



July 23, 2020

To Judge Lamasney, Delegate Washington, and Members of the Task Force:

Congratulations on your recent appointment to the Task Force on Reforming the Prince George's County Police Department. We understand that County Executive Alsobrooks has charged you with examining the "full spectrum" of PGPD's operations and making recommendations for reform.

As the presidents, respectively, of the Hispanic National Law Enforcement Association (HNLEA) and the United Black Police Officers Association (UBPOA)—representing the Hispanic and Black officers of the Prince George's County Police Department—we and our organizations have been deeply involved in efforts to reform PGPD so as to make the Department responsive and accountable to the community we are charged with protecting and serving, and a fairer organization for all officers, including Black, Indigenous, and Persons of Color (BIPOC). In light of this, we thought it would be helpful to make you aware of some background regarding prior unsuccessful reform efforts directed at PGPD and provide some specific recommendations we believe your Task Force should adopt.

### **BACKGROUND CONCERNING YOUR REVIEW**

1. After a significant period in which leadership of the PGPD did not address serious issues of racism and discrimination on the force, in 2016, our organizations filed the first in a series of complaints with the U.S. Department of Justice. That complaint detailed particular instances of racism and discrimination, as well as policies and customs within PGPD that fostered such misconduct. The Complaint had a particular focus on how these incidents and policies impacted PGPD's ability to protect and serve the community, and how inaction by PGPD leadership fostered racial division on the force. This Complaint was ultimately signed by over one hundred BIPOC officers. A copy of the Complaint is attached as Exhibit A (without supporting documentation).

2. When Chief Stawinski announced the formation in February 2017 of his Equality for Promotions, Discipline, and Practices Panel, we viewed that as a positive development and

agreed to serve as panelists. That Panel was co-chaired by then Inspector General (now Judge) Carlos Acosta and retired PGPD Sgt. Jerry Moore. Ostensibly, it was given a similar mandate to your Task Force. According to Chief Stawinski, the “goal of the Panel [was] to obtain facts and gain insights into perceptions about the Department and then provide specific guidance to [the Chief] to correct issues identified during the process.”

The “Fairness Panel,” as it was generally called by its members, held eight meetings from April through August 2017 at which it heard from Subject Matter Experts designated by PGPD leadership to address the promotion and discipline portions of its inquiry. During and after those hearings, the Panel made a number of specific requests to PGPD for statistical and other information on both subjects (some of which were ignored). Members of the Fairness Panel discussed a number of recommendations relative to promotions and discipline, some of which are discussed in this letter. We would recommend that members of your Task Force review the recorded videos of the Fairness Panel’s discussions, particularly the ones on July 25 and 26, 2017, which began discussion of discrimination and other defects in the Internal Affairs process.

Unfortunately, the Fairness Panel was not allowed to complete its hearings or to issue any report. Instead, the Panel ceased to function in January 2018 because Chief Stawinski refused to designate a replacement for Mr. Acosta when he became a Circuit Court Judge in January 2018. After that point, the Panel never met again. The Panel did not complete work on its report and never issued any recommendations.

3. During the same time frame (most notably in March 2017), the Department of Justice invited PGPD leadership, HNLEA, and UBPOA to attempt to mediate the problems cited by our organizations in a formal conciliation session. Chief Stawinski, however, refused to participate in that process. In December 2017, the Department of Justice issued a formal request for documents in furtherance of its investigation of PGPD. That investigation continues today.

4. Following Chief Stawinski’s refusal to mediate and the termination of the prior Fairness Panel, we filed a civil rights lawsuit in late 2018, specifically identifying incidents of racism and discrimination on the force, and describing in detail how PGPD leadership condoned this conduct and allowed it to flourish. The Complaint highlights numerous instances of retaliation against BIPOC officers who complained about the conduct. In this suit, we are represented by two of the regions preeminent civil rights organizations—the Washington Lawyers’ Committee for Civil Rights and Urban Affairs and the American Civil Liberties Union. We later amended our Complaint to also detail how Department leadership took efforts to conceal discrimination from the Department of Justice. A copy of the Amended Complaint is attached as Exhibit B.

5. On June 18, 2020, our counsel filed with the Court a preliminary assessment of PGPD’s policies and customs by Michael Graham, the former Assistant Sheriff for Los Angeles County Sheriffs’ Department—one of the largest law enforcement agencies in the country. Mr. Graham has long been associated with the International Association of Chiefs of Police, and has been repeatedly retained by the Department of Justice on police practice cases throughout the United States.

Mr. Graham's report sets forth his views regarding fundamental deficiencies in PGPD's policies and customs which fail to (i) respond appropriately to community complaints about racism and discrimination, (ii) handle appropriately EEO complaints of discrimination, (iii) investigate or discipline appropriately misconduct on the police force, including racist conduct and acts by officers, and (iv) prevent retaliation against officers who complain about the foregoing conduct. Less than six hours after Mr. Graham's Report was filed, County Executive Alsobrooks asked for, and received, Chief Stawinski's resignation.

6. The day after the Graham Report was released, County Executive Alsobrooks announced the formation of your Task Force. Although the County has insisted that certain information in Mr. Graham's Report should not be made public, we have attached a redacted version of Mr. Graham's Report as Exhibit C. We encourage you to request the County to provide the full, unredacted report (and the supporting documents, which are largely PGPD emails and other files) so that you may adequately prepare for your own deliberations.

Your Task Force should be aware that, starting with Chief Stawinski's refusal to participate in the Department of Justice's conciliation process, the County and PGPD have adamantly refused to discuss with our organizations how PGPD can start the long process of addressing its problems and healing the institution. Instead, the County has spent millions of taxpayer dollars defending the policies and customs of Chief Stawinski and engaging in a systematic campaign of retaliation against the leadership and prominent members of our organizations. Remarkably, in the 16 months from the start of our litigation through end of April 2020, the County spent over \$6.3 million blaming the messengers and denying that it has a problem. Since April, that number has undoubtedly gone up. At its recent rate of spending, the total spent by the County defending the practices of Chief Stawinski and other top senior leaders is likely approaching \$8 million. We sincerely hope your Task Force, by contrast, will recognize that the first step to addressing PGPD's problems is to acknowledge that the County has a serious leadership problem on its hands.

Sadly, the County has never once asked our organizations what reforms would be necessary to address the situation. It is our hope that your Task Force, with its broad and important mandate, will find the recommendations in this letter helpful. In many cases, the County could have implemented the recommendations we outline below for far less money than it has spent defending the indefensible. It is also our hope that your Task Force will not meet the fate of its predecessor Panel, whose efforts were thrown into the trash bin as soon as former Chief Stawinski and other leaders thought they could safely do so.

### **DETERMINING THE SCOPE AND AGENDA OF YOUR DELIBERATIONS**

We respectfully submit that, in conjunction with planning your agenda and approach for the next three months, you consider the deliberations of the Fairness Panel, the Graham Report, and the testimony that senior PGPD leadership has provided in conjunction with the litigation, including Judge Acosta, Ms. Jewell Graves (the long-time Manager of the PGPD Personnel Office), and Major James McCreary (the current head of Internal Affairs).

## RECOMMENDATIONS

### I. **PROTECTING THE PUBLIC AND THE OFFICERS WHO PROTECT THE PUBLIC**

#### ***A. Creating a Police Force Representative of the Community It Protects***

All reforms must begin with—and will be substantially advanced by—creating a force which is representative of the County it polices. As you well know given your own civic positions, Prince George’s County is 65% Black, 20% Latinx, 3% Asian, and 12% white. The PGPD, by contrast, is only 43% Black, 10% Latinx, 3% Asian, and 44% white.

The disconnect between the demographics of the police force and the community are a root cause for the Department’s failure to adequately serve the community. And the gap between the demographics of the force and the community it polices is not narrowing. That gap must be eliminated through a commitment to bring the force much more in line with the racial composition of the citizens who live in the County. Time and time again, we hear white officers dehumanize the residents of Prince George’s County and view them all as criminals simply because they are people of color. More specifically:

Recommendation #1: The County should adopt an enhanced Affirmative Action Plan to correct the current imbalance and make PGPD a more representative force. As discussed below, this Plan should have targets for initial recruits, promotions, and selections to “specialty” units.

Recommendation #2: The County should also adopt a residency requirement, which would eventually be applicable to all sworn officers. While this policy can be phased-in, it must start at the top. We would recommend requiring all members of the Chief’s Office and all “Commanders” (individuals ranked Major and higher) to be County residents within one year; all other rank officers (Lieutenants and Captains) to be County residents within two years. Starting in 2022, the County should provide financial incentives (such as tax breaks) to all other rank-and-file officers who are, or become, County residents.

#### ***B. Enhanced Monitoring and Supervision of Civilian Interactions and Complaints***

For years, we as well as others in the community have complained that there are fundamental deficiencies in how the Department monitors and assesses officer/civilian interactions for discrimination and bias.

Specifically, for most of the last ten years, the Department failed to properly monitor police/civilian interactions for racial profiling. The number of incidents investigated has been significantly less than the number of community complaints about unjustified stops, searches, seizures and other infractions. Indeed, under Chief Stawinski, the Department ceased even preparing monthly and annual reports of the number or outcome of racial profiling investigations as required by the Department’s General Orders.

There are also significant flaws with the Department's use of force policies and the Department's assessment of use of force. The use of force policy does not mandate officers avoid the use of force and take steps to de-escalate before engaging. Force that may be legally authorized may not be appropriate and may well be viewed as illegitimate by members of the community—commonly referred to by police officials as “lawful but awful.” These practices disserve police and the public.

Moreover, the Department's initial screening of many of these incidents is by the chain of command before they are investigated. The result has been that the predominantly white chain of command has consistently cleared certain white officers who repeatedly use violence against BIPOC civilians without conducting an adequate investigation (including consideration whether the officer took steps to avoid use of force and to de-escalate) or considering the pattern of conduct. In conjunction with the litigation, our counsel has identified specific examples of white PGPD officers who have repeatedly engaged in use of force against BIPOC civilians without being disciplined (or in many cases, investigated). Our experience is that the County has only taken significant disciplinary action against a small handful of these white officers when the conduct is recorded on video or involves particularly brutal attacks.

Recommendation #3: The County should overhaul its policies and practices to prohibit consideration of race, as would be consistent with the Department of Justice December 2014 *Guidance for Federal Law Enforcement Agencies Regarding the Use of Race, Ethnicity, Gender, National Origin, Religion, Sexual Orientation, or Gender Identity*.<sup>1</sup> The County should also overhaul its policies for monitoring, tracking, and independently assessing officer/civilian interactions for discrimination or bias (including unlawful stops, searches, seizures (including false arrests), use of force, theft of property or other potential criminal behavior, and racial or ethnic profiling. The authority to oversee this policy revision should be vested in the Office of Compliance (Recommendation # 12). These incidents should not be evaluated as to simply whether the conduct was legally “justified,” but whether it is wrong. Evaluation of these incidents should consider whether the officer has a pattern of similar conduct indicative of bias or discrimination. The assessment of a pattern of discrimination or bias needs to be conducted outside the chain of command by the Office of Compliance. For officers who display such bias, there should be a progressive discipline ranging from supplemental training on implicit bias up to, and including, termination.

Recommendation #4: Under the auspices of the Office of Compliance, the Department should develop and implement regular, targeted, and random internal reviews and integrity audits to promote compliance with PGPD policy and constitutional policing. The Department should also conduct integrity audits and compliance reviews to identify and investigate all officers who have engaged in misconduct including unlawful stops, searches, seizures (including false arrests); uses of force; theft of property or other potential criminal behavior; and racial or ethnic profiling. The integrity audits and compliance reviews should also seek to identify officers who discourage the filing of complaints, fail to report misconduct or complaints, or otherwise undermine PGPD's integrity and accountability systems. The Office of Compliance should issue

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<sup>1</sup> Available at <https://www.justice.gov/sites/default/files/ag/pages/attachments/2014/12/08/use-of-race-policy.pdf>.

periodic reports to the public on the number of civilian and officer complaints about harassment, discrimination and retaliation, as well as instances of harassment, discrimination, and retaliation identified by the Office of Compliance through its reviews and integrity audits

***C. The Promotions System Needs to Be Overhauled to Eliminate Bias so that the Senior Officers and Specialty Units are Representative of the Community***

For years, we have complained that the Department’s promotional system is unfair. As discussed in the Graham Report, the underrepresentation of BIPOC officers in PGPD significantly increases with seniority in the ranks. For example, while Black and Latinx people make up about 85% of County residents, only 30% of PGPD Lieutenants and 18% of Captains are Black or Hispanic. And the percentage of BIPOC officers in leadership positions has actually decreased under Chief Stawinski.

Because these officers have a significant role in investigating and evaluating community complaints (including screening use of force incidents for further investigation), the predominance of white officers in these positions has a significant impact on how the force interacts with the community. And because officers from these ranks have significant input into hiring and promotion systems, the predominance of white officers has put the Department in a self-perpetuating cycle undermining current affirmative action goals.

The Fairness Panel members learned that one significant reason for disparities in promotions was that candidates who had been assigned to “specialty units” had a substantial advantage over officers assigned to “Patrol” both in receiving special training in the areas most often tested on the promotional exams and in the on-duty time to study the voluminous materials tested on the exams. Under current PGPD custom, those “specialty” units are selected at the discretion of the Chief in consultation with the predominantly white unit commanders—the specialty units are also disproportionately white. (We also note that some of the more egregious examples of racist or discriminatory conduct were perpetrated by white officers assigned to these units.)

Because promoting a diverse pool of officers requires a diverse pool of applicants to be hired, adopting an enhanced affirmative action program (Recommendation #1) is an essential component to fixing the promotions process. And adopting a residency requirement (Recommendation #2) will help ensure the leadership of the force is more in tune with community sentiment. In addition to these items, we endorse the specific recommendations discussed by the Fairness Panel in 2017 before it was disbanded.

Recommendation # 5: The Panel should adopt the specific recommendations discussed by the Fairness Panel.

- Subject matter experts involved in the development of promotional tests should be from outside the PGPD. The Panel noted that there was a frequently-reported problem that Subject Matter Experts selected from within the Department were predominantly white, and that some of these individuals were providing tips or answers to persons taking the tests.

- Assessment of candidate performance for the skills assessment portion of the test should be based on audio rather than video recording, to avoid implicit bias of assessors.

Recommendation # 6: The enhanced affirmative action plan should have specific provisions focused on improving diversity in “specialty units.” Selection for these units should be removed from the chain of command and assigned to the Office of Compliance. And because these units can become insular and have proven to foster dangerous attitudes towards the community, the time officers can spend in a particular specialty unit should be limited before rotation.

#### ***D. Ending the Culture of Retaliation***

For years, we have complained that the Department has a custom of retaliating against officers who object to racist statements, racist conduct, and discrimination by white officers. Officers who have lodged or supported complaints about this conduct have been the subject of harassment, investigative proceedings commenced in retaliation, and involuntary transfers. In his report, Mr. Graham details specific instances of retaliation and notes specific examples where the retaliatory conduct was authorized or condoned by the highest levels of the Department. We also note that since filing our lawsuit (and consistent with the County strategy of “blaming the messenger”) over half the Individual Plaintiffs have experienced retaliation at the behest of senior leadership of the Department.

Although the Department includes anti-retaliation and “no contact” policies in its General Orders, these provisions have not been enforced. There do not appear to be any instances where an officer has been investigated or disciplined for violating either provision.

Changing a Department’s custom and cultures—particularly the “us” (police) against “them” (civilians) and “you are with us, or you are with them” mentality pervasive on the PGPD will not be easy. But other police departments have made significant improvements in this area.

Recommendation #7: The County should adopt an officer-bystander intervention program that teaches officers how to intervene to stop a wrongful action before it incurs. By equipping, encouraging, and supporting officers to intervene to stop wrongful conduct, the Department can start to instill a culture of high-quality and ethical policing—one that promotes community safety and mutual respect on the force. Such programs have been adopted by a number of large police departments around the country. Additional materials concerning New Orleans’s program can be found at <http://epic.nola.gov/home/>.

Recommendation #8: The Department should strictly enforce its anti-retaliation and no contact provisions, both of which should be considered Category IV offenses (terminable offenses). Responsibility for investigating these provisions should be vested in the Office of Compliance (Recommendation # 12).

## **II. PROMOTING FAIRNESS IN INVESTIGATIONS AND DISCIPLINE**

For years, we have complained that there is significant racial bias in how the County and Department investigate and discipline officer misconduct: white officers are treated significantly more favorably by the system than BIPOC officers. As noted above, many white officers who have had discriminatory interactions with civilians (use of force, racial profiling) and BIPOC members of the force (use of racist language, engaging in racist acts, or discriminatory conduct) have not been adequately investigated or disciplined.

With access to the Department's data and certain of the Department's investigative files, Mr. Graham has confirmed our worst fears. His report identifies a number of areas in which the PGPD investigative and disciplinary policies and customs ignore, contradict, or fail to live up to the standards of other professional police forces and organizations. And he found that there is significant bias in favor of white officers throughout the investigative and disciplinary process—starting with the decision whether to open an investigation, continuing through the decision to sustain charges and whether to impose discipline, and ending with termination, where BIPOC officers have been terminated three times as frequently as white officers. Mr. Graham also identified specific investigators within the Internal Affairs Division (which is a specialty unit) who display significant bias. We note that our organizations had complained to Chief Stawinski about several of these individuals, with no apparent consequence.

It is important for your Task Force to know that the Fairness Panel attempted to look into the same issue, by requesting detailed statistical demographic information from the Department regarding racial disparities in charging decisions and punishments imposed. The Commander of Internal Affairs, however, declined to provide this information, contending the Department should not track or monitor whether these practices were discriminatory because consideration of race in investigative and disciplinary decisions was a “slippery slope.” The County's decision to willfully blind itself to what was going on has allowed this discrimination to fester.

Recommendation #9: The Internal Affairs Division should be monitored and report on bias and discrimination in investigation and disciplinary decisions to the Office of Compliance, the Chief of Police, and the County Executive. These reports should include monitoring individual investigators for potential bias, and should cover use of force, racial profiling, use of language, discrimination, and other bias complaints. The Internal Affairs Division should also implement peer review of investigations and random external reviews by the Office of Compliance. Investigators with a biased track record should immediately be transferred out of Internal Affairs.

## **III. ADOPTING A FAIRER EEO PROCESS**

For years, we have complained that the Department's EEO process is fundamentally deficient. The Department's policies vest EEO responsibility with the Deputy Chief for the Bureau of Administration and Homeland Security, who has no background on EEO issues, is given no training on how to perform the EEO function, no sworn officer staff, no resources to carry out this function, and is expected to fulfill this role in addition to other responsibilities. The result has been fundamentally deficient policies that (i) encourage resolution of complaints



of racism or discrimination within the direct chain of command, with emphasis on direct confrontation between perpetrators and victims of discrimination, (ii) routinely fail to investigate claims of discrimination, (iii) fail to consider patterns or practices of discriminatory conduct by particular officers, and (iv) expose complainants to retaliation. The failures of the system has led many officers to file directly with the EEOC and Maryland Commission on Civil Rights because of their frustrations with the PGPD process.

In his report, Mr. Graham detailed numerous areas in which the Department's EEO policies fail to meet the standards set forth by federal Equal Employment Opportunity Commission Guidelines (which the Department concedes, were not considered in drafting Department policies) or the model policies proposed by the International Association of Chiefs of Police. And as Mr. Graham notes, the Department has compounded these problems because there are fundamental deficiencies in its training program, which do not put sufficient emphasis on preventing racial discrimination or harassment, retaliation, or implicit bias.

Recommendation #10: The Department should revise its EEO complaint policy so that complaints can be made outside the chain of command and are confidential. EEO complaints, as well as other external and internal complaints of discrimination, bias, harassment, and retaliation should no longer be investigated within the chain of command. Within the Office of Compliance, the Department should establish a dedicated corps of investigators specifically trained on EEO issues to investigate external and internal complaints of discrimination, bias, harassment, and retaliation.

Recommendation # 11: All officers (regardless of rank) should have annual anti-discrimination, anti-retaliation, anti-harassment, and implicit bias training. Consistent with Recommendation #3, officers should also be retrained on use of force to avoid the use of force and take steps to de-escalate before engaging. Both components of training should assess comprehension, and there should be consequences for officers who do not pass.

#### **IV. ENFORCEMENT AND COMPLIANCE**

The Department's historical reliance on the Internal Affairs Division and the EEO Coordinator to address issues of racial equity and justice has been a failure. Neither of these entities has the training or resources to fulfill these critical responsibilities. The Department needs to charge an officer with sufficient rank with responsibility and provide dedicated resources to implement these recommendations. And there needs to be public reporting, transparency, and accountability to ensure that these recommendations are implemented.

Recommendation #12: The Department should appoint a senior, full time officer (with rank higher than the Deputy Chiefs) as the Chief Compliance Officer of the Department. The Chief Compliance Officer should head a new Office of Compliance whose sole responsibility should be over the areas identified in these recommendations, including independent authority to set EEO policies and provides, and investigative and disciplinary authority over EEO matters and civilian interactions with potential for discrimination. Among other things, the Chief Compliance Officer must (i) be actively involved in the training and enforcement of anti-discrimination, anti-harassment, anti-bias, and anti-retaliation policies and resolution of all

discrimination, harassment, and retaliation allegations; (ii) set goals for recruitment, promotions, and transfers to specialty assignments; (iii) have authority over the recruitment, promotion, and specialty unit transfer processes to ensure the Department achieves its goals; (iv) monitor the investigation and disciplinary functions of the department for bias and discrimination; (v) oversee revisions to the Department's policies and practices concerning civilian interactions and the monitoring and assessment of police/civilian interactions (including the internal reviews and integrity audits); and (vi) oversee the establishment of the officer-bystander program. The Chief Compliance Officer should have sufficient sworn and civilian staff to carry out the duties of their office. The Chief Compliance Officer should report directly to the Chief of Police, and should issue periodic public reports to the community on issues of discrimination and racism and how the Department and individual officers have been held accountable.

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The Recommendations set forth above are only a partial list of the ways in which PGPD should be reformed with respect to its hiring, promotional, disciplinary, and EEO functions. We know that the Task Force has other responsibilities, such as ensuring that the officers and leadership of PGPD act in a non-racist manner with respect to the community at-large. But the steps discussed above would be an important start towards creating a force in which all officers act in a non-racist manner, both with respect to their fellow officers and to the overall community.

Should you or members of the Task Force wish to review any of the information discussed in this letter or that we have received in the litigation concerning these important matters, we would be happy to provide them (with the permission of the County.)

Respectfully submitted,

  
Joe Perez

  
Thomas Boone

cc: The Honorable Angela Alsobrooks  
Members of the Prince George's County Council