
Investigation of the Baltimore City Police Department

U.S. Department of Justice

Civil Rights Division

August 10, 2016

EXECUTIVE SUMMARY

Today, we announce the outcome of the Department of Justice’s investigation of the Baltimore City Police Department (BPD).¹ After engaging in a thorough investigation, initiated at the request of the City of Baltimore and BPD, the Department of Justice concludes that there is reasonable cause to believe that BPD engages in a pattern or practice of conduct that violates the Constitution or federal law. BPD engages in a pattern or practice of:

- (1) making unconstitutional stops, searches, and arrests;
- (2) using enforcement strategies that produce severe and unjustified disparities in the rates of stops, searches and arrests of African Americans;
- (3) using excessive force; and
- (4) retaliating against people engaging in constitutionally-protected expression.

This pattern or practice is driven by systemic deficiencies in BPD’s policies, training, supervision, and accountability structures that fail to equip officers with the tools they need to police effectively and within the bounds of the federal law.

We recognize the challenges faced by police officers in Baltimore and other communities around the country. Every day, police officers risk their lives to uphold the law and keep our communities safe. Investigatory stops, arrests, and force—including, at times, deadly force—are all necessary tools used by BPD officers to do their jobs and protect the safety of themselves and others. Providing policing services in many parts of Baltimore is particularly challenging, where officers regularly confront complex social problems rooted in poverty, racial segregation and deficient educational, employment and housing opportunities. Still, most BPD officers work hard to provide vital services to the community.

¹ The Special Litigation Section of the Civil Rights Division conducted the investigation pursuant to the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141 (“Section 14141”), Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d (“Safe Streets Act”); and the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131–12134. The investigation did not examine the actions of officers involved in Freddie Gray’s arrest on April 12, 2015, or the merits of any criminal or civil proceedings connected to that incident.

The pattern or practice occurs as a result of systemic deficiencies at BPD. The agency fails to provide officers with sufficient policy guidance and training; fails to collect and analyze data regarding officers' activities; and fails to hold officers accountable for misconduct. BPD also fails to equip officers with the necessary equipment and resources they need to police safely, constitutionally, and effectively. Each of these systemic deficiencies contributes to the constitutional and statutory violations we observed.

Throughout our investigation, we received the full cooperation and assistance of BPD and the City of Baltimore. We interviewed current and former City leaders, including current BPD Commissioner Kevin Davis and former commissioners. We also interviewed current and former officers throughout the BPD command structure. We participated in ride-alongs in each district, interviewed numerous current and former officers individually, and met with the leadership of the Baltimore City Lodge No. 3 of the Fraternal Order of Police, which represents all sworn BPD officers. We also heard from hundreds of people in the broader Baltimore community who shared information with our investigation. We met with religious organizations, advocacy groups, community support organizations, neighborhood associations, and countless individuals who provided valuable information about their experiences with BPD. We thank everyone for sharing their experiences and insights with us.

In addition to these interviews, we reviewed hundreds of thousands of pages of documents, including all relevant policies and training materials used by the Department since 2010; BPD's database of internal affairs files from January 2010 through March 2016; BPD's data on pedestrian stops, vehicle stops, and arrests from January 2010 to May 2015; incident reports describing stops, searches, arrests, and officers' use of non-deadly force from 2010 to 2015; all files on deadly force incidents since 2010 that BPD was able to produce to us through May 1, 2016; and investigative files on sexual assault cases from 2013 to 2015. We were assisted by a dozen current and former law enforcement leaders and experts with experience on the issues we investigated, and we retained statistical experts to analyze BPD's data on its enforcement activities.²

In the course of our investigation, we learned there is widespread agreement that BPD needs reform. Almost everyone who spoke to us—from current and former City leaders, BPD officers and command staff during ride-alongs and interviews, community members throughout the many neighborhoods of Baltimore, union representatives of all levels of officers in BPD, advocacy groups, and civic and religious leaders—agrees that BPD has significant problems that have undermined its efforts to police constitutionally and effectively. As we note in this report, many of these people and groups have documented those problems in the past, and although they may disagree about the nature, scope, and solutions to the challenges, many have also made efforts to address them. Nevertheless, work remains, in part because of the profound lack of trust among these groups, and in particular, between BPD and certain communities in Baltimore. The road to meaningful and lasting reform is a long one, but it can be taken. This investigation is intended to help Baltimore take a large step down this path.

² In addition, the Department of Justice's Office of Community Oriented Policing Services (COPS) has been engaged in a collaborative reform process with the City and BPD. The COPS office has continued to provide technical assistance to BPD during our investigation, along with other components of the Department of Justice.

Recent events highlight the critical importance of mutual trust and cooperation between law enforcement officers and the people they serve. A commitment to constitutional policing builds trust that enhances crime fighting efforts and officer safety. Conversely, frayed community relationships inhibit effective policing by denying officers important sources of information and placing them more frequently in dangerous, adversarial encounters. We found these principles in stark relief in Baltimore, where law enforcement officers confront a long history of social and economic challenges that impact much of the City, including the perception that there are “two Baltimores:” one wealthy and largely white, the second impoverished and predominantly black. Community members living in the City’s wealthier and largely white neighborhoods told us that officers tend to be respectful and responsive to their needs, while many individuals living in the City’s largely African-American communities informed us that officers tend to be disrespectful and do not respond promptly to their calls for service. Members of these largely African-American communities often felt they were subjected to unjustified stops, searches, and arrests, as well as excessive force. These challenges amplify the importance of using policing methods that build community partnerships and ensure fair and effective enforcement without regard for affluence or race through robust training, close supervision, data collection and analysis, and accountability for misconduct.

Starting in at least the late 1990s, however, City and BPD leadership responded to the City’s challenges by encouraging “zero tolerance” street enforcement that prioritized officers making large numbers of stops, searches, and arrests—and often resorting to force—with minimal training and insufficient oversight from supervisors or through other accountability structures. These practices led to repeated violations of the constitutional and statutory rights, further eroding the community’s trust in the police.

Proactive policing does not have to lead to these consequences. On the contrary, constitutional, community-oriented policing is proactive policing, but it is fundamentally different from the tactics employed in Baltimore for many years. Community policing depends on building relationships with all of the communities that a police department serves, and then jointly solving problems to ensure public safety. We encourage BPD to be proactive, to get to know Baltimore’s communities more deeply, build trust, and reduce crime together with the communities it serves.

Fortunately, the current leadership of the City and the BPD already have taken laudable steps to reverse this course, including by revising BPD’s use of force policies, taking steps toward enhancing accountability and transparency throughout the Department by, for example, beginning to equip officers with body worn cameras, and taking steps toward improving and expanding its community outreach to better engage its officers with the community they serve. Still, significant challenges remain.

Unconstitutional Stops, Searches, and Arrests

BPD's legacy of zero tolerance enforcement continues to drive its policing in certain Baltimore neighborhoods and leads to unconstitutional stops, searches, and arrests. Many BPD supervisors instruct officers to make frequent stops and arrests—even for minor offenses and with minimal or no suspicion—without sufficient consideration of whether this enforcement strategy promotes public safety and community trust or conforms to constitutional standards. These instructions, coupled with minimal supervision and accountability for misconduct, lead to constitutional violations.

- Stops. BPD officers recorded over 300,000 pedestrian stops from January 2010–May 2015, and the true number of BPD's stops during this period is likely far higher due to under-reporting. These stops are concentrated in predominantly African-American neighborhoods and often lack reasonable suspicion.
 - BPD's pedestrian stops are concentrated on a small portion of Baltimore residents. BPD made roughly 44 percent of its stops in two small, predominantly African-American districts that contain only 11 percent of the City's population. Consequently, hundreds of individuals—nearly all of them African American—were stopped on at least 10 separate occasions from 2010–2015. Indeed, seven African-American men were stopped more than 30 times during this period.
 - BPD's stops often lack reasonable suspicion. Our review of incident reports and interviews with officers and community members found that officers regularly approach individuals standing or walking on City sidewalks to detain and question them and check for outstanding warrants, despite lacking reasonable suspicion to do so. Only 3.7 percent of pedestrian stops resulted in officers issuing a citation or making an arrest. And, as noted below, many of those arrested based upon pedestrian stops had their charges dismissed upon initial review by either supervisors at BPD's Central Booking or local prosecutors.
- Searches. During stops, BPD officers frequently pat-down or frisk individuals as a matter of course, without identifying necessary grounds to believe that the person is armed and dangerous. And even where an initial frisk is justified, we found that officers often violate the Constitution by exceeding the frisk's permissible scope. We likewise found many instances in which officers strip search individuals without legal justification. In some cases, officers performed degrading strip searches in public, prior to making an arrest, and without grounds to believe that the searched individuals were concealing contraband on their bodies.
- Arrests. We identified two categories of common unconstitutional arrests by BPD officers: (1) officers make warrantless arrests without probable cause; and (2) officers make arrests for misdemeanor offenses, such as loitering and trespassing, without providing the constitutionally-required notice that the arrested person was engaged in unlawful activity.

- Arrests without probable cause: from 2010–2015, supervisors at Baltimore’s Central Booking and local prosecutors rejected over 11,000 charges made by BPD officers because they lacked probable cause or otherwise did not merit prosecution. Our review of incident reports describing warrantless arrests likewise found many examples of officers making unjustified arrests. In addition, officers extend stops without justification to search for evidence that would justify an arrest. These detentions—many of which last more than an hour—constitute unconstitutional arrests.
- Misdemeanor arrests without notice: BPD officers arrest individuals standing lawfully on public sidewalks for “loitering,” “trespassing,” or other misdemeanor offenses without providing adequate notice that the individuals were engaged in unlawful activity. Indeed, officers frequently invert the constitutional notice requirement. While the Constitution requires individuals to receive pre-arrest notice of the specific conduct prohibited as loitering or trespassing, BPD officers approach individuals standing lawfully on sidewalks in front of public housing complexes or private businesses and arrest them unless the individuals are able to “justify” their presence to the officers’ satisfaction.

Discrimination against African Americans

BPD’s targeted policing of certain Baltimore neighborhoods with minimal oversight or accountability disproportionately harms African-American residents. Racially disparate impact is present at every stage of BPD’s enforcement actions, from the initial decision to stop individuals on Baltimore streets to searches, arrests, and uses of force. These racial disparities, along with evidence suggesting intentional discrimination, erode the community trust that is critical to effective policing.

- BPD disproportionately stops African-American pedestrians. Citywide, BPD stopped African-American residents three times as often as white residents after controlling for the population of the area in which the stops occurred. In each of BPD’s nine police districts, African Americans accounted for a greater share of BPD’s stops than the population living in the district. And BPD is far more likely to subject individual African Americans to multiple stops in short periods of time. In the five and a half years of data we examined, African Americans accounted for 95 percent of the 410 individuals BPD stopped at least 10 times. One African American man in his mid-fifties was stopped 30 times in less than 4 years. Despite these repeated intrusions, none of the 30 stops resulted in a citation or criminal charge.
- BPD also stops African American drivers at disproportionate rates. African Americans accounted for 82 percent of all BPD vehicle stops, compared to only 60 percent of the driving age population in the City and 27 percent of the driving age population in the greater metropolitan area.
- BPD disproportionately searches African Americans during stops. BPD searched African Americans more frequently during pedestrian and vehicle stops, even though searches of African Americans were less likely to discover contraband. Indeed, BPD officers found contraband twice as often when searching white individuals compared to

African Americans during vehicle stops and 50 percent more often during pedestrian stops.

- African Americans similarly accounted for 86 percent of all criminal offenses charged by BPD officers despite making up only 63 percent of Baltimore residents.
 - Racial disparities in BPD’s arrests are most pronounced for highly discretionary offenses: African Americans accounted for 91 percent of the 1,800 people charged solely with “failure to obey” or “trespassing”; 89 percent of the 1,350 charges for making a false statement to an officer; and 84 percent of the 6,500 people arrested for “disorderly conduct.” Moreover, booking officials and prosecutors decline charges brought against African Americans at significantly higher rates than charges against people of other races, indicating that officers’ standards for making arrests differ by the race of the person arrested.
 - We also found large racial disparities in BPD’s arrests for drug possession. While survey data shows that African Americans use drugs at rates similar to or slightly exceeding other population groups, BPD arrested African Americans for drug possession at five times the rate of others.

BPD deployed a policing strategy that, by its design, led to differential enforcement in African-American communities. But BPD failed to use adequate policy, training and accountability mechanisms to prevent discrimination, despite longstanding notice of concerns about how it polices African-American communities in the City. BPD has conducted virtually no analysis of its own data to ensure that its enforcement activities are non-discriminatory, and the Department misclassifies or otherwise fails to investigate specific complaints of racial bias. Nor has the Department held officers accountable for using racial slurs or making other statements exhibiting racial bias. In some cases, BPD supervisors have ordered officers to specifically target African Americans for stops and arrests. These failures contribute to the large racial disparities in BPD’s enforcement that undermine the community’s trust in the fairness of the police. BPD leadership has acknowledged that this lack of trust inhibits their ability to forge important community partnerships.

Use of Constitutionally Excessive Force

Our review of investigative files for all deadly force cases from 2010 until May 1, 2016, and a random sample of over eight hundred non-deadly force cases reveals that BPD engages in a pattern or practice of excessive force. Deficiencies in BPD’s policies, training, and oversight of officers’ force incidents have led to the pattern or practice of excessive force that we observed. We identified several recurring issues with BPD’s use of force:

- First, BPD uses overly aggressive tactics that unnecessarily escalate encounters, increase tensions, and lead to unnecessary force, and fails to de-escalate encounters when it would be reasonable to do so. Officers frequently resort to physical force when a subject does not immediately respond to verbal commands, even where the subject poses no imminent threat to the officer or others. These tactics result from BPD’s training and guidance.

- Second, BPD uses excessive force against individuals with mental health disabilities or in crisis. Due to a lack of training and improper tactics, BPD officers end up in unnecessarily violent confrontations with these vulnerable individuals. BPD provides less effective services to people with mental illness and intellectual disabilities by failing to account for these disabilities in officers' law enforcement actions, leading to unnecessary and excessive force being used against them. BPD has failed to make reasonable modifications in its policies, practices, and procedures to avoid discriminating against people with mental illness and intellectual disabilities.
- Third, BPD uses unreasonable force against juveniles. These incidents arise from BPD's failure to use widely-accepted tactics for communicating and interacting with youth. Instead, officers interacting with youth rely on the same aggressive tactics they use with adults, leading to unnecessary conflict.
- Fourth, BPD uses unreasonable force against people who present little or no threat to officers or others. Specifically, BPD uses excessive force against (1) individuals who are already restrained and under officers' control and (2) individuals who are fleeing from officers and are not suspected of serious criminal offenses.
 - Force used on restrained individuals: we found many examples of BPD officers using unreasonable force on individuals who were restrained and no longer posed a threat to officers or the public.
 - Force used on fleeing suspects: BPD officers frequently engage in foot pursuits of individuals, even where the fleeing individuals are not suspected of violent crimes. BPD's foot pursuit tactics endanger officers and the community, and frequently lead to officers using excessive force on fleeing suspects who pose minimal threat. BPD's aggressive approach to foot pursuits extends to flight in vehicles.

We also examined BPD's transportation of detainees, but were unable to make a finding due to a lack of available data. We were unable to secure reliable records from either BPD or the jail regarding injuries sustained during transport or any recordings. Nonetheless, we found evidence that BPD: (1) routinely fails to properly secure arrestees in transport vehicles; (2) needs to continue to update its transport equipment to protect arrestees during transport; (3) fails to keep necessary records; and (4) must implement more robust auditing and monitoring systems to ensure that its transport policies and training are followed.

- Our concerns about BPD's use of excessive force are compounded by BPD's ineffective oversight of its use of force. Of the 2,818 force incidents that BPD recorded in the nearly six-year period we reviewed, BPD investigated only ten incidents based on concerns identified through its internal review. Of these ten cases, BPD found only one use of force to be excessive.

Retaliation for Activities Protected by the First Amendment

BPD violates the First Amendment by retaliating against individuals engaged in constitutionally protected activities. Officers frequently detain and arrest members of the public for engaging in speech the officers perceive to be critical or disrespectful. And BPD officers use force against members of the public who are engaging in protected speech. BPD has failed to provide officers with sufficient guidance and oversight regarding their interactions with individuals that implicate First Amendment protections, leading to the violations we observed.

Indications of Gender Bias in Sexual Assault Investigations

Although we do not, at this time, find reasonable cause to believe that BPD engages in gender-biased policing in violation of federal law, the allegations we received during the investigation, along with our review of BPD files, suggests that gender bias may be affecting BPD's handling of sexual assault cases. We found indications that officers fail to meaningfully investigate reports of sexual assault, particularly for assaults involving women with additional vulnerabilities, such as those who are involved in the sex trade. Detectives fail to develop and resolve preliminary investigations; fail to identify and collect evidence to corroborate victims' accounts; inadequately document their investigative steps; fail to collect and assess data, and report and classify reports of sexual assault; and lack supervisory review. We also have concerns that officers' interactions with women victims of sexual assault and with transgender individuals display unlawful gender bias.

Deficient Policies, Training, Supervision, and Accountability

BPD's systemic constitutional and statutory violations are rooted in structural failures. BPD fails to use adequate policies, training, supervision, data collection, analysis, and accountability systems, has not engaged adequately with the community it polices, and does not provide its officers with the tools needed to police effectively.

- BPD lacks meaningful accountability systems to deter misconduct. The Department does not consistently classify, investigate, adjudicate, and document complaints of misconduct according to its own policies and accepted law enforcement standards. Instead, we found that BPD personnel discourage complaints from being filed, misclassify complaints to minimize their apparent severity, and conduct little or no investigation. As a result, a resistance to accountability persists throughout much of BPD, and many officers are reluctant to report misconduct for fear that doing so is fruitless and may provoke retaliation. The Department also lacks adequate civilian oversight—its Civilian Review Board is hampered by inadequate resources, and the agency's internal affairs and disciplinary process lacks transparency.
- Nor does BPD employ effective community policing strategies. The Department's current relationship with certain Baltimore communities is broken. As noted above, some community members believe that the Department operates as if there are “two Baltimores” in which the affluent sections of the City receive better services than its impoverished and minority neighborhoods. This fractured relationship exists in part because of the Department's legacy of zero tolerance enforcement, the failure of many BPD officers to implement community policing principles, and the Department's lack of

vision for engaging with the community.

- BPD fails to adequately supervise officers through policy guidance and training. Until recently, BPD lacked sufficient policy guidance in critical areas, such as bias-free policing and officers' use of batons and tasers. In other areas, such as its policy governing "stop and frisk," BPD policy conflicts with constitutional requirements. The Department likewise lacks effective training on important areas, such as scenario-based training for use of force, an adequate Field Training program; and supervisory or leadership training.
- BPD also fails to collect data on a range of law enforcement actions, and even when it collects data, fails to store it in systems that are capable of effective tracking and analysis. Partly as a result, the BPD does not use an effective early intervention system to detect officers who may benefit from additional training or guidance to ensure that they do not commit constitutional and statutory violations.
- In addition, BPD fails to adequately support its officers with adequate staffing and material resources. The Department lacks effective strategies for staffing, recruitment and retention, forcing officers to work overtime after long shifts, lowering morale, and leading to officers working with deteriorated decision-making skills. Moreover, BPD lacks adequate technology infrastructure and tools that are common in many similar-sized law enforcement agencies, such as in-car computers. These technology deficits create inefficiencies for officers and inhibit effective data collection and supervision. The City must invest in its police department to ensure that officers have the tools they need to properly serve the people of Baltimore.

* * *

Notwithstanding our findings, we are heartened by the support for police reform throughout BPD the City, and the broader Baltimore community. Based on the cooperation and spirit of engagement we witnessed throughout our investigation, we are optimistic that we will be able to work with the City, BPD, and the diverse communities of Baltimore to address the issues described in our findings and forge a court-enforceable agreement to develop enduring remedies to the constitutional and statutory violations we found. Indeed, although much work remains, BPD has already begun laying the foundation for reform by self-initiating changes to its policies, training, data management, and accountability systems.

To that end, the Department of Justice and the City have entered into an Agreement in Principle that identifies categories of reforms the parties agree must be taken to remedy the violations of the Constitution and federal law described in this report. Both the Justice Department and the City seek input from all communities in Baltimore on the reforms that should be included in a comprehensive, court-enforceable consent decree to be negotiated by the Justice Department and the City in the coming months, and then entered as a federal court order.

As we have seen in jurisdictions across America, it is possible for law enforcement agencies to enhance their effectiveness by promoting constitutional policing and restoring community partnerships. Strengthening community trust in BPD will not only increase the effectiveness of BPD's law enforcement efforts, it will advance officer and public safety in a manner that serves the

entire Baltimore community. Together with City officials and the people of Baltimore, we will work to make this a reality.