

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

**MARYLAND STATE CONFERENCE OF
NAACP BRANCHES, et al.**

Plaintiffs,

v.

**BALTIMORE CITY POLICE
DEPARTMENT, et al.**

Defendants.

Civil Action No. 06-1863 (CCB)

STIPULATION OF SETTLEMENT

May 3, 2010

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This Stipulation of Settlement (the “Agreement”) is entered into by and among (i) the NAACP Plaintiffs (as defined in Section IV.A herein); and (ii) the Municipal Defendants (as defined in Section IV.A herein), collectively, the “Settling Parties.” This Agreement is intended by the Settling Parties to fully, finally, and forever resolve, discharge, and settle the Released Claims (as defined in Section IV.A herein) with respect to the Municipal Defendants, upon and subject to the terms and conditions hereof.

I. THE LITIGATION

1. On July 21, 2006, the NAACP Plaintiffs (with the exception of the Plaintiffs who joined the case in February 2008 with the filing of an amended complaint) commenced the Action by filing a complaint against the Municipal Defendants and other parties alleging, among other things, that the Department engaged in a pattern and practice of arrests without probable cause in violation of the United States Constitution and the Maryland Declaration of Rights.

2. The NAACP Plaintiffs filed an amended complaint on February 27, 2008, adding additional Plaintiffs and Defendants.

3. In December 2008, the Settling Parties agreed to suspend the prosecution of the Action and engaged in settlement negotiations. The Municipal Defendants, and especially the leadership of the Department, have worked closely and cooperatively with the NAACP Plaintiffs in fashioning the terms of this Agreement. These terms are based upon four key principles: 1) establishing policies and providing written guidance regarding the effective policing of Quality of Life Offenses; 2) training Department personnel regarding those policies; 3) tracking compliance with the policies; and 4) holding Departmental personnel accountable for conduct violative of the policies.

II. CLAIMS OF THE NAACP PLAINTIFFS

The NAACP Plaintiffs believe that the claims asserted in the Action have merit and that their investigation and analysis of the facts and the law in this matter support the claims asserted. However, the NAACP Plaintiffs and their counsel recognize and acknowledge the expense and length of continued proceedings necessary to prosecute the Action against the Municipal Defendants through trial and appeals. Plaintiffs agree that this Agreement is a fair and reasonable settlement with the Municipal Defendants.

III. THE MUNICIPAL DEFENDANTS' DENIAL OF WRONGDOING AND LIABILITY

The Municipal Defendants have denied and continue to deny all allegations of wrongdoing or liability asserted against them in the Action. Nonetheless, the Municipal Defendants recognize that continuing the Action through trial and appeals would be protracted and expensive, and that it is desirable and in the best interests of the Municipal Defendants and the citizens of Baltimore, that the Action be fully and finally settled in the manner set forth herein.

IV. TERMS OF STIPULATION AND AGREEMENT OF SETTLEMENT

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Settling Parties that the Action shall be fully and finally settled on and subject to the terms and conditions set forth below.

A. Definitions

The following terms have the meanings specified below:

1. "Action" means Maryland State Conference of NAACP Branches, et al., v. Baltimore City Police Department, et al., Civil Action No. 06-1863 (CCB) pending in the United States District Court for the District of Maryland.

2. “Agreement” means the entirety of this Stipulation of Settlement once fully executed by each of the Settling Parties, including all documents incorporated into this Stipulation of Settlement by reference.

3. “Arrests of Plaintiffs at Issue” means

- a. The arrest of Evan Howard on April 15, 2005.
- b. The arrest of Tyrone Braxton on April 15, 2005.
- c. The arrests of Donald Wilson on April 10, 2006, and April 5, 2007.
- d. The arrest of Aaron Stoner on May 7, 2005.
- e. The arrest of Robert Lowery on May 7, 2005.
- f. The arrest of Timothy Johnson on June 25, 2006.
- g. The arrests of Tavis Crockett on July 23, 2006 and August 22, 2006.
- h. The arrest of Raffic Scott on August 30, 2006.
- i. The arrest of Kerrell Wright on August 30, 2006.
- j. The arrest of Carol Higgs on March 2, 2004.
- k. The arrest of Armondo Horsey on July 22, 2007.
- l. The arrest of Jonathan Lindsay on July 22, 2007.
- m. The arrest of Erin Marcus on October 12, 2007.

4. “Court” means the United States District Court for the District of Maryland.

5. “Department” means the Baltimore Police Department.

6. “Effective Date” means the date upon which the Court enters an order of voluntary dismissal of the Action with prejudice as agreed upon by the Settling Parties.

7. “The Municipal Defendants” means the Mayor and City Council of the City of Baltimore (“City”); the Baltimore Police Department; Martin O’Malley, individually, and in his

official capacity as former-mayor of the City of Baltimore; Sheila Dixon, individually, and in her official capacity as Mayor, City of Baltimore; Leonard Hamm, individually, and in his official capacities as former Commissioner and Interim Commissioner of the Police Department; Marcus L. Brown, individually and in his official capacity as former Deputy Commissioner of the Police Departments; Frederick H. Bealfeld, III, individually and in his official capacity as Commissioner of the Police Department; Kevin Clark, individually, and in his official capacity as former-Commissioner of the Police Department; Edward T. Norris, individually, and in his official capacity as former-Commissioner of the Police Department; P/O Jemini Jones, individually, and in his official capacity as a Police Officer, Baltimore City Police Department; P/O David A. Crites, Jr., individually, and in his official capacity as a Police Officer, Baltimore City Police Department; Sgt. Erik Pecha, individually, and in his official capacity as a Sergeant, Baltimore City Police Department; P/O Benjamin Newkirk, individually, and in his official capacity as a Police Officer, Baltimore City Police Department; P/O Arnold Jones, individually, and in his official capacity as a Police Officer, Baltimore City Police Department; P/O Peter Heron, individually, and in his official capacity as a Police Officer, Baltimore City Police Department; P/O Johnta Grey, individually, and in his official capacity as a Police Officer, Baltimore City Police Department; P/O Joseph Chin, individually, and in his official capacity as a Police Officer, Baltimore City Police Department; P/O Paul Southard, individually, and in his official capacity as a Police Officer, Baltimore City Police Department; P/O Michael Pinkosz, individually, and in his official capacity as a Police Officer, Baltimore City Police Department; P/O Lolando Hamilton, individually, and in his official capacity as a Police Officer, Baltimore City Police Department; P/O Ronald Mealey, individually, and in his official capacity as a Police

Officer, Baltimore City Police Department; John Does 1-100, individually, and in their official capacity as Police Officers, Baltimore City Police Department.

8. “The NAACP Plaintiffs” means the Maryland State Conference of NAACP Branches, Baltimore City Branch of the NAACP, Evan Howard, Tyrone Braxton, Donald Wilson, Robert Lowery, Aaron Stoner, Timothy Johnson, Tavis Crockett, Raffic Scott, Kerrell Wright, Carol Higgs, Erin Marcus, Armando Horsey, and Jonathan Lindsay.

9. “Personnel Information” means any information that specifically identifies an individual officer, including, but not limited to, name, badge number, sequence number, or social security number.

10. “Plaintiffs’ Counsel” means the law firm of Gibson, Dunn & Crutcher LLP; the ACLU of Maryland; and all attorneys affiliated therewith.

11. “Policies” means the policies and written directives required by section IV.B.1.a.1 through IV.B.1.a.3.

12. “Quality of Life Offenses” for the purposes of this Agreement means loitering, trespassing, public defecation/urination, open container, disorderly conduct (particularly “failure to obey” and disturbing the peace), hindering, and littering.

13. “Released Claims” shall collectively mean all claims, demands, rights, actions, liabilities, damages, losses, obligations, or causes of action, in law or in equity, whether known or unknown, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, hidden or concealed, matured or unmatured, accrued or which may hereafter accrue, that have been or could have been asserted through the Effective Date by the NAACP Plaintiffs, arising from Arrests at Issue.

14. “Released Persons” means each and all of the Municipal Defendants.

15. “Settlement” means the proposed settlement and compromise of the Action as provided for in this Agreement.

16. “Task” means any, each or all of the actions listed in Attachment A, as applicable.

17. “Zero Tolerance Policing” means the policy by which all Quality of Life Offenses, are enforced by means of custodial arrest, regardless of any discretion to address the infractions through other available means, including, but not limited to, counseling, verbal warning, or written citation.

B. Terms of the Settlement

The Settling Parties agree to resolve the Action, pursuant to this Agreement, on the following terms:

1. Policy Changes

a) Statements of Policy

1. Within 30 days of the Effective Date of this Agreement, the Department shall issue a policy stating that the Department does not support a policy of Zero Tolerance Policing. Quality of Life Offenses committed in an officer’s presence may be enforced by several means, including but not limited to: counseling, verbal warning, written citation or arrest. The Department shall enforce this policy as set forth in sections IV.B.1.c and IV.B.1.e of this Agreement. The policy shall be in the form agreed upon, or to be agreed upon within 30 days of the Effective Date of this Agreement, by the Department and Plaintiffs’ Counsel and is hereby incorporated into this Agreement by reference as if fully set forth herein.

2. Within 30 days of the Effective Date of this Agreement, the Department shall issue a written directive or directives enumerating the elements of each Quality of Life Offense and providing guidance on appropriately identifying and reacting to conduct that does and does not amount to a Quality of Life Offense, including guidance on conduct that is protected by the

First Amendment to the U. S Constitution. The Department shall enforce the directive or directives as set forth in sections IV.B.1.c and IV.B.1.e of this Agreement. The Directives shall be in the form agreed upon by the Department and Plaintiffs' Counsel and are hereby incorporated into this Agreement by reference as if fully set forth herein.

a. The written directive or directives concerning Quality of Life Offenses required by Section IV.B.1.a.2 shall include a requirement that any time an officer effects a custodial arrest for a Quality of Life Offense, the officer shall record in the incident report and the statement of probable cause the factual basis for his or her decision to effect a custodial arrest, rather than providing counseling, a verbal warning or issuing a citation.

3. Within 30 days of the effective date of this Agreement, the Department shall issue and enforce a written directive requiring officers to provide their names and badge numbers to any individual who requests this information.

4. The Zero Tolerance Policing policy required by section IV.B.1.a.1 shall not be rescinded or diminished by the Department during the term of this Agreement.

5. The written directive or directives required by section IV.B.1.a.2 shall not be rescinded or diminished by the Department during the term of this Agreement unless (a) the Department determines, in good faith and upon advice of counsel, that the policies conflict or will conflict with any applicable law, regulation, or court order; or (b) the Department determines in good faith that such rescission or diminishment is necessary for the safety of the public or Department personnel. In the event the Department concludes a modification of the written directive or directives required by section IV.B.1.a.2 is necessary, it will notify Plaintiffs'

Counsel of the planned modification and offer a reasonable opportunity for Plaintiffs' Counsel to comment upon it. The Department shall in good faith consider such comments.

b) Auditor

1. Within 30 days of the Effective Date of this Agreement, the Department and Plaintiffs' Counsel will attempt in good faith to mutually agree upon an Auditor. If the Department and Plaintiffs' Counsel are unable to agree upon an Auditor within 30 days of the Effective Date of this Agreement, the Department and Plaintiffs' Counsel shall submit, within 45 days of the Effective Date of this Agreement, two names of persons who have experience as a law enforcement practices expert, monitor or auditor, along with resumes or curricula vitae and cost proposals to the Court, and the Court shall appoint the Auditor from among the names of qualified persons so submitted.

2. Should the Auditor become unable to serve, the Department and Plaintiffs' Counsel shall, within 45 days of being so notified, together select a new Auditor. If the Department and Plaintiffs' Counsel are unable to agree on a replacement Auditor, the Department and Plaintiffs' Counsel shall submit, within 45 days of notification that the Auditor is unable to continue to serve, two names of persons who have experience as a law enforcement practices expert, monitor or auditor, along with resumes or curricula vitae and cost proposals to the Court, and the Court shall appoint the Auditor from among the names of qualified persons so submitted.

3. The Auditor shall be retained to conduct audits, issue public reports, and otherwise perform its duties as defined in this Agreement for a term of three (3) years from the effective date of this Agreement, with the final semi-annual report due no later than 90 days from the end of the three-year term, unless the Agreement is terminated prior to the end of three years under section IV.B.1.b.6, in which case the final report shall be issued no later than 90 days after

the date the Agreement is terminated. The Auditor's term shall begin on the first day of the month following the selection of the Auditor. Each semi-annual report shall identify, in an executive summary, whether the Department is in Compliance, Material Compliance, Non-compliance, or Material Non-compliance with this Agreement. The definition of Compliance, Material Compliance, Non-compliance, and Material Non-compliance shall be set forth in detail in the Auditor's Manual mandated in section IV.B.1.b.21.

4. The Auditor shall not be retained by any current litigant or claimant, nor accept employment from any future litigant or claimant, in a claim or suit against the Municipal Defendants, or any of their officers, employees, agents, or associated persons. The Auditor shall not testify on behalf of any current or future litigant or claimant in any new claim or suit against the Municipal Defendants, or any of their officers, employees, agents, or associated persons. The Auditor shall be permitted to testify in any proceeding between the Settling Parties seeking to enforce this Agreement regarding the Auditor's access to documents, data, and persons, as set forth in sections IV.B.1.b.11 and IV.B.1.b.12 as well as the Auditor's Manual pursuant to section IV.B.1.b.21 and IV.B.1.b.22, and the contents of any Auditor's Report. The Auditor shall immediately notify the Municipal Defendants upon receipt of a subpoena and/or request for documents and materials that relate to the Auditor's duties under this Agreement or any Report(s) issued hereunder.

5. If, at the end of the three-year term, the Auditor determines that the Municipal Defendants have not been in Material Compliance with this Agreement for at least the previous 12 months, or have not been in Compliance with this Agreement for at least the previous six months, the Auditor shall be reappointed and this Agreement shall continue to be in effect for one additional year, and then will terminate.

6. If, at any time after the Agreement has been in effect for more than 18 months, the Auditor determines that the Municipal Defendants have been in Compliance with this Agreement for at least 6 consecutive months, this Agreement shall terminate. However, the Agreement shall not terminate under any circumstances less than 24 months from the Effective Date.

7. At his or her discretion, the Auditor may recommend to the Municipal Defendants measures intended to ensure full and timely implementation of this Agreement. A decision by Municipal Defendants not to implement the recommendations made by the Auditor shall not, by itself, constitute grounds for an enforcement action, but a decision not to implement a recommendation that results in non-compliance with this Agreement shall not be exempt from review by the Auditor.

8. The Municipal Defendants shall bear all fees and costs of the Auditor. The Auditor shall submit a proposed work plan and budget to the Municipal Defendants, in a format specified by the Municipal Defendants, within 45 days of appointment. The budget shall not exceed the sum of \$240,000.

9. The Auditor shall only have the duties, responsibilities, and authority conferred by this Agreement. The Auditor shall not, and is not intended to, replace or subsume the roles and duties of the Municipal Defendants or any of their officers, employees, or agents, including, but not limited to, the Department's Internal Investigations Division.

10. If the Auditor is not an attorney, the Auditor shall, within the budget allotted under Section IV.B.1.b.8, obtain the assistance of an attorney with professional experience and/or training in the area of criminal law and/or law enforcement to assist in performing reviews related to probable cause. Within 30 days of the Effective Date of this Agreement, the Department and Plaintiffs' Counsel will attempt in good faith to mutually agree upon an assistive

attorney. If the Department and Plaintiffs' Counsel are unable to agree upon an assistive attorney within 30 days of the Effective Date of this Agreement, the Department and Plaintiffs' Counsel shall submit, within 45 days of the Effective Date of this Agreement, two names of persons along with resumes or curricula vitae to the Court, and the Court shall appoint the assistive attorney from among the names of qualified persons so submitted. The Auditor, at his or her discretion (but within the budget approved by the Municipal Defendants), may associate such additional persons or entities as are necessary to perform the Tasks specified by this Agreement and attached at Attachment A, subject to the approval of the Municipal Defendants; such approval shall not be unreasonably withheld. Any additional persons or entities associated with the Auditor shall possess the following attributes: a reputation for integrity, evenhandedness, and independence; an absence of bias, including any appearance of bias, for or against the NAACP Plaintiffs or the Municipal Defendants in this Action, or their officers or employees; and no personal involvement in the last five years, whether paid or unpaid, with a claim or lawsuit against the Municipal Defendants or any of their officers, agents, or employees unless waived by the Municipal Defendants, which waiver shall not be unreasonably withheld. The Auditor shall notify in writing the Municipal Defendants if and when such additional persons or entities are selected for association by the Auditor. The notice shall identify the persons or entities to be associated and the task(s) to be performed, and, if a waiver is being requested, the notice shall indicate if the person had any such involvement in the last five years, whether paid or unpaid, with a claim or lawsuit against the Municipal Defendants or any of their officers, agents or employees. The Municipal Defendants shall notify the Auditor in writing within 10 days (excluding weekends, and federal or state holidays) of any objection they may have to the selection. All individuals or entities associated with the Auditor under this provision,

including the assistive attorney, shall be subject to the same restrictions and limitations included in sections IV.B.1.b.4, IV.B.1.b.13, and IV.B.1.b.14 of this Agreement. Neither the NAACP Plaintiffs nor Plaintiffs' Counsel may assist the Auditor in performing the Auditing tasks specified by this Agreement.

11. The Municipal Defendants shall provide the Auditor with access to all officers, employees, documents, and data of the Municipal Defendants that are reasonably necessary to complete the Tasks enumerated in this Agreement. The Auditor's access to documents and databases that contain non-public individually identifiable data shall be provided through the oversight of an agent of the Municipal Defendants who has the necessary security clearance. In the event the Municipal Defendants reasonably believe the Auditor's request for access to officers, employees, documents or data is irrelevant, onerous, and/or unnecessary, the Municipal Defendants shall make their position known to the Auditor. A decision by Municipal Defendants to deny the Auditor access to requested personnel and/or documents shall not, by itself, constitute grounds for an enforcement action, but a decision to deny the Auditor access to requested personnel and/or documents that either results in non-compliance with this Agreement, or the Auditor's inability to assess compliance with this Agreement shall constitute grounds for an enforcement action.

12. The Auditor's access to documents and data shall include, but is not limited to, all documents and data described in Section IV.B.1 of this Agreement to the extent the documents or data are created or maintained by the Municipal Defendants.

13. The Auditor shall provide the Municipal Defendants with notice of a request for copies of or access to documents and databases. Upon such a request, the Municipal Defendants shall provide the Auditor with copies (electronic, where available, or hardcopy, at the Auditor's

discretion) of or access to any documents or databases that the Auditor is entitled to access under this Agreement. The Auditor shall retain any non-public confidential information, including, but not limited to, Personnel Information, information related to disciplinary investigations, procedures, or actions to the extent they contain Personnel Information, and General Orders, Police Commissioner's Memoranda, and Training Bulletin Guidelines to the extent they are not public records, in whatever form (e.g., written, electronic, oral, overheard or observed), in a confidential manner and shall not disclose any non-public confidential information to any person or entity, other than those persons or entities with whom the Auditor may associate pursuant to this Agreement. The Auditor's semi-annual reports shall not contain any Personnel Information of any member of the Department. The Auditor's reports shall not contain information sufficient to identify any specific arrest or other citizen contact by the Department including, but not limited to, names, dates, time, or location.

14. All information, documents and data retained by the Auditor in the administration of his or her duties shall be returned to the Municipal Defendants upon the termination of this Agreement. This information, documents or data shall not be copied, and any electronic data shall be destroyed by the Auditor, who shall attest to the fact at the conclusion of this Agreement.

15. In order to audit and report on the Municipal Defendants' implementation of this Agreement, the Auditor shall regularly review and evaluate the Department's completion, implementation, and/or compliance with the Tasks enumerated in Attachment A.

16. Within 120 days of the Effective Date of this Agreement, the Department shall develop a document and database retention protocol to maintain and retain all records, including documents and the database described in Section IV.B.1.c of this Agreement, documenting

compliance with the terms of this Agreement and all documents required by or developed pursuant to this Agreement. The protocol shall be evaluated and reported on by the Auditor.

17. In performing its obligations under this Agreement, the Auditor shall use the methods and procedures he or she deems most appropriate, including, but not limited to, statistical sampling techniques.

18. The Auditor shall evaluate and report on investigations of allegations of false or improper arrests regarding Quality of Life Offenses (as set forth in the explanatory note to Task 13 in Attachment A).

19. The Auditor shall issue semi-annual written, public reports, beginning 270 days after the Auditor's term begins, detailing the Municipal Defendants' compliance with and implementation of this Agreement. Each semi-annual report shall be issued within 90 days after the end of the six-month period being evaluated. At least 45 days before issuing a report, the Auditor shall provide a draft to the Municipal Defendants and Plaintiffs' Counsel for review. Plaintiffs' Counsel shall submit to the Auditor and the Municipal Defendants any written comments regarding the draft report within 15 days of receiving the draft report. Municipal Defendants shall provide to the Auditor and Plaintiffs' Counsel any written comments regarding the draft report within 30 days of receiving the draft report. The Auditor shall consider the comments of the Municipal Defendants and Plaintiffs' Counsel in drafting the Auditor's report. The Municipal Defendants' comments shall be published with the final report. The comments shall be clearly marked as the Municipal Defendants' comments. The reports shall be written with due regard for the privacy interests and rights of individual officers and shall not include any individually identifiable Personnel Information.

20. The Auditor's Report shall include, but is not limited to, a description of the methodology for assessing compliance with the Agreement.

21. The Auditor, within 90 days of the beginning of his or her term, shall create an Auditor's Manual and provide it to the Department and Plaintiffs' Counsel. The Auditor's Manual will identify each Task required of the Municipal Defendants listed in Attachment A and the methodology that shall be used to assess the Municipal Defendants' compliance with each Task.

22. Within 30 days of receipt of the Auditor's Manual, the Department and Plaintiffs' Counsel shall provide comments, if any, regarding the Auditor's Manual to the Auditor and opposing counsel. Within 30 days of receipt of the comments, the Auditor shall provide to the Department and Plaintiffs' Counsel the final Auditor's Manual, incorporating the comments to the extent he or she deems appropriate. If the Auditor, the Department and Plaintiffs' Counsel are unable to agree on the content of the Auditor's Manual, any and each of them may seek the intervention of the Court. The Auditor shall perform the duties required by this Agreement in conformity with the Auditor's Manual.

23. In the event that any of the Settling Parties seek the intervention of the Court to resolve a dispute concerning this Agreement, all deadlines, including the termination of this Agreement, shall be tolled until the dispute is resolved.

c) Data Tracking and Management

1. Within 180 days of the effective date of this Agreement, the Municipal Defendants shall create and automate a database to track police officer performance. The database shall have the capability to retrieve information by sequence number, sector, district, shift, date, and offense. The following data will be entered into the database:

- a. the number of citizen contact sheets written;
 - b. the number and kind of citizen complaints and the final disposition of any related investigations;
 - c. the number of arrests for Quality of Life Offenses;
 - d. the number of criminal and civil citations issued for Quality of Life Offenses; and
 - e. probable cause statements for arrests for Quality of Life Offenses.
2. Within 180 days of the effective date of this Agreement, the Department shall:
- a. establish and enforce a policy and procedure requiring shift supervisors to review statements of probable cause for custodial arrests for Quality of Life Offenses to ensure that probable cause in fact existed and that the arrest was in accord with the Policies. If, after this Agreement has been in effect for 365 days, the result of the review is a determination that the arrest was in contravention of the Policies, the supervisor shall refer the matter to his or her command for action consistent with the policy established under section IV.B.1.c.2.c. If the result of the review is a determination that the arrest is consistent with the Policies, the supervisor shall determine the necessity, if any, for non-punitive counseling.
 - b. establish and enforce a policy and procedure requiring a line supervisor's review of probable cause statements for custodial arrests for Quality of Life Offenses is reviewed by second-level supervisors on a periodic basis, not to exceed every six months, to ensure that probable cause in fact existed and that the arrest was in accord with the Policies ;

- c. establish a policy identifying corrective actions, up to and including disciplinary action, as warranted and consistent with established Departmental disciplinary policies, procedures, contracts, memoranda of understanding, and all applicable laws governing the discipline of law enforcement officers, including, but not limited to the Law Enforcement Officer's Bill of Rights ("LEOBR"), Md. Ann. Code, Public Safety Art., § 3-101, et seq., to be taken by the Department when an officer's conduct is determined to be in contravention of the Policies;
- d. establish confidentiality and security policies and procedures for the database; and
- e. establish procedures to test the accuracy and security of data in the database.

3. Within 365 days of the effective date of this Agreement, the Department shall develop protocols for use of the database in evaluating compliance with the Policies. Such protocols shall establish reasonable triggering thresholds for review of officer conduct to monitor effective compliance with the Policies.

- a. Triggering thresholds shall be established for a number of complaints over a given period where the investigation stemming from the complaint results in a finding that the complaint is sustained or not sustained.
 - i. The triggering thresholds required by section IV.B.c.3.a. shall include:
 - 1. complaints alleging false arrests or lack of probable cause;
 - and

2. complaints alleging that an officer did not provide his or her name and badge number upon request.

b. Triggering thresholds shall be established for the number of custodial arrests for Quality of Life Offenses in a given period. A triggering threshold shall be established for each type of Quality of Life Offense as well as for the total number of custodial Quality of Life Offense arrests.

d) Citizen Complaint and Investigation Process and Community Relations

1. Within 90 days of the effective date of this Agreement, the Municipal Defendants shall enter all citizen complaints into a database. The database shall include the file number of the complaint (also provided to the complainant); the names of all accused officers, if provided or known; contact information for all complainants, non-accused but related officers, and witnesses, if provided or known; the race and gender of all involved officers and complainants if known or ascertainable by reasonable investigation; a narrative description of the allegations; significant dates; the street address and district of the incident; and the disposition of the complaint (sustained, not sustained, unfounded or exonerated).

2. All files related to the discipline of any officer following a sustained complaint shall be available to Department personnel responsible for that officer's supervision, counseling, or discipline.

3. Complainants shall be allowed to initiate complaints against an officer in person, by telephone, by mail, by fax, or via the internet. A complainant shall not be required to fill out or sign a form to initiate a complaint. Municipal Defendants may seek from the complainant sufficient information to enable the identification of the involved officers and incident.

4. Complainants shall be permitted to initiate complaints anonymously, in writing or verbally. Third-party complaints shall be allowed.

5. Within 180 days of the Effective Date of this Agreement, a telephone number shall be created to allow for toll free calls to initiate complaints.

6. Within 180 days of the Effective Date of this Agreement, the telephone number shall be advertised with the goal that Baltimore residents and visitors should be generally aware of how to initiate a complaint.

7. Within 365 days of the Effective Date of this Agreement, the Municipal Defendants shall publicize information concerning the purpose and goals of the citizen complaint and resolution process, and the process for initiating a complaint, including publishing and distributing pamphlets describing the complaint and resolution process and holding at least one community meeting in each police district.

8. Investigators shall attempt to interview complainants and witnesses at their own convenience, but, if necessary, shall offer to conduct interviews during non-business hours or at locations other than Departmental offices.

9. If conduct in contravention of Departmental policy other than the conduct alleged by the complainant is discovered in the course of an investigation, the Department shall investigate such other conduct.

10. Upon request, the Department shall provide a complainant reasonable updates on the status of the investigation. Even absent any such request for information, complainants shall be apprised of the status of open complaints every 60 days and promptly upon resolution of the investigation.

11. All findings shall be based on the “preponderance of the evidence” standard, and all investigators shall be trained on that standard. Investigators shall be required to state the factual basis for each finding in the final report of each investigation.

12. The Municipal Defendants shall make final determinations of all citizen complaints, and shall inform each complainant in writing of the final determination on his or her complaint.

e) Monitoring Arrests for Quality of Life Offenses and Citizen Complaints

1. When a review of an officer’s performance is triggered by a data analysis under Section IV.B.1.c.3, the Department shall notify the appropriate supervisor of the officer or officers in question. This notice shall include the information available from the Section IV.B.1.c.3 database that triggered the review.

2. Once notified, a supervisor shall conduct a reasonable investigation of the performance of the officer in question by reviewing records relating to the conduct that triggered the review (e.g., complaint records, statements of probable cause, incident reports, etc.). The review shall specifically include a determination of the sufficiency of the probable cause underlying each Quality of Life arrest that is associated with the conduct under review. Based upon the review of related records, the supervisor shall determine, based upon a preponderance of the documentary evidence, whether the officer’s actions are in contravention of the Policies. If the result of the review is a determination that the officer’s actions are in contravention of the Policies, the supervisor shall refer the matter to his or her command for action consistent with the policy established under section IV.B.c.2.c. If the result of the review is a determination that the officer’s actions are consistent with the Policies, the supervisor shall determine the necessity, if any, for non-punitive counseling.

3. Upon completion of the review, the investigating supervisor shall provide written documentation of the process and the results of the investigation in the form of a review memorandum. The review memorandum shall specifically document the conduct of the investigation, the outcome of the review and whether the supervisor provided the officer with non-punitive counseling.

4. When an officer's performance is being reviewed as part of the Department's periodic performance evaluation process, copies of any review memoranda created during the period under review shall be provided to and considered by the reviewing officer in evaluating the subject officer's performance.

5. When an officer, who is the supervisor of other officers, is the subject of a review as part of the Department's periodic performance evaluation process, copies of any review memoranda relating to the officer under the subject officer's supervision created during the period under review will be provided to and considered by the reviewing officer in evaluating the subject officer's performance.

6. The Municipal Defendants shall monitor citizen complaints related to Quality of Life Offenses to gauge the effectiveness of training and to detect the need for new or further training.

7. Except with respect to complaints subject to the statutory requirements of Article 4, section 16-44 of the Public Local Laws of Maryland, the Municipal Defendants shall monitor and be responsible for completing all investigations and shall not have discretion to reject a citizen complaint without investigation if sufficient information is provided to or obtained by the Municipal Defendants through reasonable investigation.

8. Within 120 days of the effective date of this Agreement, the Municipal Defendants shall create and maintain individual training records for all police officers, documenting the date and topic of all pre-service and in-service training completed. These records shall also reflect whether the training was completed satisfactorily, as well as the reasons for any mandatory re-training.

f) Training

1. Within 180 days of the effective date of the Agreement, the Department shall develop training curricula for pre-service and annual in-service training regarding Quality of Life Offenses, assessing probable cause, rights protected by the First Amendment to the U.S. Constitution, especially the lawful exercise of those rights on City sidewalks and other public areas, and the appropriate officer response when an individual requests an officer's name and badge number.

2. The training curricula shall include, but is not limited to, the following:
 - a. the elements of each Quality of Life Offense;
 - b. the range of appropriate responses to various factual scenarios involving Quality of Life Offenses;
 - c. the range of appropriate responses to various factual scenarios involving conduct that is protected by the First Amendment to the U.S. Constitution;
 - d. techniques for writing incident reports and statements of probable cause to accurately articulate particularized facts sufficient to justify arrest for Quality of Life Offenses;
 - e. the citizen complaint process, and officers' obligation to cooperate with the resulting investigations;

- f. an officer's duty to provide his or her name and badge number upon request.

3. Within 120 days of the effective date of this Agreement, the Department shall provide the training curricula required by section IV.B.1.f. to the Auditor and Plaintiffs' Counsel for comment, to be received no later than 30 days from receipt of the curricula. The Department shall consider in good faith any comments so received, but is not required to make any changes to the curricula based upon the comments.

4. Pre-service training based upon the training curricula required by this section shall be provided to all incoming classes as of the first incoming academy class after the finalization of the training curricula required by section IV.B.1.f.1-2.

5. In-service training based upon the training curricula required by this section shall be provided to officers beginning with in-service training that occurs within 90 days of the finalization of the training curricula required under IV.B.1.f.1-2 and shall continue for all in-service training sessions provided during the term of this Agreement.

6. Notice of this in-service training shall be disseminated to all officers employed by the Department as of the Effective Date of this Agreement within 120 days of the Effective Date of this Agreement.

C. Payments to Plaintiffs

Within 60 days of the Effective Date of this Agreement, the Municipal Defendants shall remit to Plaintiffs' Counsel \$630,000.00 in payments to Plaintiffs, in damages, attorneys' fees and costs.

D. Confidentiality of Settlement Amounts

The total amount recovered by any individual NAACP Plaintiff as a result of this Settlement shall be kept completely confidential, and shall be disclosed to no one other than Plaintiffs'

Counsel, that individual NAACP Plaintiff and such person's spouse (or significant other) and immediate family, such person's accounting, financial and legal advisors, the Internal Revenue Service and as otherwise required by law. Each of the above persons or entities to whom such authorized disclosures are made shall, in turn, be required to maintain the confidentiality of such information. The confidentiality obligations imposed by this paragraph are perpetual and shall survive termination of this Agreement for any reason. This provision may be enforced as an order of the court.

E. Dismissal of Released Claims Against Released Parties

1. Promptly after execution of this Agreement by all Settling Parties, and approval by the City's Board of Estimates pursuant to section IV.G.5., the NAACP Plaintiffs shall submit the Agreement, together with its Attachments, to the Court requesting that the Court enter as soon as practicable an order, substantially in the form of Attachment B hereto, dismissing the Released Persons from all Released Claims.

F. Releases

1. Upon issuance of an Order dismissing the Released Persons from all Released Claims, the NAACP Plaintiffs, shall be deemed to have fully, finally, and forever released, relinquished, and discharged all Released Claims and any and all claims, known or unknown, arising out of, relating to, or in connection with the settlement or resolution of the Action against the Released Persons, except for claims for failure to comply with the requirements of this Agreement.

2. Upon the Effective Date, each of the Released Persons shall be deemed to have, and by operation of the dismissal shall have, fully, finally and forever released, relinquished, and discharged each and all of the NAACP Plaintiffs from all claims (including unknown claims)

arising out of, relating to, or in connection with the institution, prosecution, assertion, settlement, or resolution of the Action or the Released Claims.

G. Miscellaneous Provisions

1. Cooperation of the Parties. The Settling Parties (a) intend to consummate the Settlement contemplated by and provided for in this Agreement; and (b) will cooperate to the extent reasonably necessary to effectuate and implement the Settlement and all terms and conditions of the Agreement.

2. Full and Final Settlement. The Settling Parties intend this Agreement to be a final and complete resolution of all disputes between them with respect to the Action. This Agreement compromises claims that are contested and shall not be deemed an admission by any Settling Party as to the merits of any claim, allegation or defense.

3. No Admissions. Neither this Agreement nor any act performed or document executed pursuant to or in furtherance of the Agreement: (a) is or may be deemed to be or may be used as an admission of, or evidence of, the validity of any Released Claim, or of any wrongdoing or liability of the Municipal Defendants and/or the Released Persons; or (b) is or may be deemed to be or may be used as an admission of, or evidence of, any fault or omission of any of the Municipal Defendants, the Released Persons, or any other member of the Baltimore Police Department in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. The Municipal Defendants and the Released Persons may file the Agreement and/or the dismissal in any action that may be brought against them in any state or federal court to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good faith settlement, judgment bar or reduction, or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

4. Joint Public Statement. The Settling Parties agree to issue a joint public statement to the media regarding the resolution of the Action. The joint public statement shall be in a form approved by the Settling Parties and attached hereto as Attachment C.

5. Approval by City's Board of Estimates. The Settling Parties understand that payment to Plaintiffs pursuant to section IV.C is subject to, and contingent upon, the prior approval of the City's Board of Estimates. If the payment to the Plaintiffs as set forth in section IV.C is not approved by the City's Board of Estimates this Agreement shall be null and void.

6. Attachments. The Attachments to this Agreement are material and integral parts and are fully incorporated by this reference.

7. Modification. The Agreement may be amended or modified only by a writing signed by or on behalf of all Settling Parties or their respective successors-in-interest.

8. Entire Agreement. This Agreement, the Attachments and any documents incorporated by reference constitute the entire agreement among the parties and no representations, warranties or inducements have been made to any party concerning the Agreement or its Attachments, other than the representations, warranties, and covenants in such documents. Except as otherwise provided, each party shall bear its own costs.

9. Warrant of Authority. Each counsel or other person executing the Agreement or its Attachments on behalf of any party warrants that such person has the full authority to do so.

10. Counterparts. The Agreement may be executed in one or more counterparts. Each executed counterpart shall be deemed to be one and the same instrument.

11. Binding Effect. The Agreement shall be binding up, and inure to the benefit of, the successors and assigns of the parties hereto.

12. Specific Performance. The Settling Parties agree that damages pursuant to any breach of the Agreement are incalculable and any breach of this Agreement may be remedied only by specific performance of the contract.

13. Attorneys' Fees. Any party that prevails in an action to enforce this agreement shall be entitled to recover its reasonable attorneys' fees in conjunction with such an action, pursuant to 42 U.S.C. § 1988.

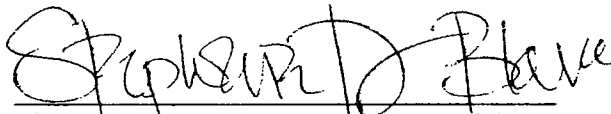
14. Governing Law. This Agreement and its enforcement shall be governed by, and construed in accordance with, the laws of the State of Maryland. Any suit or enforcement proceeding arising out of this Agreement shall be brought or maintained exclusively in the United States District Court for the District of Maryland. Each party hereby irrevocably submits to the exclusive jurisdiction of such court, and waives any objection which it may have at any time to the laying of venue of any proceeding brought in said court, waives any claim that such proceeding has been brought in an inconvenient forum, and waives the right to object that such court does not have any jurisdiction over such party with respect to such proceeding.

15. Enforcement. This Agreement shall be enforceable in the United States District Court for the District of Maryland by any of the parties acting alone or in concert, and the United States District Court for the District of Maryland shall retain jurisdiction over the case for the purpose of enforcing this Agreement. The Settling Parties agree that they will not challenge the Court's jurisdiction. If the Court elects not to retain jurisdiction for the purpose of enforcing this Agreement the Settling Parties will renegotiate this Agreement concerning the enforcement of this Agreement.

16. Recovery/Destruction of Discovery Materials. Within 30 days of approval of the settlement sum by the Board of Estimates, the NAACP Plaintiffs and Plaintiffs' Counsel shall

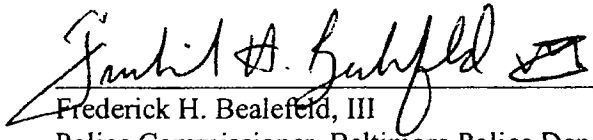
return to the Municipal Defendants any and all materials, including, but not limited to, documents, recordings, transcripts, or electronically stored information, in whatever form, obtained from the Municipal Defendants in the Action. The Municipal Defendants shall retain all such materials stored together and in an accessible manner. If Plaintiffs believe the materials are relevant to an enforcement dispute among the Settling Parties prior to the termination of this Agreement, they shall request, in writing, access to the materials. If the Municipal Defendants believe Plaintiffs' request for access is unreasonable, the Settling Parties may seek the intervention of the Court.

The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.



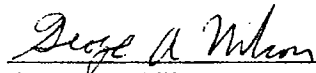
The Honorable Stephanie Rawlings-Blake
Mayor, Baltimore City

Dated: 6/14/10



Frederick H. Bealefeld, III
Police Commissioner, Baltimore Police Department

Dated: 6/9/10

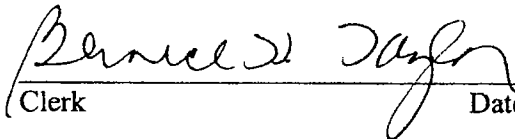


George A. Nilson
City Solicitor, Baltimore City

Dated: 6/11/10

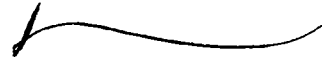
MARYLAND STATE CONFERENCE OF NAACP BRANCHES, et al.
v. BALTIMORE CITY POLICE DEPARTMENT, et al.
STIPULATION OF SETTLEMENT
May 3, 2010

APPROVED BY THE BOARD OF ESTIMATES:

 **JUN 23 2010**

Clerk Date

IT IS HEREBY AGREED, BY AND BETWEEN THE PARTIES, THIS 25th DAY OF
JUNE, 2010.



Mitchell Karlan
Gibson, Dunn & Crutcher
Counsel for Plaintiffs

David Rocah
ACLU of Maryland Foundation
Counsel for Plaintiffs

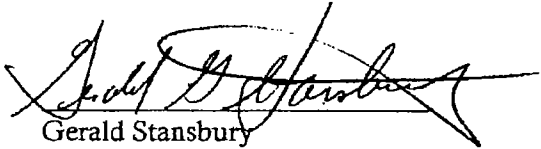
IT IS HEREBY AGREED, BY AND BETWEEN THE PARTIES, THIS 3rd DAY OF June, 2010.

Mitchell Karlan
Gibson, Dunn & Crutcher
Counsel for Plaintiffs

A handwritten signature in black ink, appearing to read 'DR', is written over a horizontal line.

David Rocah
ACLU of Maryland Foundation
Counsel for Plaintiffs

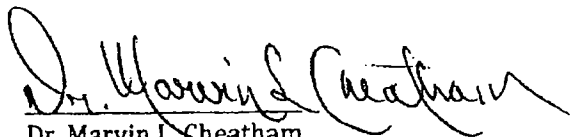
The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.

A handwritten signature in black ink, appearing to read "Gerald Stansbury", written over a horizontal line.

Gerald Stansbury
President, Maryland State Conference of NAACP Branches

Dated: 6/2/10

The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.

A handwritten signature in black ink, appearing to read "Dr. Marvin L. Cheatham". The signature is written in a cursive, flowing style with a large initial "D".

Dr. Marvin L. Cheatham
President, Baltimore City Branch of the NAACP

Dated: 6/2/10

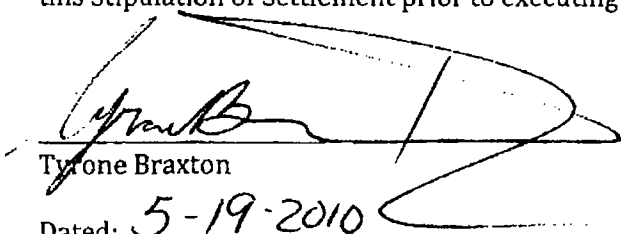
The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.

Evan Howard

Evan Howard

Dated: 5/20/10

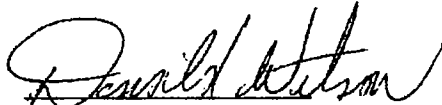
The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.



Tyrone Braxton

Dated: 5-19-2010

The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.

A handwritten signature in cursive script, appearing to read "Donald Wilson", written in black ink.

Donald Wilson

Dated: 5-20-10


The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.

A handwritten signature in black ink, appearing to read "Robert Lowery", written over a horizontal line.

Robert Lowery

Dated: 5/21/10

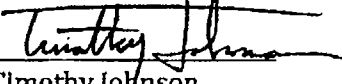
The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.



Aaron Stoner

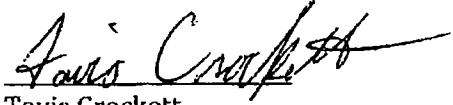
Dated: 5-21-10

The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.


Timothy Johnson

Dated: 5-21-10

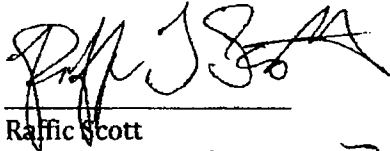
The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.

A handwritten signature in black ink, appearing to read "Tavis Crockett", with a long horizontal flourish extending to the right.

Tavis Crockett

Dated: 5/20/10

The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.

A handwritten signature in black ink, appearing to read "Rafic Scott", written over a horizontal line.

Rafic Scott

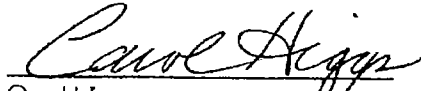
Dated: 5.19.2010

The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.

Kerrell Wright
Kerrell Wright

Dated: 6/2/10

The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.


Carol Higgs

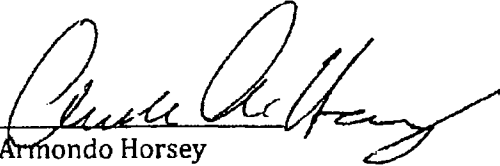
Dated: 5-19-2010

The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.

Erin Marcus
Erin Marcus

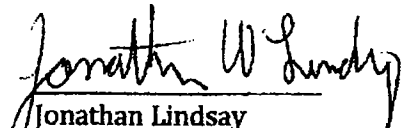
Dated: 5/20/10

The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.


Armando Horsey

Dated: 2010 May 28

The undersigned represents that he or she has read and understood the terms of this Stipulation of Settlement prior to executing same.


Jonathan Lindsay
Dated: May 21, 2010

Attachment A

1. Within 30 days of the Effective Date of this Agreement, the Department shall issue a policy stating that the Department does not support a policy of Zero Tolerance Policing. Quality of Life Offenses committed in an officer's presence may be enforced by several means, including but not limited to: counseling, verbal warning, written citation or arrest. The Department shall enforce this policy as set forth in sections IV.B.1.c and IV.B.1.e of this Agreement. [IV.B.1.a.1]
 - The Auditor shall report on the Department's compliance with the preferential responses required by this policy.
2. Within 30 days of the Effective Date of this Agreement, the Department shall issue a written directive or directives enumerating the elements of each Quality of Life Offense and providing guidance on appropriately identifying and reacting to conduct that does and does not amount to a Quality of Life Offense, including guidance on conduct that is protected by the First Amendment to the U. S Constitution. The Department shall enforce the directive or directives as set forth in sections IV.B.1.c and IV.B.1.e of this Agreement. [IV.B.1.a.2]
3. The written directive or directives concerning Quality of Life Offenses required by Section IV.B.1.a.2 shall include a requirement that any time an officer effects a custodial arrest for a Quality of Life Offense, the officer shall record in the incident report and the statement of probable cause the factual basis for his or her decision to effect a custodial arrest, rather than providing counseling, a verbal warning or issuing a citation. [IV.B.1.a.2.a]
 - a. The Auditor shall review a statistically meaningful sample of statements of probable cause required by section IV.B.1.a.2.a to determine whether the factual narrative of the arrest could on its face support a finding of probable cause and that the arrest was in accord with the Policies.
4. Within 30 days of the effective date of this Agreement, the Department shall issue a written directive requiring officers to provide their names and badge numbers to any individual who requests this information. [IV.B.1.a.3]
5. The Zero Tolerance Policing policy required by section IV.B.1.a.1 shall not be rescinded or diminished by the Department during the term of this Agreement. [IV.B.1.a.4]
6. The written directive or directives required by section IV.B.1.a.2 shall not be rescinded or diminished by the Department during the term of this Agreement unless (a) the Department determines, in good faith and upon advice of counsel, that the policies conflict or will conflict with any applicable law, regulation, or

(“LEOBR”), Md. Ann. Code, Public Safety Art., § 3-101, et seq., to be taken by the Department when an officer’s conduct is deemed to be in contravention of the Policies;

- d. establish confidentiality and security policies and procedures for the database; and
 - e. establish procedures to test the accuracy and security of data in the database. [IV.B.1.c.2.a-e]
11. Within 365 days of the effective date of this Agreement, the Department shall develop protocols for use of the database in evaluating compliance with the Policies. Such protocols shall establish reasonable triggering thresholds for review of officer conduct to monitor effective compliance with the Policies. [IV.B.1.c.3 et. seq.]
- The protocols referred to here are the “triggering points” for the EWS. The Auditor will confirm that each of the protocols required by the Agreement are developed and implemented. The Auditor will also report on the efficacy of the triggering points established by the Department.
12. Within 90 days of the effective date of this Agreement, the Municipal Defendants shall enter all citizen complaints into a database. The database shall include the file number of the complaint (also provided to the complainant); the names of all accused officers, if provided or known; contact information for all complainants, non-accused but related officers, and witnesses, if provided or known; the race and gender of all involved officers and complainants if known or ascertainable by reasonable investigation; a narrative description of the allegations; significant dates; the street address and district of the incident; and the disposition of the complaint (sustained, not sustained, unfounded or exonerated). [IV.B.1.d.1]
13. Complainants shall be allowed to initiate complaints against an officer in person, by telephone, by mail, by fax, or via the internet. A complainant shall not be required to fill out or sign a form to initiate a complaint. Municipal Defendants may seek from the complainant sufficient information to enable the identification of the involved officers and incident. [IV.B.1.d.3]
- For Tasks 13, 14, 18 - 21, the Settling Parties anticipate that the Auditor will evaluate the Department’s compliance with this task by reviewing a statistically meaningful sample of complaint investigation files and other documentation, if any, identified by the Auditor. Such sample shall include a meaningful percentage of investigation files regarding complaints for false arrest or lack of probable cause for Quality of Life Offenses to satisfy section IV.B.1.b.18 of this Agreement.
14. Complainants shall be permitted to initiate complaints anonymously, in writing or verbally. Third-party complaints shall be allowed. [IV.B.1.d.4]

15. Within 180 days of the Effective Date of this Agreement, a telephone number shall be created to allow for toll free calls to initiate complaints. [IV.B.1.d.5]
16. Within 180 days of the Effective Date of this Agreement, the telephone number shall be advertised with the goal that Baltimore residents and visitors should be generally aware of how to initiate a complaint.[IV.B.1.d.6]
17. Within 365 days of the Effective Date of this Agreement, the Municipal Defendants shall publicize information concerning the purpose and goals of the citizen complaint and resolution process, and the process for initiating a complaint, including publishing and distributing pamphlets describing the complaint and resolution process and holding at least one community meeting in each police district. [IV.B.1.d.7]
18. Investigators shall attempt to interview complainants and witnesses at their own convenience, but, if necessary, shall offer to conduct interviews during non-business hours or at locations other than Departmental offices. [IV.B.1.d.8]
19. If conduct in contravention of Departmental policy other than the conduct alleged by the complainant is discovered in the course of an investigation, the Department shall investigate such other conduct. [IV.B.1.d.9]
20. Upon request, the Department shall provide a complainant reasonable updates on the status of the investigation. Even absent any such request for information, complainants shall be apprised of the status of open complaints every 60 days and promptly upon resolution of the investigation. [IV.B.1.d.10]
21. All findings shall be based on the “preponderance of the evidence” standard, and all investigators shall be trained on that standard. Investigators shall be required to state the factual basis for each finding in the final report of each investigation. [IV.B.1.d.11]
22. The Municipal Defendants shall make final determinations of all citizen complaints, and shall inform each complainant in writing of the final determination on his or her complaint. [IV.B.1.d.12]
23. When a review of an officer’s performance is triggered by a data analysis under Section IV.B.1.c.3, the Department shall notify the appropriate supervisor of the officer or officers in question. This notice shall include the information available from the Section IV.B.1.c.3 database that triggered the review.[IV.B.1.e.1]
24. Once notified, a supervisor shall conduct a reasonable investigation of the performance of the officer in question by reviewing records relating to the conduct that triggered the review (e.g., complaint records, statements of probable cause, incident reports, etc.). The review shall specifically include a determination of the sufficiency of the probable cause underlying each Quality of Life arrest that is associated with the conduct under review. Based upon the review of related records, the supervisor shall determine, based upon a

preponderance of the documentary evidence, whether the officer's actions are in contravention of the Policies. If the result of the review is a determination that the officer's actions are in contravention of the Policies, the supervisor shall refer the matter to his or her command for action consistent with the policy established under section IV.B.c.2.c. If the result of the review is a determination that the officer's actions are consistent with the Policies, the supervisor shall determine the necessity, if any, for non-punitive counseling.[IV.B.1.e.2]

- The Settling Parties expect the Auditor to evaluate and report on the completion of the supervisory review and the determination of the sufficiency of the probable cause and compliance with the Policies as required by this section.
25. Upon completion of the review, the investigating supervisor shall provide written documentation of the process and the results of the investigation in the form of a review memorandum. The review memorandum shall specifically document the conduct of the investigation, the outcome of the review and whether the supervisor provided the officer with non-punitive counseling. [IV.B.1.e.3]
 26. When an officer's performance is being reviewed as part of the Department's periodic performance evaluation process, copies of any review memoranda created during the period under review shall be provided to and considered by the reviewing officer in evaluating the subject officer's performance.[IV.B.1.e.4]
 27. When an officer, who is the supervisor of other officers, is the subject of a review as part of the Department's periodic performance evaluation process, copies of any review memoranda relating to the officer under the subject officer's supervision created during the period under review will be provided to and considered by the reviewing officer in evaluating the subject officer's performance. [IV.B.1.e.5]
 28. The Municipal Defendants shall monitor citizen complaints related to Quality of Life Offenses to gauge the effectiveness of training and to detect the need for new or further training. [IV.B.1.e.6]
 29. Except with respect to complaints subject to the statutory requirements of Article 4, section 16-44 of the Public Local Laws of Maryland, the Municipal Defendants shall monitor and be responsible for completing all investigations and shall not have discretion to reject a citizen complaint without investigation if sufficient information is provided to or obtained by the Municipal Defendants through reasonable investigation. [IV.B.1.e.7]
 30. Within 120 days of the effective date of this Agreement, the Municipal Defendants shall create and maintain individual training records for all police officers, documenting the date and topic of all pre-service and in-service training completed. These records shall also reflect whether the training was completed satisfactorily, as well as the reasons for any mandatory re-training. [IV.B.1.e.8]

31. Within 180 days of the effective date of the Agreement, the Department shall develop training curricula for pre-service and annual in-service training regarding Quality of Life Offenses, assessing probable cause, rights protected by the First Amendment to the U.S. Constitution, especially the lawful exercise of those rights on City sidewalks and other public areas, and the appropriate officer response when an individual requests an officer's name and badge number. [IV.B.1.f.1]
 - The specific contents of the training are found in section IV.B.1.f.2.a-f. The Auditor shall report whether the training curricula includes the subject areas required by the Agreement.
32. Within 120 days of the effective date of this Agreement, the Department shall provide the training curricula required by section IV.B.1.f. to the Auditor and Plaintiffs' Counsel for comment, to be received no later than 30 days from receipt of the curricula. The Department shall consider in good faith any comments so received, but is not required to make any changes to the curricula based upon the comments. [IV.B.1.f.3]
33. Pre-service training based upon the training curricula required by this section shall be provided to all incoming classes as of the first incoming academy class after the finalization of the training curricula required under section IV.B.1.f.1 – 2. [IV.B.1.f.4]
34. In-service training based upon the training curricula required by this section shall be provided to officers beginning with in-service training that occurs within 90 days of the finalization of the training curricula required under section IV.B.1.f.1 – 2, and shall continue for all in-service training sessions provided during the term of this Agreement. [IV.B.1.f.5]
35. Notice of this in-service training shall be disseminated to all officers employed by the Department as of the effective date of this Agreement within 120 days of the effective date of this Agreement. [IV.B.1.f.6]

court order; or (b) the Department determines in good faith that such rescission or diminishment is necessary for the safety of the public or Department personnel. In the event the Department concludes a modification of the written directive or directives required by section IV.B.1.a.2 is necessary, it will notify Plaintiffs' Counsel of the planned modification and offer a reasonable opportunity for Plaintiffs' Counsel to comment upon it. The Department shall in good faith consider such comments [IV.B.1.a.5]

7. The Municipal Defendants shall provide the Auditor with access to all officers, employees, documents, and data of the Municipal Defendants that are reasonably necessary to complete the Tasks enumerated in this Agreement. [IV.B.1.b.11]
8. Within 120 days of the Effective Date of this Agreement, the Department shall develop a document and database retention protocol to maintain and retain all records, including documents and the database described in Section IV.B.1.c of this Agreement, documenting compliance with the terms of this Agreement and all documents required by or developed pursuant to this Agreement. The protocol shall be evaluated and reported on by the Auditor. [IV.B.1.b.16]
9. Within 180 days of the effective date of this Agreement, the Municipal Defendants shall create and automate a database to track police officer performance. [IV.B.1.c.1 et.seq.]
10. Within 180 days of the effective date of this Agreement, the Department shall:
 - a. establish and enforce a policy and procedure requiring shift supervisors to review statements of probable cause for custodial arrests for Quality of Life Offenses to ensure that probable cause in fact existed and that the arrest was in accord with the Policies. If, after this agreement has been in effect for 365 days, the result of the review is a determination that the arrest was in contravention of the Policies, the supervisor shall refer the matter to his or her command for action consistent with the policy established under section IV.B.1.c.2.c. If the result of the review is a determination that the arrest is consistent with the Policies, the supervisor shall determine the necessity, if any, for non-punitive counseling.
 - b. establish and enforce a policy and procedure requiring a line supervisor's review of probable cause statements for custodial arrests for Quality of Life Offenses is reviewed by second-level supervisors on a periodic basis, not to exceed every six months, to ensure that probable cause in fact existed and that the arrest was in accord with the Policies;
 - c. establish a policy identifying corrective actions, up to and including disciplinary action, as warranted and consistent with established Departmental disciplinary policies, procedures, contracts, memoranda of understanding, and all applicable laws governing the discipline of law enforcement officers, including, but not limited to the Law Enforcement Officer's Bill of Rights

Attachment B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

**MARYLAND STATE CONFERENCE OF
NAACP BRANCHES, *et al.*,**

Plaintiffs,

v.

Civil Action No. 06-cv-1863-CCB

**BALTIMORE CITY POLICE
DEPARTMENT, *et al.*,**

Defendants.

AGREED ORDER OF DISMISSAL

This Order dismisses all claims made in the above-captioned case by the Maryland State Conference of NAACP Branches, Baltimore City Branch of the NAACP, Evan Howard, Tyrone Braxton, Donald Wilson, Robert Lowery, Aaron Stoner, Timothy Johnson, Tavis Crockett, Raffic Scott, Kerrell Wright, Carol Higgs, Armondo Horsey, Jonathan Lindsay, Erin Marcus, and Jeffrey Chapman ("Plaintiffs") against the Baltimore City Police Department, the Mayor and City Council of Baltimore, Martin O'Malley, Sheila Dixon, Leonard Hamm, Marcus Brown, Frederick Bealefeld, Kevin Clark, Edward T. Norris, Jemini Jones, David A. Crites, Jr., Erik Pecha, Benjamin Newkirk, Arnold Jones, Peter Heron, Johnnta Grey, Joseph Chin, Paul Southard, Michael Pinkosz, Lolando Hamilton, Ronald Mealey, and John Does 1-100 (the "City Defendants").

The Plaintiffs and the City Defendants (collectively, "the parties") hereby agree that this case has been settled and that all issues and controversies have been resolved to their mutual satisfaction. The parties request the Court to retain jurisdiction to enforce the terms of the settlement agreement under the authority of *Kokkonen v. Guardian Life Insurance Co. of America*, 511 U.S. 375, 381-82 (1994):

IT IS HEREBY ORDERED:

1. The parties entered into a settlement agreement on _____, 2010, a copy of which is attached hereto.
2. By consent of the parties, the Court shall retain jurisdiction for the purpose of enforcing the terms of the agreement as set forth in the agreement.
3. The Court's jurisdiction shall terminate on or before the date which is four years from the entry of this Order, as set forth in the agreement.
4. Except as provided for in paragraphs 2 and 3 above, this case is dismissed, with prejudice.

IT IS SO ORDERED this ____ day of _____, 2010.

Catherine C. Blake
United States District Judge

Attachment C

*** JOINT STATEMENT OF THE PARTIES ***

The American Civil Liberties Union of Maryland (ACLU), the Maryland State Conference and Baltimore City Branch of the NAACP, and the Baltimore City Police Department are pleased to announce that they have reached an agreement that will enhance police practices and will settle a longstanding lawsuit alleging improper arrests. The lawsuit was brought nearly four years ago, on behalf of the NAACP as well as 13 individual plaintiffs who alleged that they had been arrested without probable cause for "quality of life" offenses such as loitering and disorderly conduct.

Under the terms of the settlement, the Police Department has agreed to institute policies that reject "Zero-Tolerance Policing" and establish a range of appropriate officer responses when faced with minor offenses. In addition, the Department will issue written directives that spell out the elements of common minor offenses to ensure that officers are aware of the scope of their authority. Every officer will be trained on the new policies for offenses, and the Department will monitor officer conduct to ensure compliance with the new policies. The Department's efforts and internal monitoring under the settlement will be reviewed by an independent auditor, who will file public reports regarding the Department's compliance.

The ACLU, NAACP, and the individual plaintiffs recognize that the Baltimore Police Department's current leadership has already taken steps to address the issues raised by this lawsuit and has engaged in diligent efforts to resolve this lawsuit in a positive and constructive manner. They applaud those efforts and the Department's willingness to take the additional steps set forth in this agreement. The Department recognizes that the individuals who brought this lawsuit have focused their efforts on systemic reforms that the parties all believe will improve policing in Baltimore.

The parties have been engaged in this lawsuit for four years, and believe that it is in their best interests, and the best interest of the community, to bring finality to the case. The parties all want to see a safer Baltimore, and all want effective and lawful policing. We all believe that police respect for the citizens they serve and adherence to the Constitution are essential to achievement of our collective goal of making our community a safer one. The plaintiffs and the Department are gratified that this chapter has been brought to a close, and look forward to working together to realize the promise of the settlement announced today.

"We think this agreement is an important step for the Baltimore City Police Department," said Dr. Marvin L. Cheatham, President of the Baltimore City Branch of the NAACP, "and we appreciate the Police Commissioner's willingness to make these commitments"

"I appreciate the hard work and creative thinking that was necessary to craft this Agreement, which is certainly in line with my overall mission for this Police Department," said Police Commissioner Frederick H. Bealefeld, III, "and the BPD will continue its efforts to strengthen its relationship with the citizens of Baltimore, and welcomes the valued partnership it continues to forge with the current leadership of the NAACP, which extends beyond this Agreement."