

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

UNITED STATES OF AMERICA,

*Plaintiff,*

and

COMMUNITY CHURCHES FOR COMMUNITY  
DEVELOPMENT, INC.; RALPH E. MOORE, JR.

*Plaintiff- Intervenors,*

v.

POLICE DEPARTMENT OF BALTIMORE  
CITY

and

MAYOR AND CITY COUNCIL OF BALTIMORE

*Defendants.*

Civil Action No. JKB-17-99

**COMPLAINT IN INTERVENTION  
OF PLAINTIFF-INTERVENORS COMMUNITY CHURCHES FOR COMMUNITY  
DEVELOPMENT, INC. AND RALPH E. MOORE, JR.**

**JURISDICTION AND VENUE**

1. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331, 1343(a)(3), and 1343(a)(4), as this action seeks redress for violations of Plaintiff-Intervenors' rights under the United States Constitution and federal civil rights laws.

2. Plaintiff-Intervenors' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202.

3. Venue is proper in the District of Maryland pursuant to 28 U.S.C. § 1391(b). Defendants are located or reside in the District of Maryland, and the events giving rise to this claim occurred in Baltimore, within the District of Maryland.

### **PARTIES**

#### ***Plaintiff and Plaintiff-Intervenors***

4. Plaintiff is the United States of America.

5. Organizational Plaintiff-Intervenor, Community Churches for Community Development (“CCCD”), is a Maryland non-profit corporation. The objective of the organization is to enhance the quality of life for Baltimore City residents in keeping with the principles of the beloved community espoused by Dr. Martin Luther King, Jr.

6. The CCCD is a collaborative of six (6) local pastors who lead religious congregations in Baltimore City.

7. Five of the six member churches are located in predominately African-American neighborhoods in West Baltimore, and members of each of the churches as well as members of the communities where the member churches are situated have had experiences with unconstitutional policing in Baltimore City.

8. The organization has devoted resources to strengthening community-police relations through sponsoring the Day of Hope Community Festival in West Baltimore in 2013 and 2014, as well as maintaining ongoing strategic partnerships with the Baltimore Police Department (“BPD”) around intentional relationship building between police and community. The principals of CCRD have also attended strategic insight meetings with BPD, in consultation with other police agencies and community stakeholders in other U.S. cities impacted by unconstitutional policing.

9. Principals of CCRD currently serve on the African American Leadership Forum for Public Safety, a leadership forum that promotes public discourse concerning policing and public safety strategies that affect Baltimore City.

10. Plaintiff-Intervenor Ralph E. Moore, Jr., is 64-year old, African-American, life-long resident of Baltimore City, and is a community leader and social worker in Baltimore.

11. Mr. Moore has worked as a housing counselor at St. Ambrose Housing Aid Center, the founding director of the St. Frances Academy Community. He currently teaches pre-GED classes for Baltimore City Community College at a Healthy Start Center in the Middle East neighborhood of East Baltimore.

12. Mr. Moore has himself had a number of encounters with the BPD in which BPD officers engaged in unlawful and unconstitutional behavior.

### ***Defendants***

13. Defendant, Police Department of Baltimore City (“BPD”), is the principal law enforcement agency for the City of Baltimore.

14. Defendant, Mayor and City Council of Baltimore (“the City”), is a municipality located within the District of Maryland. The City of Baltimore is a local government within the meaning of 42 U.S.C. § 14141. The City is responsible for funding BPD and is liable for the policies, practices, acts, and omissions of BPD.

## **FACTUAL ALLEGATIONS**

15. In April 2015, Freddie Gray, a 25-year-old African-American resident of Sandtown-Winchester, died while in police custody.

16. Following Mr. Gray's death, Baltimore's then-Mayor Stephanie Rawlings-Blake asked the United States to investigate the BPD to determine whether it engaged in a pattern or practice of unlawful policing practices. The United States launched its investigation in May 2015.

17. In August 2016, the United States issued its findings report.<sup>1</sup> The United States found that the BPD engaged in a pattern or practice of: unconstitutional stops, searches, and arrests; racially discriminatory policing strategies; excessive force; and retaliation against people who criticized police officers or were involved in lawful protests.<sup>2</sup>

18. On January 12, 2017, the United States filed a complaint against Defendants alleging violations of under Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14141, Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 2000d ("Title VI"), the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. § 3789d ("Safe Streets Act"), and Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12131–12134 ("Title II"). Simultaneously, the United States and Defendants filed a 227-page proposed consent decree to resolve the complaint.<sup>3</sup> The proposed consent decree details reforms to police policies and practices that are necessary to address the constitutional and statutory violations the United States uncovered in its investigative report.

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<sup>1</sup> See, <https://www.justice.gov/opa/file/883366/download>, at page 18.

<sup>2</sup> See generally, U.S. Dep't of Justice Civil Rights Division, *Investigation of the Baltimore City Police Department*, Aug. 10, 2016, <https://www.justice.gov/opa/file/883366/download>.

<sup>3</sup> See, Consent Decree, *United States v. Police Dep't of Baltimore*, No. Case 1:17-cv-99 (D. Md. Jan. 12, 2017), ECF No. 2-2.

19. On March 31, 2017, Attorney General Jeff Sessions ordered a review of “all Department activities—including collaborative investigations, and prosecutions, grant making, technical assistance and training, compliance reviews, existing or contemplated consent decrees, and task force participation—in order to ensure they fully and effectively promote” the principles laid out by the Administration of President Donald Trump.<sup>4</sup> The memorandum states, in part, “it is not the responsibility of the federal government to manage non-federal law enforcement agencies,” and “the misdeeds of individual bad actors should not impugn or undermine the legitimate and honorable work that law enforcement officers and agencies perform . . . .”<sup>5</sup>

20. Following the release of this memorandum, the United States submitted a motion requesting that the public hearing on the Baltimore consent decree be continued for 90 days in order to give the United States time to “review and assess the proposed Consent Decree....”<sup>6</sup> The motion articulates the federal government’s new law enforcement priorities and their impact on the consent decree entered in this case. The motion states that “the federal government has announced several new initiatives and policies that prioritize combatting and preventing violent crime” and that, pursuant to the President’s executive orders, the federal government must “prioritize crime reduction.”<sup>7</sup> According to the motion, the President has determined that a “focus on law and order and the safety and security of the American people requires a commitment to enforcing the law and developing policies that comprehensively address illegal immigration, drug trafficking, and violent crime.”<sup>8</sup> The motion also states that “it will be the policy of the executive

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<sup>4</sup> Pls’ Mem. for Heads of Dep’t Components and U.S. Attorneys at 2, *United States v. Police Dep’t of Baltimore*, No. 1:17-cv-99 (D. Md. Apr. 3, 2017), ECF No. 23-1.

<sup>5</sup> *Id.* at 1, 2.

<sup>6</sup> Pls.’ Mot. for Continuance of Public Fairness Hearing at 5, *United States v. Police Dep’t of Baltimore*, No. 1:17-cv-99 (D. Md. Apr. 3, 2017), ECF No. 23.

<sup>7</sup> *Id.* at 2.

<sup>8</sup> *Id.* at 3.

branch to ‘enforce all Federal laws in order to enhance the protection and safety of Federal, State, tribal, and local law enforcement officers, and thereby all Americans,’ and to ‘develop strategies, in a process led by the Department of Justice . . . to further enhance the protection and safety of Federal, State, tribal, and local law enforcement officers.’<sup>9</sup>

21. On April 5, 2017, this Court denied the United States’ motion for a continuance and held that “[t]o postpone the public hearing at the eleventh hour would be to unduly burden and inconvenience the Court, the other parties, and, most importantly, the public.”

22. The allegations herein at paragraphs 23-41 and 52-64 repeat and realleged those contained in Plaintiff’s Complaint at paragraphs 12-30 and 41-53 respectively.

### ***The Baltimore Police Department***

23. BPD is the chief law enforcement agency in Baltimore and has jurisdiction throughout the City.

24. BPD employs approximately 3,000 personnel, including approximately 2,600 sworn officers. BPD’s jurisdiction is divided geographically among nine police districts that include local police stationhouses, referred to as district headquarters.

25. During the course of conduct described in this Complaint, Defendants have received federal financial assistance from the United States Department of Justice, either directly or through another recipient of federal financial assistance.

26. As a condition of receiving federal financial assistance, the City and BPD certified that they would comply with all requirements imposed by Title VI and the federal regulations implementing Title VI. The assurances signed by the City bind subsequent recipients, including BPD to which the City disburses the funds. The City and BPD are responsible for ensuring that

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<sup>9</sup> *Id.* at 3.

BPD complies with the requirements of Title VI and its implementing regulations.

27. During the course of conduct described in this Complaint, Defendants have received funds from the Office of Justice Programs (“OJP”) that are subject to the requirements of the Safe Streets Act.

28. As a condition of receiving OJP grants, the City and BPD certified that they would comply with all requirements imposed by the Safe Streets Act.

29. There is longstanding recognition of the need to reform BPD to ensure that BPD officers do not violate the constitutional rights of City residents.

30. In the late 1990s, BPD adopted zero tolerance policing strategies that prioritized officers making large numbers of stops, searches, and arrests for misdemeanor offenses without ensuring robust oversight to hold officers accountable for misconduct and protect the constitutional rights of City residents. Current BPD Commissioner Kevin Davis and his predecessor, Anthony W. Batts, have both acknowledged publicly that this approach eroded community trust and impeded efforts to build partnerships that are central to effective policing.

31. Following the April 2015 death of Freddie Gray in police custody, then Baltimore Mayor Stephanie Rawlings-Blake asked the United States Department of Justice, Civil Rights Division, to conduct a pattern-or-practice investigation of BPD’s police practices. The Civil Rights Division announced that it would conduct a pattern-or-practice investigation on May 8, 2015, and issued a Findings Report on August 10, 2016.

32. Those findings demonstrate that BPD engages in a pattern or practice of conduct that violates the Constitution and federal laws. These violations include the following:

- a. Making unconstitutional stops, searches, and arrests, in violation of the Fourth and Fourteenth Amendments;

- b. Using excessive force, in violation of the Fourth Amendment.
- c. Retaliating against individuals engaging in constitutionally-protected expression, in violation of the First Amendment.
- d. Using enforcement strategies that disproportionately impact African Americans, in violation of Title VI, the Title VI implementing regulations, 28 C.F.R. §§ 42.101-112, and the Safe Streets Act and its implementing regulations.
- e. Failing to make reasonable modifications to their practices regarding the use of force against individuals with disabilities, in violation of Title II.

33. BPD's violations of the Constitution and federal law are driven by BPD's practices – systemic deficiencies in policies, training, supervision, and accountability structures. Defendants have been aware of these structural challenges for many years, but have not taken adequate steps to comply with the Constitution and federal law.

***Defendants' Unconstitutional Stops, Searches, and Arrests***

34. BPD engages in a pattern or practice of making unlawful stops, searches, and arrests in violation of the Fourth and Fourteenth Amendments.

35. BPD officers engage in a pattern of making stops without the individualized, reasonable suspicion of wrongdoing required by the Fourth Amendment. Officers frequently make stops without identifying reasonable suspicion, including stopping individuals standing on sidewalks or street corners without any indication that the individuals are connected to unlawful activity.

36. Only a small fraction of BPD's stops uncover involvement in criminal activity and result in a citation or arrest. BPD officers issued a criminal citation or made an arrest in only



3.7 percent of the more than 300,000 pedestrian stops documented from 2010-2015.

37. During stops, BPD officers conduct searches without probable cause and weapons frisks without reasonable suspicion that a person is armed.

38. BPD officers also conduct unconstitutional strip searches. In some cases, BPD has conducted strip searches prior to arrest, without any exigent circumstances requiring the search, and/or in public view.

39. BPD makes arrests that are not supported by probable cause. From November 2010–July 2015, supervisors at Baltimore’s Central Booking released 6,736 arrestees without charge. Prosecutors from the State’s Attorney’s Office declined to charge an additional 1,983 cases because the underlying arrests lacked probable cause.

40. In other cases, BPD detains individuals for significant periods of time for investigation without having the probable cause required to do so.

41. BPD likewise makes unconstitutional arrests pursuant to City ordinances banning trespassing and loitering. BPD applies these ordinances in a manner that violates the Fourteenth Amendment’s Due Process Clause. BPD arrests individuals for “trespassing,” “loitering,” or failing to obey an officer’s instruction to stop trespassing or loitering, where the arrested individuals are merely standing on public streets or sidewalks near publicly-owned property or private businesses.

### ***Defendants’ Racially Discriminatory Policing***

42. BPD engages in a pattern or practice of unconstitutional racial discrimination, through its use of enforcement strategies and other practices, that violate Title VI which prohibit police practices that result in disparate treatment based on race and other demographic factors.

43. For many years, BPD has employed policing strategies in certain Baltimore

neighborhoods that emphasize officers making large numbers of stops, searches, and arrests, often for non-violent misdemeanor offenses, and with minimal supervisory review. These tactics target and disproportionately impact African Americans.

44. BPD stops African Americans at higher rates than people of other racial backgrounds in each of its nine police districts.

45. During stops, BPD searches African Americans more often than similarly-situated non-African Americans, even though searches of African Americans were less likely to find contraband. Racial disparities in search rates persist after controlling for non-racial factors relevant to whether an officer conducts a search. These rates indicate that officers apply a lower threshold of suspicion when deciding to search African Americans during pedestrian and vehicle stops.

46. There are is also disparate treatment and related racial disparities in BPD's warrantless arrests for misdemeanor offenses, including disorderly conduct, making a false statement, hindering or obstruction, and misdemeanor trespassing. For each of these offenses, BPD arrests African Americans at disproportionate rates and reviewing officials are more likely to decline charges filed against African American arrestees.

47. BPD disproportionately arrests African Americans for drug possession offenses compared to similarly situated people of other racial backgrounds. BPD charges African Americans for drug possession offenses at approximately five times the rate it files drug charges against people from other racial backgrounds. This difference is not attributable to differences in drug usage rates among different racial groups.

48. These racial disparities are driven in part by intentionally discriminatory policies, training, supervision, and accountability.

49. BPD supervisors have directly encouraged racial profiling. BPD did not institute a “Fair and Impartial Policing” policy until 2015, leaving officers without guidance on how to lawfully perform their duties in an impartial manner.

50. BPD officers have also used racial slurs and other derogatory language to address or refer to African Americans. When BPD has received complaints about such conduct, it has often misclassified or failed to investigate them.

51. In many cases, BPD investigators make comments during sexual assault investigations showing undue skepticism of victims’ accounts and fail to collect available evidence that could corroborate them.

***Defendants’ Use of Excessive Force***

52. BPD engages in a pattern or practice of using force that is objectively unreasonable under the circumstances in which the force is applied, including the threat posed by the suspect and the severity of the alleged underlying crime, in violation of the Fourth Amendment.

- a. BPD uses ineffective tactics that escalate encounters, leading to the use of physical force when it is not necessary to resolve an incident.
- b. BPD uses unreasonable force against people who present little or no threat to them or others. For example, officers have used unreasonable force against individuals who are already restrained or who are fleeing away from officers.
- c. BPD uses unreasonable force against juveniles without applying accepted tactics to account for the age and developmental status of the youth they encounter.

- d. BPD uses unreasonable force against individuals with mental health disabilities.
- e. In the use of force against individuals with mental health disabilities, BPD officers fail to make reasonable modifications necessary to avoid discrimination in violation of Title II of the Americans with Disabilities Act.
- f. BPD also use unreasonable force against individuals in crisis.
- g. BPD frequently escalates encounters with unarmed individuals with mental health disabilities and those in crisis, resulting in officers using unreasonable force. When responding to calls to escort individuals to the hospital for mental health treatment, BPD officers often use force if the individual does not follow officers' commands, even though the individuals have committed no crime and present no significant threat to officers or other members of the public.
- h. BPD also subjects individuals to significant risk of harm by using deficient practices for transporting them.
- i. BPD has not consistently secured detainees transported in vans or monitored detainees during transport. For example, a 2012 BPD audit found that none of the 34 arrestees were secured with seatbelts.
- j. BPD's failure to secure detainees during transport has resulted in serious injuries and death.

53. The repeated use of unreasonable force against individuals with mental health disabilities reveals that BPD fails to make reasonable modifications necessary to avoid

discrimination in violation of Title II of the Americans with Disabilities Act.

54. Under the ADA, training BPD officers on how to interact with individuals with mental health disabilities is a reasonable modification to policies, practices, and procedures to afford people with mental health disabilities the equal opportunity for a police intervention that is free from unreasonable force. BPD has failed to provide the necessary training, however, resulting in BPD officers often resorting too quickly to using force against individuals with mental health disabilities.

***Defendants Retaliate Against Individuals Who Engage in Constitutionally- Protected Speech***

55. BPD arrests, detains, uses force, and otherwise retaliates against individuals who criticize BPD or engage in other constitutionally protected expression.

56. BPD stops and arrests individuals for speech that officers perceive to be rude, critical, or disrespectful.

57. In addition, BPD interferes with individuals attempting to lawfully record police activity. BPD officers seize recording devices without a warrant or probable cause, order individuals to stop recording, and retaliate against individuals filming police activity.

***BPD's Violations of the Constitution and Federal Law Are Rooted in Systemic Deficiencies in Supervision and Accountability***

58. Defendants' use deficient policies, training, supervision, and accountability systems contributes to BPD's violations of the Constitution and federal law. Defendants have been on notice of these deficiencies for years, but have not implemented sufficient reforms to ensure constitutional policing.

59. Defendants fail to supervise officers effectively or hold them accountable for misconduct, contributing to a pattern of police actions that violate the Constitution and federal law.

60. BPD fails to adequately train and supervise its officers. This deficiency manifests itself in multiple ways, including a failure to guide officer activity through effective policies and training; a failure to collect and analyze reliable data to supervise officer enforcement activities; and the lack of a meaningful early intervention system to identify officers who may benefit from additional training or other guidance to ensure that they do not commit constitutional violations.

61. BPD's accountability systems are not sufficient to deter misconduct. BPD does not consistently classify, investigate, adjudicate, and document complaints of misconduct.

62. In some cases, BPD improperly classifies complaints as alleging only minimal misconduct, resulting in minimal investigation and accountability.

63. BPD also lacks external oversight to curb its pattern or practice of unconstitutional policing. The City-funded Civilian Review Board ("CRB") has statutory authority to investigate certain types of complaints and make non-binding recommendations to BPD, but the CRB lacks sufficient authority, staff, and funding to provide meaningful oversight and accountability.

64. Together, these failures prevent BPD from deterring, identifying, and correcting misconduct that contributes to a pattern or practice of violating the Constitution and federal laws.

### **FIRST CLAIM FOR RELIEF**

#### ***Violations of the First, Fourth, and Fourteenth Amendments***

65. Plaintiff-Intervenors hereby reallege and incorporate by reference paragraphs 1 through 64 above.

66. By the actions set forth above, Defendants and their agents, including BPD officers, have engaged and continue to engage in a pattern or practice of conduct that deprives Plaintiff-Intervenors of rights, privileges, or immunities secured or protected by the First, Fourth,

and Fourteenth Amendments to the United States Constitution.

67. Defendants and their agents, including BPD officers, have acted with deliberate indifference to the First, Fourth, and Fourteenth Amendment rights of the Plaintiff-Intervenors. As a direct and proximate result of the acts and omissions of Defendants, Plaintiff-Intervenors have been deprived of their rights under the First, Fourth, and Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

### **SECOND CLAIM FOR RELIEF**

*Claims under Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.*

68. Plaintiff-Intervenors hereby reallege and incorporate by reference paragraphs 1 through 64 above.

69. Title VI provides that “[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

70. Defendants received and continue to receive federal financial assistance for its programs and activities that are subject to the requirements of Title VI and its implementing regulations.

71. Defendants have engaged in law enforcement practices, including stops, searches, arrests, and uses of force, that result in the disparate treatment of African Americans.

72. Defendants’ discriminatory law enforcement practices violate Title VI.

### **THIRD CLAIM FOR RELIEF**

*Claims under Title II of the Americans With Disabilities Act*

73. Plaintiff-Intervenors hereby reallege and incorporate by reference paragraphs 1 through 64 above.

74. Title II of the Americans with Disabilities Act provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.”

75. Defendants are public entities subject to Title II of the ADA, 42 U.S.C. § 12131(1).

76. Defendants repeatedly fail to make reasonable modifications necessary to avoid discrimination against individuals with mental health disabilities.

77. Defendants’ actions constitute discrimination in violation of Title II of the ADA, 42 U.S.C. § 12132.

### **PRAYER FOR RELIEF**

78. WHEREFORE, Plaintiff-Intervenors ask that the Court:

- a. Declare that Defendants, their officers, agents, and employees have engaged in a pattern or practice of conduct that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States;
- b. Declare that Defendants, their officers, agents, and employees have violated Title VI;
- c. Declare that Defendants, their officers, agents, and employees have violated Title II of the ADA;
- d. Enjoin Defendants, their officers, agents, and employees from engaging in any of the predicate acts forming the basis of the pattern or practice of conduct and violations of Title VI;



- e. Order Defendants, their officers, agents, and employees to adopt and implement policies, training, accountability systems, and practices to remedy the constitutional and statutory violations described herein, and to prevent Defendants, their officers, agents, and employees from depriving persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States;
- f. Order such other appropriate relief as the interests of justice may require.

Dated: April 6, 2017

Respectfully submitted,

/s/ Monique Dixon

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