form that BPD prepared.

A threshold question is whether BPD should utilize a single form to capture all civilian encounters, or two forms. BPD currently uses two forms—a “stop ticket” for field interviews, traffic stops and citations, and civil citations (but *not* for investigative pedestrian stops), and an “incident report form” for everything else, including investigative stops, weapons-pat downs, searches, property seizures, and arrests. The purported benefits of using one comprehensive form are that it is less cumbersome and will lead to less under-reporting. The counterargument is that it requires recording too much data and will thus lead to even more under-reporting. BPD, the Monitoring Team and DOJ have extensively discussed the advantages and disadvantages of each approach. In the end, the Monitoring Team indicated it would defer to BPD's view about the best way to get officers to accurately and consistently report their civilian encounters, investigative stops in particular.

Despite these active discussions in the early spring, the effort to revise BPD's report forms has stalled. There appears to be a concern that adopting new forms when BPD will be implementing a comprehensive electronic field-based reporting mechanism and an upgraded RMS in roughly 18 months (and a fully operational E-tix system even sooner) would not be worth the effort and could meet with resistance from officers, which would defeat the purpose. One counterargument is that, because new forms will include data fields that officers will be required to complete when electronic field-based reporting is implemented, new forms will prepare and pave the way for officers to adapt to electronic field-based reporting. The other counterargument—an important one—is that, until BPD adopts a form that effectively captures all of the S/S/A data that the Consent Decree requires BPD to maintain, it will be extremely difficult, if not impossible, for the Monitoring Team to begin performing empirically valid assessments of BPD's S/S/A performance. And that could mean BPD will remain subject to the Consent Decree and court oversight longer than it otherwise might.

Ultimately, because BPD is now in the process of devising new S/S/A training, BPD will have to decide promptly whether to implement new forms for reporting investigative stops. If it chooses to adopt new forms, the S/S/A training will have to include instruction on how to complete them.

Whichever course of action BPD chooses prior to the implementation of electronic field-based reporting 18 months to two years from now, BPD must do the following:

- Implement an effective system to hold supervisors accountable for ensuring that officers report all encounters, including investigative stops
- Improve its system for collecting reports and transmitting them promptly to Central Records for timely input into the existing RMS; as the Monitoring Team has observed, the current system is cumbersome, prone to error and extraordinary delay, and rife with incomplete data
- Develop an effective message regarding any new reporting mechanism, *e.g.*, make sure officers understand it is intended to make reporting less cumbersome and less confusing, to effectively capture all the data BPD needs to assess Departmental trends and performance, and, critically, to ease the transition to field-based reporting

BPD's S/S/A Data Reports

In this reporting period, consistent with the Second-Year Monitoring Plan, BPD drafted its inaugural Quarterly S/S/A Data Collection and Analysis Report. As BPD itself recognized, the manifest deficiencies in its system for recording and maintaining data on investigative stops, as well as other civilian encounters, severely limits—and likely obviates altogether—the utility of any such report. BPD timely produced a draft of the report to the Monitoring Team and DOJ, but after conferring with both of them, elected not to file it. Instead, BPD met with the Monitoring Team and DOJ to revise the draft so that its contents are more meaningful. Rather than containing “findings” or “conclusions” supported by admittedly incomplete and unreliable data, the report, delivered in June, explains BPD’s progress in setting up a bona fide system for recording and maintaining S/S/A data, and establishes a structure for the S/S/A data reports BPD will generate once it resolves its data collection deficiencies. Until those deficiencies are fully resolved, the S/S/A data reports will similarly describe BPD’s progress toward resolving them.

The Next Six Months

In the next reporting period, as explained in the Training section above, BPD will focus on developing and delivering both e-learning and in-class instruction on S/S/A policies. In addition, BPD will finalize S/S/A Policy Set III covering stops, searches and arrests for quality of life/misdemeanor offenses.

BPD also will continue working to improve its methods for recording and collecting S/S/A data so that both the Monitoring Team and BPD command staff are able to begin meaningfully evaluating BPD's S/S/A performance. Correspondingly, the Monitoring Team will attempt to develop a mechanism for such evaluations based on the current (deficient) state of BPD's S/S/A data.

Transportation of Persons in Custody

Ensuring the safety of individuals in police custody is among the most important obligations of any law enforcement agency. It was the death of Freddie Gray following transport in a BPD van that triggered unrest and demonstrated the deep divide between BPD and parts of the Baltimore community. For that reason, early compliance efforts focused quickly on the Consent Decree's transportation of persons in custody provisions.

The Consent Decree requires BPD to: (1) equip all transport vans with seatbelts, holding straps located along the rear area of each seat that individuals being transported may grip for security during transport, and transport vehicle cameras (TVCs), and also equip all transport cruisers with seatbelts (CD 223-24); (2) inspect transport vehicles monthly and create logs to memorialize the inspections (CD 225); (3) establish and adhere to appropriate procedures for transporting prisoners (including using seatbelts, straps, and TVCs) (CD 226-33), (4) establish and adhere to protocols for documenting and comprehensively auditing prisoner transport events (CD 234-37), and (5) revise policies and training curricula to ensure safe, effective prisoner transport (CD 238).

Thus far, BPD has made substantial progress toward satisfying the equipment requirements in Paragraphs 223-225 and the policy revision requirements in Paragraph 238. During the first reporting period, BPD outfitted all transport vehicles with the proper equipment and began routinely conducting monthly inspections to ensure the equipment is functional. In the last reporting period, BPD completed the required initial revisions to its transport policies.

In this reporting period, BPD has begun making progress toward satisfying the transport procedures requirements in Paragraphs 226-233. It still has a long way to go before it demonstrates substantial progress toward meeting these requirements.

Audits of Transport Vehicle Equipment and Transport Events

To gauge compliance with Consent Decree requirements, the Monitoring Team conducts two types of assessments of BPD's transport practices. First, the Monitoring Team evaluates whether BPD has installed and continues to maintain the proper equipment in its transport vehicles. Second, the Monitoring Team evaluates whether BPD has implemented the transport policies required by the Consent Decree and whether officers are adhering to those policies and using the transport equipment correctly and consistently.

As previously reported, BPD has installed all required equipment in its transport vehicles. All transport vans have been equipped with seatbelts for each

seat, holding straps that prisoners can grip for stability during transport, and transport vehicle cameras (TVCs) that allow live monitoring of every occupant. All transport cruisers have been equipped with seatbelts.

The Monitoring Team confirms that BPD is also routinely performing monthly inspections of all transport vehicles and, as the Consent Decree commands, creating logs to memorialize the inspections. These logs, which are used to verify the continued presence and functionality of all required equipment, are readily available for inspection by both the Monitoring Team and DOJ. The Monitoring Team has routinely reviewed the logs prepared during the reporting period, and reports that they appear complete and show that BPD is working hard to ensure that its transport vehicles remain properly equipped.

The Monitoring Team has devoted most of its effort in this reporting period to auditing transport events. Last year, BPD developed an audit matrix tool to help guide its audits. BPD used this guide in its first attempt at a quarterly audit in October 2018. Because of technological problems that impeded the collection of all necessary data, that initial audit did not address every transport requirement of the Consent Decree. *See* ECF No. 178-1 at 68-69. In the past six months, BPD has continued to examine those problems. It has become clear, however, that final resolution of at least some of them may have to await implementation of BPD's Technology Plan.

As explained in the last report, BPD already captures most of the required data effectively (*e.g.*, the location the subject is picked up, the time the transport vehicle leaves that location, the number of persons transported, the destination, the starting and ending mileage of the vehicle, the time of arrival at the destination). But the technological shortcomings in BPD's storage of video and audio recordings of transport events makes certain key data points extraordinarily difficult to retrieve and time-consuming to audit. For instance, to determine whether transport officers are routinely checking on the welfare of prisoners during transport, auditors must review TVC recordings, but there is no quick or easy way to obtain the videos from the TVC system since it was never designed for these types of audits. As BPD has explained in an internal memo:

BPD purchased the current VMS in 2015. The system is best suited for archiving and retrieving video upon a request for a specific video. Archiving a video is a multi-step process that involves removing the hard drive from the vehicle, replacing the hard drive with an unused one, and then uploading (copying) the video files to storage for later retrieval. Copying video files from the hard drive to storage is straight forward; however, the copy time frequently mirrors the real-time

recording time. Thus, a video that is 30 minutes in length typically takes approximately 30 minutes to copy on this system.

The VMS is located on a server at TierPoint, a remote location outside of the agency. The VMS server is a virtual machine that shares space with other applications. The potential for latency (delay in networking) is high, creating issues with directly accessing the data. Given the size and quantity of video data files to be audited, the best course of action at this time is to make local copies. Local copying involves copying files from TierPoint to the local user's machine. Again, the length of time required to copy is dependent on the length of time of each recorded video.”

To overcome the latency problem, it will be necessary to migrate the VMS to a server located within BPD headquarters. But that still will not provide a complete fix. It will provide a more reliable storage and retrieval system, but the time required to download videos for review will not be reduced. To facilitate the full transport event audits required by the Consent Decree, BPD will have to implement technology upgrades that make it easier to upload and review TVC recordings (as well as audio recordings of calls with dispatch).

Despite its challenges completing all aspects of the transport event audits required by paragraph 236 of the Consent Decree, BPD has begun performing equipment audits of at least three randomly chosen transport vehicles from each district every three months, as required by paragraph 236(d). In addition, although BPD has not yet been able to conduct comprehensive audits that satisfy every requirement of paragraph 236, it has begun conducting random spot checks of transport events with the resources that are available, including body worn camera footage.

BPD's Audits and Inspections Unit conducted the first round of these random quarterly inspections in January and February, and completed and distributed its draft report up the chain of command at the end of April. The ransomware attack on the City's email system delayed final distribution of the report. However, based on the Monitoring Team's review of the draft, it appears the Audits and Inspections Unit found adherence to the transport equipment requirements of the Consent Decree. And although the Audits and Inspections Unit only spot-checked a total of 14 transport events using available resources, and could not perform all of the assessments required by the Consent Decree, it also appeared to find adherence to the requirements it reviewed. In particular, the Audits and Inspections Unit found:

- 100% of inspected vans and cruisers had operational seatbelts
- 100% of inspected vans had operational holding straps

- 100% of inspected vans had operational TVCs
- In 100% of all audited events, a transport vehicle with safety barriers was used
- In 100% of all reviewed transport events, male and female prisoners were transported separately
- In 100% of all reviewed transport events, youth and adult prisoners were transported separately
- In 100% of all reviewed transport events, any prisoner who complained or displayed obvious signs of injury was provided medical attention
- In all but one reviewed transport event (or 92.9%), the transporting officer's BWC was activated during transport, and corrective action was taken with the non-compliant officer

Note that the Audits and Inspections Unit reviewed only 14 transport events, rather than the 45 required by paragraph 236a of the Consent Decree. That is because of the above-described technological problems with video access.

In short, BPD's system for storing video and audio recordings of transport events does not readily facilitate the transport event audits required by the Consent Decree. To demonstrate compliance with Consent Decree requirements, BPD will have to find a solution.

The Next Six Months

In the next reporting period, BPD will continue conducting its monthly equipment inspections of transport vehicles, and will begin to complete full audits of transport events—not just spot-checks—from every district. Because BPD's technological shortcomings make completing full audit so time-consuming, the Monitoring Team and DOJ have agreed, as an interim step only, to allow BPD to begin the full audit process by auditing only two events from each district every quarter, for a total of 18 full audits per quarter (two per district), as opposed to the 45 events (five per district) required by paragraph 236a of the Consent Decree. As BPD becomes more experienced in the audit process, as it improves that process with the assistance of the Monitoring Team and DOJ, and as it upgrades its technology, it will increase that number and work toward completing 45 audits every quarter, as the Consent Decree requires.

Interactions with Individuals with Behavioral Health Disabilities and in Crisis

The Consent Decree reinforces BPD’s “commit[ment] to responding to individuals with behavioral health disabilities or in crisis in a manner that respects individuals’ civil rights and contributes to their overall health and welfare.” Paragraph 96 envisions that BPD will accomplish this goal by using appropriate crisis response techniques. Such techniques will help prevent situations that could lead to the unreasonable use of force, promote connection of people with behavioral health disabilities or in crisis to the behavioral health system, and decrease the inappropriate involvement of people with behavioral health disabilities in the criminal justice system. Paragraph 96 thus challenges BPD and the City not only to provide effective law enforcement responses to events involving individuals with behavioral health disabilities and in crisis, but to participate in the development of an effective community strategy for improving the City’s support system for such individuals.

In this area, the Consent Decree identifies a series of objectives that were addressed in the First-Year Monitoring Plan. These objectives include the expansion of the Collaborative Planning and Implementation Committee (“CPIC”), which advises BPD on crisis intervention policies (CD 104-05); a work plan to accomplish the requirements of the Consent Decree (CD 96,105); an assessment by CPIC of the gaps in the City’s behavioral health system coupled with recommendations for solutions (“Gap Analysis”) (CD 97); maintenance of a Crisis Intervention Team (“CIT”) whose officers have primary responsibility for responding to incidents involving individuals in crisis (CD 101-03, 110, 119); development of a Crisis Intervention Plan and CIT Officer Selection Process to ensure the efficacy of the CIT (CD 120); appointment and training of a Crisis Intervention Team leader (CD 115-18); training for all officers on responding to individuals with behavioral health disabilities and in crisis, and specialized training for CIT officers and dispatch personnel (CD 106-13); revision of policies, including dispatch policies for responding to incidents involving individuals in crisis (CD 98, 114); and identification of quantitative and qualitative performance measures for the CIT program and collection of data needed to make those assessments (CD 121-22). Over the long-term, BPD will analyze the data and will issue quarterly public reports gauging its performance in responding to individuals in crisis.

As previously reported, BPD and the City have satisfied a number of the Consent Decree’s preliminary requirements. BPD and the City expanded CPIC membership; BPD appointed a CIT Coordinator; and together with CPIC, BPD and

the City completed a crisis intervention plan and a plan for selecting CIT officers, and created a form to track data on responses to individuals in crisis.

In this reporting period, together with CPIC, BPD and the City have made reasonable progress toward satisfying additional preliminary requirements, including developing revised crisis intervention policies for patrol officers and dispatchers and working toward completion of the Gap Analysis (CD 97).

Areas of Progress

BPD and the City are in a challenging and intense phase of their work on strengthening behavioral health initiatives. The Consent Decree initially required them to demonstrate a firm commitment to change, which included forming partnerships with diverse stakeholders to examine existing BPD and City programs that affect individuals with behavioral health disabilities and in crisis. The purpose of these initial requirements was to establish a structure in which community members could join with BPD and City officials to improve how BPD members address situations involving individuals in crisis. That structure includes an expanded and fortified CPIC.

In this reporting period, CPIC, BPD and the City have made progress in their joint foundational work toward reform. They are formally assessing the community's capacity to respond to the needs of individuals with a wide range of behavioral health disabilities, writing new policies to assist BPD officers in responding to those in crisis, developing training curriculum for improving the crisis intervention skills of officers and dispatchers, and enhancing the technological capacity of BPD to collect and analyze data regarding BPD officer interactions with individuals in crisis so that BPD can determine if reforms are having the intended salutary effect. In pursuit of these objectives, CPIC continues to meet each month, and its subcommittees often meet every two weeks.

Under the Second-Year Monitoring Plan, CPIC, BPD and the City thus far have accomplished the following:

- *Completion of CPIC's Second-Year Workplan.* The eight-page document, which the Monitoring Team approved in April, identifies a number of CPIC deliverables under the Second-Year Monitoring Plan, as well as associated deadlines. The workplan establishes timelines for completion of (1) crisis intervention policies, (2) curricula for crisis intervention training for recruits, officers, dispatchers, and CIT officers, (3) the Gap

analysis, and (4) recommendations for amending other policies (*i.e.*, use of force, de-escalation, and fair and impartial policing, Homeless Outreach Team, and Law Enforcement Assisted Diversion) to account for interactions with individuals in crisis.

- *Continued expansion of CPIC membership.* In expanding its membership in recent months, CPIC has paid special attention to recruiting and including members with lived experiences with behavioral health disabilities. There are ongoing efforts to include representation from local hospitals, members of the judiciary, and other participants in the criminal justice system.
- *Revisions to BPD policies addressing interactions with individuals with behavioral health disabilities and in crisis.* CPIC and BPD achieved an important landmark with publication of draft revisions to three policies addressing crisis intervention for both officers and dispatchers: Policy 712 (Crisis Intervention Program), Policy 713 (Petitions for Emergency Evaluation and Voluntary Admission), and Policy 715 (Behavioral Health Crisis Dispatch). After intensive collaboration with the Monitoring Team and DOJ, CPIC and BPD issued a first draft of the policies for public comment at the beginning of May. CPIC and BPD received community feedback through the first week in June, made revisions based on that feedback (despite challenges presented by the ransomware attack on the City's IT systems), and prepared final drafts for approval by late June. On July 15, the Monitoring Team filed a notice of approval with the Court.

CPIC deserves substantial credit for the revised policies. Its subcommittee on policy, which was tasked with drafting the revisions, is chaired by a community member and a police officer, and includes as members individuals with lived experience, BPD officers, City officials, advocates, healthcare and education professionals, and representatives of Behavioral Health System of Baltimore. Drafting the revised policies required significant inter-agency coordination. For instance, the policy governing dispatchers required cooperation with the Baltimore Fire Department, which has responsibility for 911 dispatchers. Police and fire-related 911 procedures are quite different, so CPIC, BPD and BFD had to parse the policy revisions carefully to ensure that BPD and BFD would each be able to meet their obligations.

- *Revisions to BPD's training curriculum regarding interactions with individuals with behavioral health disabilities and in crisis.* In the next reporting period, CPIC and BPD will produce draft training curricula regarding interactions with individuals in crisis for recruits, officers, and dispatchers, and specialized training for CIT officers. CPIC has a training subcommittee devoted to helping BPD's Training Academy and CIT Training Committee prepare this curricula. Work on the curricula for recruits is well underway, as is conceptual work for the other curricula. Drafting the curricula requires substantial time and effort. Helpfully, many of the same individuals who worked on the revisions to the crisis intervention policies are also working on training curricula preparation. These CPIC members and BPD officers are diligently tackling the work and are on track to meet the timelines established in the Second-Year Monitoring Plan.
- *Data collection to examine gaps in the City's behavioral health system.* The Gap Analysis is critical to the success of much of the work the Consent Decree requires to improve BPD interactions with individuals in crisis. The analysis should help inform how the City can reduce reliance on law enforcement to address behavioral health crises.

The deadline for submission of a draft of the Gap Analysis had to be extended until October to allow for comprehensive data collection. Active data collection has been underway for several months. Health Services Research Institute ("HSRI"), the researcher CPIC chose to conduct the analysis, has contacted and obtained feedback from a wide range of community stakeholders.

In addition to these accomplishments, CPIC's data subcommittee has begun examining strategies for using available data on BPD interactions with individuals in crisis in order to evaluate outcomes. The subcommittee is conducting a systematic review of available reports and studies regarding BPD's behavioral health intervention programs, including BPD's Crisis Response Team, Law Enforcement Assisted Diversion program, and Homeless Outreach Team. Among the data it is seeking to mine are data from the revised BPD Data Collection Form for crisis events, which was approved last year. *See* ECF No. 170.

Challenges Ahead

The most immediate challenge in this area will be to complete a comprehensive Gap Analysis on time. The deficiencies in BPD's IT systems, and the resulting inadequacies of BPD's data on crisis events, are making it difficult for HSRI to complete its work, and already have resulted in an extension of the deadline for an initial draft of the Gap Analysis. HSRI has made good progress in its research, and reports having obtained excellent cooperation from BPD, the City and the State of Maryland, but obtaining the data it needs to produce a useful report has proven difficult.

Other challenges include: developing high-quality training curricula addressing behavioral health crises when, as explained above, the Training Academy's resources are already heavily taxed with the development and delivery of other curricula; selecting a sufficient number of qualified CIT officers to meet Departmental needs, particularly when BPD is facing personnel shortages; ensuring that BPD officers properly complete the Crisis Data Form approved last year so that the Monitoring Team and BPD itself can assess whether BPD's response to crises comply with the Consent Decree; and over the long-term, ensuring that BPD officers consistently comply with the Consent Decree's specific requirements for handling crisis events in the field, includes ensuring compliance with requirements regarding on-scene supervision.

The greatest challenge facing BPD and the City remains addressing and ultimately fixing the shortcomings in the City's behavioral health support systems. Diverting individuals in crisis from the criminal justice system into a system of community-wide support is a primary Consent Decree objective. BPD and the City will not be able to achieve that objective without a system of community-wide support that is capable of providing diverted individuals the services they need.

The Next Six Months

In the next reporting period, the primary task for CPIC and BPD will be to incorporate the recently revised crisis intervention policies into training curricula for recruits, officers, dispatchers and CIT officers, and to commence training on crisis intervention for recruits, officers and dispatchers. Recruit training curricula will be finalized in October, officer training curricula will be finalized in late November, dispatcher training curricula will be finalized in January 2020, and CIT officer training will be finalized in March 2020. Training for recruits, officers and dispatchers will begin in early 2020.

By the middle of October, CPIC and BPD will publish for public feedback a draft of the Gap Analysis identifying barriers to BPD's diversion objectives. The final report will be filed with the Court at the end of December.

CPIC, BPD and the City have had a lot to do thus far, and have worked at an impressive pace. All—and especially the CPIC members who participate as volunteers—deserve recognition for developing a solid foundation for the work ahead. That work will be even more substantial, and require even more effort, than the work done to date.

Interactions with Youth and Coordination with Baltimore School Police

The Consent Decree requires BPD to alter its approach to how it interacts with youth. The Consent Decree obligates BPD officers to account for the personal characteristics (age, size developmental/mental status, disability status and maturity) of the youth they encounter and, where practical, use alternatives to arrest (e.g. warn and release, counseling, referral to community services and resources; warnings, civil citations) in order to divert youth from criminal justice system (CD 218). As a first step, the Consent Decree requires the City to conduct a comprehensive assessment of its effort to reduce youth involvement in the juvenile and criminal justice systems (“Youth Diversion Assessment”) (CD219). It further requires BPD to revise its policies and training as needed, and conduct training in order to properly guide officers in their interactions with youth (CD220-21).

The Consent Decree also contains several provisions addressing BPD’s relationship with the Baltimore School Police (“BSP”). In particular, Paragraph 417 of the Consent Decree requires BPD to conduct an initial assessment of its memorandum of understanding (“MOU”) with BSP and evaluate how BSP has used BPD’s authorization to exercise law enforcement powers throughout the City. The assessment should include an analysis of data reflecting the frequency with which BSP officers respond to calls, make stops, searches, and arrests, and use force under the MOU. BPD will use the assessment to identify deficiencies and opportunities for improvement, amend the MOU as needed, implement other appropriate corrective action, and document the changes it makes. Following the initial assessment and amendment of the MOU, BPD will conduct a biennial evaluation of its coordination with BSP, and make any modification needed to ensure effective coordination with BSP.

Thus far, BPD has made reasonable progress toward satisfying the early-stage requirements of the Youth and BSP sections of the Consent Decree. It has successfully completed the Youth Diversion Assessment, begun evaluating policies implicating youth interactions, and developed a methodology for performing the BPD-BSP MOU Assessment.

Areas of Progress

Youth Diversion Assessment

Consistent with the Second-Year Monitoring Plan, the City finalized and published the Youth Diversion Assessment on April 1, 2019. The assessment, prepared by the Center for Children’s Law and Policy, presents a comprehensive evaluation of diversion opportunities for Baltimore youth. Relying on meticulous data analysis and interviews with law enforcement personnel, community advocates, and a number of youth, the Assessment included data on arrests and juvenile court processing of youth, barriers to diversion at different stages in the juvenile justice process, and thoughtful, achievable recommendations for reducing the number of youth entering each stage of the juvenile justice system while at the same time preserving public safety.

Youth Policies

In this reporting period, BPD identified several policies that implicate interactions with youth and require revisions to ensure that officers in those interactions account for age, size, developmental status, and maturity. BPD, the Monitoring Team and DOJ then agreed that BPD should not only make revisions to existing policies addressing youth interactions, but develop new youth-specific policies (e.g., youth interrogations) and add youth-specific provisions to other existing policies (e.g., use of force). BPD provided the Monitoring Team and DOJ with an initial set of draft policies in April, and is now collaborating with the Monitoring Team and DOJ to make refinements. It will be important for the revisions and new policies not only to satisfy the technical requirements of paragraph 220 of the Consent Decree, but to account for the empirical realities of adolescent development and the diversion recommendations included in the Youth Diversion Assessment.

Challenges Ahead

Building on the Youth Diversion Assessment

The Youth Diversion Assessment made a number of trenchant recommendations for change. The challenge will be to ensure that all community members with a vested interest in youth diversion work collectively to explore the recommendations and implement those that are practicable. It is noteworthy that the Mayor, and specifically the Mayor’s Office of Criminal Justice, is now tasked with considering the recommendations. As a result, the City is well-positioned to lead the

implementation process by bringing all stakeholders together. The Monitoring Team urges BPD and the City to move forward expeditiously. The momentum built by both the stakeholder collaboration that informed the Youth Diversion Assessment and the recommendations that it contains must not be lost.

To that end, while some of the Assessment's recommendations depend on broader community partnerships, BPD can implement certain recommendations independently. For example, the Assessment recommended that BPD revise its policies to outline clearly the options to divert youth from arrest, develop criteria for mandatory or presumptive diversion for certain offenses, and restrict the criteria for transport to the Baltimore City Juvenile Justice Center to youth who are eligible for detention. As BPD revises its youth policies, it must keep these recommendations in mind.

Evaluating and Revising BPD's MOU with Baltimore School Police

The Second-Year Monitoring Plan required BPD to provide the Monitoring Team and DOJ with its methodology for conducting the MOU assessment in early May. BPD found that retrieving the data necessary to conduct a thorough assessment will present challenges. Currently, BSP officers report all incident data the same way, regardless whether they are acting solely in their capacity as BSP officer or are instead acting with official police powers under the MOU. Accordingly, to facilitate the assessment, BPD, the Monitoring Team and DOJ agreed on a methodology in which BPD will review approximately 1,300 incident reports and determine whether, for each incident, the BSP officer was acting under the jurisdiction of BPD. If BPD determines that an incident did not occur on school grounds, BPD will qualitatively examine the incident file to see if the actions taken by BSP officers were in accordance with the MOU and BPD policies.

Because BSP's current data collection practices make proper analysis of BSP's actions under the MOU extremely cumbersome, BPD has determined that those practices must be refined. BPD, the Monitoring Team, and DOJ thus agreed that the MOU assessment will not only analyze a sampling of the data that is currently available, but also will identify the gaps within BSP's current reporting of data to BPD, flag any other operational deficiencies that a new MOU should address, and make recommendations for correcting such deficiencies.

The Next Six Months

In the next reporting period, BPD will publish the youth-related policies for public comment and then, by January 2020, finalize them. BPD will also conduct the BSP MOU assessment this summer, submit a draft of the assessment to the Monitoring Team and DOJ in September, solicit public comments, publish a final report containing the assessment in January 2020, and complete any revisions to the MOU necessitated by assessment by the end of February 2020.

Sexual Assault Investigations

The Consent Decree requires BPD to enhance the trust of victims of sexual assault, to strengthen its response to and investigations of reports of sexual assault, and to combat gender bias (CD 257). To achieve these goals, the Consent Decree requires BPD to: revise the policies and procedures for responding to and investigating reports of sexual assault (CD 258); provide initial and on-going annual training to support the revised policies and procedures (CD 259); ensure through proper supervision and internal oversight that reports of sexual assaults are thoroughly investigated (CD 260, 262, 263); ensure that officers transport victims to a medical facility for a forensic exam in all instances in which a forensic exam is warranted and the victim consents (CD 261); enhance its collection, analysis and reporting of data regarding the nature and extent of sexual assault crimes (CD 264); and share information about its sexual assault investigations with other law enforcement agencies, the public, and the Sexual Assault Response Team (“SART”) (CD 265). The City and BPD will ensure that their policies and protocols with the SART enable them to engage in periodic reviews of services provided by BPD and to review samples of open cases and those classified as unfounded (CD 266).

As previously reported, the Monitoring Team notified the Court of its approval of Policy 708 (Rape and Sexual Assault) and the standard operating procedure on sexual assault investigations on November 6, 2018. *See* ECF No. 152. The Second-Year Monitoring Plan thus turns to development and delivery of training on revised Policy 708. It also requires BPD to prepare its inaugural report on sex assault investigations under paragraph 264 of the Consent Decree. In this reporting period, BPD has made reasonable progress toward satisfying both requirements.

Areas of Progress

Training for patrol officers on Policy 708

BPD, DOJ and the Monitoring Team agreed that the best and most efficient way to begin training officers on the revisions to Policy 708, and ensure that Policy 708 takes effect as quickly as possible, was through e-learning. As explained in the Training section above, training via e-learning can be delivered much more quickly Department-wide than in-service training, it is sometimes more well-suited to teaching officers about policy, and comprehension of the material can be readily tested on-line.

BPD worked with the Monitoring Team and DOJ from mid-April through mid-June to develop the curriculum and testing for the e-learning program on Policy 708. During that two month period, the Monitoring Team and DOJ reviewed and provided feedback on successive iterations of the e-learning materials. BPD then issued the materials for public comment on June 24, as the Second-Year Monitoring Plan requires. The public comment period will remain open through July 24. BPD will address the feedback it receives, work with the Monitoring Team and DOJ to make additional adjustments, post a final draft for additional public comment, and then finalize the e-learning curriculum for Monitoring Team approval by mid-September.

The development of the e-learning curriculum on Policy 708 for patrol officers is a vital first step toward implementing a new approach to responding to and investigating sexual assaults in Baltimore. It presents officers not only with changes in procedure for sex assault investigations, but key changes in BPD's philosophy regarding how police officers should view and address sexual offenses, offenders and victims. The curriculum introduces the concepts of trauma-informed and victim-centered investigation. These are somewhat complex concepts to convey, let alone put into practice. The well-developed e-learning curriculum, which incorporates adult learning principles, provides a sound introduction to these concepts. BPD will develop and implement a more intensive in-service curriculum next year. However, the implementation of the new policy cannot wait until next year, which is one of the reasons BPD chose to start with e-learning.

Data Analysis

In this reporting period, BPD worked with the Monitoring Team and DOJ to issue its first annual Sexual Assault Investigations Data Report, which contains information on reported sexual assaults for 2018. Paragraph 264 of the Consent Decree requires these annual reports to include data on: the number and nature of sex offenses reported during the year; the number and demographics of the alleged offenders; the number and demographics of the alleged victims; the resolution of sex offense cases; and the processing of forensic medical exams. Due to BPD's technology limitations, BPD was unable to include some of this data in the initial draft of its report, which it furnished to the Monitoring Team and DOJ in April. The Monitoring Team and DOJ conferred with BPD about how to address paragraph 264's requirements in the final report given its technology limitations, and how to satisfy those requirements in future reports. BPD filed the final report with the Court at the end of May. The report is available on BPD's website.

Challenges Ahead

As explained, Policy 708 reflects a new approach to sex assault investigations. BPD must be vigilant in ensuring that the e-learning materials adequately train patrol officers on that approach and ultimately that the approach is put into practice.

As with so many other areas of the Consent Decree, BPD's ability to report all required data on sexual assault investigations in its first annual report was hampered by the shortcomings in BPD's IT systems. The first report shows that there are simply too many gaps in available data for BPD to fully comply with paragraph 264. BPD will only be able to fill these gaps by implementing the new systems and processes identified in the Technology Plan. There are some partially satisfactory interim solutions. For example, BPD will begin tracking the various ways cases are referred to the State's Attorney Office, developing and utilizing a new form to track additional data on LGBTQ victims, and analyzing demographic data in more depth. BPD is also considering surveying victims on their experiences with BPD services.

These measures are cumbersome, and they are no substitute for a revamped IT system that houses all required data in one place. Nonetheless, BPD's willingness to pursue interim solutions demonstrates a commitment to improving how the Department handles and tracks sex assault investigations. BPD is building the ship while sailing—a difficult though laudable undertaking.

The Next Six Months

The e-learning program will be finalized by mid-September, and training will begin soon after. All patrol officers are required to successfully complete the training by November 25.

As BPD finalizes e-learning for patrol officers, it will begin its work on developing training curriculum for sexual assault investigators. The first draft of the curriculum is due to the Monitoring and DOJ near the end of September. BPD, the Monitoring Team and DOJ have already had some discussions about the curriculum, and agree that outside experts should be used to develop and deliver a portion of it. BPD will work with the Monitoring Team and DOJ through December to finalize a draft of the curriculum for public comment. Following the public comment period, BPD will incorporate the community's feedback, publish a final draft for public comment, and then finalize it for final approval in late February 2020, at the very beginning of the third monitoring year.

Finally, BPD, the Monitoring Team and DOJ agreed last year that BPD needed to add to the Second-Year Monitoring Plan development of a new policy on investigating officer-involved sexual misconduct. The new policy will address the roles and responsibilities of (1) BPD's Sex Offense Unit in the investigation of an alleged sexual assault by a BPD officer and (2) PIB in the investigation of administrative rule violations by a BPD officer accused of sexual assault. BPD submitted a first draft of this policy to the Monitoring Team and DOJ in June. The Monitoring Team and DOJ will work with BPD to refine the draft so that BPD is ready to issue it for public comment by September 18. The expectation is that the policy will be finalized by mid-December.

Recruitment, Hiring and Retention

For a number of years, BPD has had very serious challenges hiring enough officers and maintaining appropriate staffing levels. The challenges can be measured in basic mathematical terms. In recent years, BPD on average has hired fewer officers than the number of officers it has lost by attrition. The cause of this “hiring deficit” may be subject to debate, but the fact that BPD finds itself understaffed and facing significant hurdles in recruiting, hiring and retention is not. Further, the failure to retain good officers presents profound operational problems: it undermines departmental cohesiveness and morale, disrupts established relationships with community members and makes effective community policing more difficult, and depletes the reservoir of officers who can mentor younger officers and ascend to leadership.

All parties recognize and agree that BPD’s recruitment and hiring program, as well as its efforts to retain officers, are in need of significant improvement. The Consent Decree expressly requires such improvement. It obligates BPD to: (1) develop and implement a Recruitment Plan “clear goals, objectives and action steps for attracting and retaining a quality work force that reflects the diversity of the Baltimore Community” (CD 420-22); (2) review and reform its hiring processes (CD 423-25); (3) develop and implement a Retention Plan “identify challenges and recommend solutions to improve BPD’s retention of employees” (CD 426); and (4) routinely assess its recruitment, hiring, and retention practices (CD 427).

Improving BPD’s in the recruitment, hiring and retention of high-quality personnel is an inherently long-term undertaking. BPD has not begun to make sustainable progress toward meeting the long-range goals set by the Consent Decree. As previously reported, however, it is making reasonable progress toward satisfying the Consent Decree’s preliminary requirements. *See* ECF No. 178-1 at 89-90 (highlighting preparation and publication of a hiring report, development of standard operating procedures for BPD’s Recruitment Section, piloting an interview process that includes community members on interview panels, and adopting the National Testing Network’s “FrontLine National” exam as the first stage in BPD’s officer selection process). That progress continued in this reporting period, though it has not yet produced consistent increases in the number of new hires.

In the area of recruitment, BPD has moved aggressively to meet Consent Decree requirements. In fact, BPD exceeded the requirements of the First-Year Monitoring Plan by issuing a Recruitment Plan, which was not due in Year One. BPD’s progress on recruitment strategies was due in no small part to its partnership

with the Mayor's Office on Innovation, which helped identify the root causes of inadequate staffing and helped establish strategies for addressing the shortage.

Despite BPD's aggressive efforts to get a jump on hiring deficits, hiring numbers have continued to lag behind the attrition rate and well behind BPD's hiring goals. One positive development is that, since implementing changes in its hiring practices, including retaining National Testing Network to administer its hiring examination, BPD has been receiving a greater number of applications than in the recent past. However, those applicants have not been successfully converted to new hires at a rate sufficient to meet staffing needs.

Part of the problem has been the significant backlog in application processing. The Monitoring Team has worked with BPD to address the backlog, particularly delays caused by lengthy background checks. These delays were resulting in applicants losing interest or becoming frustrated and giving other employers an opportunity to attract and hire them. BPD acknowledged that it could not continue to afford to lose quality candidates to other opportunities due to deficient internal processes. To its credit, BPD recently has addressed its process delays and is now timely processing applications. Timely application processing is essential to erasing the hiring deficit.

Another noteworthy measure BPD has taken is the adoption of RecruitStat. Shortly after Commissioner Harrison's appointment, the Mayor's Office on Innovation, in cooperation with BPD, created RecruitStat to examine recruiting and hiring activity on a weekly basis, much like command staff reviews crime statistics on a weekly basis. RecruitStat enables the City and BPD to make rapid adjustments in recruitment and hiring practices in order to optimize its recruitment and hiring processes.

In June, BPD issued the first draft of a Retention Plan. BPD will collaborate with the Monitoring Team and DOJ to refine the draft through the end of September, and then issue it for public comment. It is scheduled to be finalized and filed with the Court in December. Among other things, the draft Retention Plan calls for adoption of a process that identifies reasons for officer resignations prior to pension eligibility. The draft plan advocates a number of incentives for experienced officers.