



BALTIMORE POLICE DEPARTMENT CONSENT DECREE MONITORING TEAM

COMPLIANCE REVIEW & OUTCOME ASSESSMENT
REGARDING OFFICER MISCONDUCT

July 2024

CD
Monitoring
Team

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I. EXECUTIVE SUMMARY

Paragraphs 329 through 415 of the Consent Decree address how the Baltimore Police Department (“BPD” or “the Department”) must address allegations of potential misconduct. A sizable portion of the Decree’s paragraphs, the requirements relating to misconduct, cover, among many additional areas:

- Intake of complaints from the public or BPD personnel;
- Conduct of fair, thorough, and timely investigations of alleged misconduct;
- Conduct of criminal misconduct investigations, including the referral of investigations to entities outside the Department;
- Fair and uniform adjudication of misconduct investigations
- Imposition of discipline and remedial measures when investigations lead to a finding that misconduct occurred; and
- Implementation of measures oriented toward public accountability and oversight.

These Decree requirements address the Department of Justice’s investigative findings that BPD’s misconduct process had suffered from “discouraging individuals from filing complaints; poor investigative techniques; unnecessary delays; minimal review and supervision; and a persistent failure to discipline officers for misconduct, even in cases of repeated or egregious violations.”¹

The Monitoring Team previously evaluated the quality of BPD’s misconduct investigations in 2020 in a Preliminary Baseline Assessment of BPD’s 2018 misconduct investigations (the “2018 Baseline Assessment”). Then, in 2022, to provide technical assistance to the Department, and a snapshot of progress to the Court and community, the Monitoring Team conducted a limited, interim review of misconduct investigations completed in the latter part of 2021. These reviews were not comprehensive, however, because BPD had not yet implemented all of the revised policies needed to satisfy the Consent Decree’s requirements.

The Monitoring Team has now conducted a comprehensive compliance review and related outcome assessment regarding misconduct investigations. The principal element of the compliance review is a review of a random, statistically significant sample of misconduct investigations that BPD’s Public Integrity Bureau (“PIB”) completed in 2022. The Monitoring Team also evaluated another subset of misconduct cases addressed through an expedited resolution process, conducted in-person inspections of BPD buildings to assess whether information about how to make a complaint was available, reviewed applications for positions within PIB, and conducted many other tasks that this report describes in detail. Further, for purposes of the outcome assessment component of this report, the Monitoring Team also analyzed overall,

¹ DOJ Findings Letter at 139.

aggregate information about *all* misconduct investigations that PIB conducted in 2022, and in prior years.

Summary of Findings

Overall, the Monitoring Team's assessment shows that **BPD has made substantial progress toward compliance in addressing allegations of officer misconduct.** Compared to the Monitoring Team's review of investigations from 2018, the quality of investigations, investigative reports, and investigative documentation is better. PIB investigators are collecting and weighing evidence in a comprehensive and impartial fashion. PIB has clearer operational guidelines and is adopting the best practices that the Decree requires in a number of areas.

Specifically:

- **The overall quality of BPD's misconduct investigation is markedly improved in 2022, especially as compared to 2018.** For 2022 investigations, the Monitoring Team found that nearly three-quarters (72%) were of either "very good" or "excellent" quality, compared to just 23% of investigations in 2018.
- **BPD has meaningfully implemented a number of requirements relating to PIB's structure and operations.** PIB staffing is up to 35 investigators as of late 2023, up from 22 in 2018. Procedures and protocols have been established to address and prevent investigators working on cases where they have a conflict of interest due to the nature of their relationship with implicated personnel. PIB is located in its own building, separate from the Department.
- **BPD and PIB have implemented policies, protocols, and manuals that provide personnel with detailed guidance on misconduct investigations and discipline.** The interconnected policies and procedures relating to misconduct are assisting the Department in ensuring that the requirements of the Decree are made effective in practice.
- **BPD is continuing to investigate misconduct even when the involved officer(s) resign.** In about 7% of reviewed cases, an involved officer left the Department while the investigation was pending. In all instances, and consistent with the Decree, PIB appropriately pursued and completed the investigation even after the officer separated from BPD.
- **BPD and PIB now track and analyze data about officer misconduct in a systematic and detailed manner, and PIB investigators use a modern, dynamic case management platform.** PIB has adopted streamlined allegation categories that enable

better tracking of complaint and misconduct trends across time. At the same time, because PIB uses a modern case management system to conduct investigations, the Department enjoys a much more accurate and detailed view at any time about the status and nature of pending investigations into alleged misconduct.

- **BPD has implemented a number of measures to promote transparency and awareness of how to file complaints about officer performance.** Although it must fully implement a few outstanding initiatives to reach compliance, the Department has undertaken a number of initiatives aimed at increasing awareness of how to make complaints—including posting information about making complaints in BPD buildings, creating an on-line complaint portal, and convening several information sessions in the community regarding how to make complaints.
- **PIB investigators have completed an initial, comprehensive training on conducting employee misconduct investigations and now receive annual, ongoing instruction on conducting misconduct investigations.** This report describes the substantial progress that the Department has made regarding the provision of training and professional development opportunities for PIB personnel.

At the same time, and despite the many commendable improvements that PIB and the Department have demonstrated, **PIB must make additional progress to reach Full and Effective Compliance with the whole of the Misconduct Investigations and Discipline section of the Decree.** First and foremost, **the Consent Decree requires that PIB satisfy various administrative requirements that BPD is not yet meeting.** Especially in light of the significant historical deficiencies in BPD misconduct investigations, the Decree imposes a number of administrative and procedural requirements aimed at ensuring that investigations are fair, thorough, comprehensive, and timely. For a number of those requirements, BPD has not yet produced the required evidence that it is complying with the Decree.

The Consent Decree's administrative and procedural requirements are not pointless exercises in paper-shuffling. BPD's rigorous adherence to procedures not only ensures that investigations are thorough and fair but it also provides transparency to foster public trust that, unlike in the past, BPD is adequately policing its own.

Indeed, the Decree's investigative requirements are mechanisms designed to ensure that PIB can demonstrate—to officers; to reviewing supervisors; to community members; and, while BPD is under court supervision, the DOJ, Monitoring Team, and the Court—that it is conducting complete, unbiased, and timely misconduct investigations and reaching fair, impartial, and evidence-based determinations about whether misconduct occurred and appropriate remedial measures. For example, there was no evidence that aggravating and mitigating factors were identified and analyzed in available materials in more than one-third (35%) of investigations where

the Department imposed discipline. This both (a) prevents the Monitoring Team from certifying compliance because BPD has not demonstrated through available evidence that aggravating and mitigating factors were appropriately considered in those instances, and (b) prevents any individual without first-hand knowledge from understanding whether the final discipline determinations were fair and evidence-based. Ultimately, **requirements relating to investigative process, procedure, and documentation are designed to ensure that BPD ensures and sustains the “robust and well-functioning accountability system” that the Decree contemplates as the primary outcome of BPD implementing all of its specific requirements.**²

A number of instances where the Department’s performance must improve to reach compliance relate to administrative and procedural requirements. For instance:³

- Based on the documentation available in the investigative file, PIB is not yet sending written updates to complainants every 30 days as required by its manual as a way of ensuring compliance with Paragraph 342(b)—with PIB meeting this requirement in 28% of investigations.⁴
- PIB investigators are not systematically documenting and explaining why a complainant interview is not included in an investigation, with documentation available in fewer than half (47%) of investigations where the complainant was not ultimately interviewed.

Investigations contain insufficient evidence that PIB personnel are considering, as required by the Decree, the findings of prior complaints. Investigators considered misconduct allegations that were *not* sustained against implicated personnel in only 7% of investigations. Only 26% of investigations considered the involved personnel’s disciplinary history.

- Only one in ten (10%) notices sent to officers informing them that they are the subject of a misconduct investigation included a reminder that the officer is prohibited from reviewing files or reports.
- The Monitoring Team could confirm that required meetings occurred between PIB supervisors and investigators to address the progress of an investigation in only 60% of investigations.

² Dkt- 2-2 ¶ 329.

³ Unless otherwise specified, the summarized results reflect the findings as to general misconduct investigations, not expedited reviews (“ERMM”), which are addressed separately in this report.

⁴ As this report details, BPD in 2023 established a Public Portal that is designed to send an automatic update every 30 days to external complainants who have provided contact information and granted permission to receive updates.

- A low portion of misconduct investigations are evaluating whether other tactics were appropriate under the circumstances (31% of investigations), whether the incident suggests that BPD should consider revisions to policies, tactics, or training (30% of investigations), among other analyses required by the Consent Decree.
- For misconduct addressed through the Department's expedited resolution process, BPD has not yet demonstrated that it is meeting the deadlines in the protocol contemplated by the Consent Decree for expedited resolution (e.g., the accused member's Commanding Officer receiving required information within two (2) working days of the PIB Commander approving an expedited resolution form, that Commanding Officer conducting a Presentation Meeting to discuss allegations and proposed discipline within seven (7) days from the receipt of the misconduct allegation, etc.).
- The Monitoring Team's review found no instance, when a prosecuting agency declines to prosecute or dismisses a criminal case related to officer misconduct, where PIB requested an explanation of the outside agency and documented the request in writing, as the Decree requires.
- Although the Monitoring Team concluded that in many cases the discipline BPD imposed was fair in light of the evidence and investigative findings, the lack of documentation of how the Department considered and weighed aggravating and mitigating factors (in more than one-third (35%) of cases) prevents a finding of initial compliance with Paragraph 372.

Meanwhile, **BPD has commendably reduced the average amount of time it takes to complete a misconduct investigation. Nonetheless, investigations continue to take longer to complete than the Decree requires.** Fewer than one-third (32%) were completed in 2022 within the 90-day period that the Decree requires, nor did the Monitoring Team identify any case where a permissible extension was obtained when the investigation exceeded 90 days. Although PIB cannot compromise the overall quality of misconduct investigations and its adherence to all of the Decree's specific requirements regarding such investigations, it must continue to reduce the duration of misconduct investigations.

Additionally, **BPD is still preparing or in the initial implementation phase of some initiatives relating to misconduct.** For instance, Paragraphs 406 through 408 require the Department to maintain a testing program to ensure that access to making complaints is full and unfettered, and BPD is still designing how this program will operate. Likewise, BPD is still developing a process for making summaries of adjudicated misconduct investigations available to the public electronically. BPD must complete these initiatives to reach Full and Effective Compliance in the area of officer misconduct.

Finally, as in other Monitoring Team assessment reports, this report describes the specific steps that BPD will need to take to reach compliance. However, given the number of Consent Decree requirements in this area, this report presents those steps in the discussions of each requirement in Section V, below.

II. BACKGROUND

A. The Department of Justice’s Investigative Findings Regarding Misconduct Investigations

As the Monitoring Team summarized in the 2018 Baseline Assessment,⁵ the Department of Justice’s investigation of BPD identified systemic failures in BPD’s investigation and adjudication of officer misconduct, including: “discouraging individuals from filing complaints; poor investigative techniques; unnecessary delays; minimal review and supervision; and a persistent failure to discipline officers for misconduct, even in cases of repeated or egregious violations.”⁶ Specific issues included BPD and its personnel discouraging members of the public from filing complaints, misclassifying complaints to minimize them, administratively closing complaints prematurely, and failing to investigate complaints in a timely manner.

Specifically, the investigation found that BPD “discourage[d] members of the public from filing complaints through . . . unnecessary conditions,” practical barriers, and even active discouragement from making a complaint.⁷ DOJ found that a number of complaints that were made were “often inappropriately categorize[d] . . . as minor allegations that may be resolved at the command level” and without a full-blown misconduct investigation by dedicated investigators.⁸ At the same time, too many complaint investigations that supervisors addressed were “administratively close[d]” with minimal factual investigation.⁹

With respect to the investigation of misconduct allegations made either by the public or other members of the Department, DOJ’s investigation identified a number of “poor investigative techniques” that “compromise[d] BPD’s investigations,” such as not “consider[ing] evidence and statements from witnesses . . . that contradict explanations provided by officers,” inadequately “prob[ing] beyond reports the accused officer already provided” in interviews with officers, and providing overly detailed accounts of misconduct allegations before any investigation or interview occurred.¹⁰

After investigations were completed, DOJ concluded that misconduct allegations were sustained, and discipline was applied, in an inconsistent manner.¹¹

These issues, combined with failures to properly supervise investigations and a lack of adequate civilian oversight, resulted in problematic performance and misconduct not being appropriately or

⁵ [Monitoring Team 2018 Baseline Assessment \(Dkt. 342-1\)](#).

⁶ DOJ Findings Letter at 139.

⁷ *Id.* at 140.

⁸ *Id.* at 141.

⁹ *Id.* at 142.

¹⁰ *Id.* at 144.

¹¹ DOJ Findings Letter at 146.

sufficiently addressed within the Department. Further, the investigation concluded that, as a result of these myriad issues and failures, “a cultural resistance to accountability has developed and been reinforced within the Department”¹² – which in turn “contributes to an erosion of the community trust that is central to effective law enforcement.”¹³

B. Consent Decree Requirements

To address the issues identified in DOJ’s investigative findings regarding misconduct and discipline, the Consent Decree includes requirements addressing¹⁴:

- The intake, classification, and investigation of both internal and external allegations of misconduct;
- The conduct of investigations implicating criminal conduct by BPD personnel;
- The adjudication of misconduct investigations; the process for imposing discipline for sustained allegations of misconduct;
- Mechanisms for tracking misconduct investigations; avenues for the mediation of misconduct complaints;
- Ways of ensuring transparency with respect to misconduct investigations;
- Establishing a program for ensuring appropriate access to civilian complaint intake processes; and
- Training for BPD personnel relating to misconduct and misconduct investigations.

Each specific Consent Decree requirement in this area is described below, along with the Monitoring Team’s assessment of BPD’s compliance with those requirements.

C. BPD’s Implementation Progress to Date

The Monitoring Team has described in its previous assessments and reports to the Court the many steps that BPD has taken to overhaul its policies, processes, procedures, supervision, auditing, and other functions relating to misconduct, discipline, and accountability. It has repeatedly emphasized that “the Misconduct Investigations section of the Consent Decree is the longest and most comprehensive, spanning 87 paragraphs and 38 pages.”¹⁵

BPD has reached many major implementation milestones. BPD has:

¹² *Id.* at 139.

¹³ *Id.*

¹⁴ The Consent Decree refers to BPD’s prior Office of Professional Responsibility (“OPR”), but BPD has renamed that division the “Public Integrity Bureau” or “PIB.” Accordingly, the Consent Decree provisions referring to OPR now apply to PIB.

¹⁵ Third Semiannual Report at 37.

- Finalized policies and a manual for PIB on investigations, which was approved by the Monitoring Team and Department of Justice in November 2019;¹⁶
- Completed a manual addressing PIB complaint intake and classification in August 2020;¹⁷
- Implemented a process for addressing minor misconduct in a comprehensive, effective fashion (“expedited resolution”);¹⁸
- Established a “first-ever information-sharing guide” and protocol for BPD and CRB in March 2019;¹⁹
- Addressed historical staffing deficiencies by hiring and retaining more PIB investigators – including by doubling of the number of PIB investigators between January 2020 and February 2022;²⁰
- Developed and provided specialized training for PIB investigators, which “many of them ha[d] never received” previously²¹ and that was conducted initially in April 2021 and is provided via video recording “to members who are transferred in to PIB as investigators, supervisors, and commanders”;²²
- Created a new, unified complaint form “to be used by individuals filing misconduct complaints with BPD or [BPDPIB](#)”;²³
- Drafted a revised discipline matrix, which served as a model for the new police disciplinary matrix adopted by the State of Maryland;
- Provided training to all officers on misconduct complaints, requirements regarding the disclosure of exculpatory and impeachment evidence in criminal cases, and the new policies and procedures for misconduct investigations and discipline,²⁴ including a two-day, in-person training on misconduct and discipline;²⁵ and
- Established and implemented a Transparency Initiatives Plan in September 2021 for complying with the Decree’s requirements relating to public awareness of the complaint process.²⁶

Further discussion of BPD’s efforts are included below in the Monitoring Team’s assessment of BPD’s compliance with the Consent Decree’s misconduct and discipline requirements.

¹⁶ Fourth Semiannual Report at 30; Dkt. 263.

¹⁷ First Comprehensive Re-Assessment at 31.

¹⁸ Fourth Semiannual Report at 31.

¹⁹ *Id.* at 32.

²⁰ Seventh Semiannual Report at 26.

²¹ Fourth Semiannual Report at 34.

²² Second Comprehensive Re-Assessment at 32.

²³ First Comprehensive Re-Assessment at 31–32.

²⁴ Sixth Semiannual Report at 27.

²⁵ Second Comprehensive Re-Assessment at 31.

²⁶ Seventh Semiannual Report at 29; Second Comprehensive Re-Assessment at 33–35.

D. The Monitoring Team's Prior Assessments of BPD Compliance

In 2020, the Monitoring Team completed the 2018 Baseline Assessment, which focused on misconduct investigations from 2018. As the name suggests, the purpose was to establish a baseline of BPD's performance against which subsequent progress toward Consent Decree requirements could be compared.

Using a methodology like the one employed in this assessment, including structured, qualitative analyses of a statistically significant sample of misconduct investigations for the relevant period, the Monitoring Team concluded, among other things:

- The overall quality of BPD's process for investigating and making findings in misconduct investigations needed significant improvement.
- The condition of misconduct case files was poor.
- The quality of classification and intake of complaints was poor.
- Allegations of excessive force, unlawful search and seizure, First Amendment violations, and criminal acts were rare and typically well-investigated.
- Communication with complainants was poor overall.
- Communication with employees was likewise poor.
- Cases were inefficiently managed, which resulted in consistently missed timelines and wasted efforts on minor cases.
- Other performance issues that came to light during the investigation—such as repetitive problematic behavior, training issues, or the need to explore policy revisions—were rarely considered.
- Investigators frequently failed to interview complainants and other necessary witnesses.²⁷
- Across misconduct investigations, complainant injuries were uncommon.

In September 2022, the Monitoring Team summarized the results of a limited, “interim” review of misconduct investigations that were initiated and completed between May and early December 2021 (the “2022 Interim Review”). The 2022 Interim Review used the same, structured qualitative instrument as the 2018 Baseline Assessment and considered a randomly selected sample of misconduct investigations. However, the number of reviewed cases for the Interim Review intentionally did *not* constitute a statistically representative sample of *all* cases investigated by PIB for the 2021 period reviewed. Indeed, as the Monitoring Team noted, more complex, serious cases were likely to have been bypassed by the interim review given that it focused on cases both initiated and completed within a period of approximately seven months. In this way, the 2022

²⁷ Monitoring Team Memorandum re: Interim Review of Public Integrity Bureau Misconduct Investigations at 2 (Sept. 7, 2022) (citing Monitoring Team Preliminary Baseline Assessment of 2018 Investigations at 2–4).

Interim Review functioned as a “spot check” of various compliance issues rather than a comprehensive assessment. As such, the present assessment generally compares the results of the Monitoring Team’s recent evaluation of the statistically-significant sample of cases described in Section III with the evaluation of the similarly statistically-significant sample of cases reviewed in 2018.

The 2022 Interim Review suggested that “PIB investigations have improved measurably in the time since the baseline assessment was conducted.”²⁸ Specifically:

- The quality of investigations was higher in 2021 than it was in 2018.
- BPD had made meaningful improvements in the timeliness of complaint classification, external complainant notification, and involved officer and/or employee notification.
- Evaluations of investigative reports were still of variable quality, with not all officer conduct always adequately explored and insufficient documentation in some critical regards.
- BPD was moving toward compliance with requirements that BPD decide cases using specified levels of proof and that supervisors in an investigator’s chain of command review investigations in a timely fashion.

²⁸ *Id.* at 8.

III. SCOPE OF REVIEW, METHODOLOGY, AND STANDARD OF REVIEW

A. Scope of Review

This assessment is a combined compliance review and outcome assessment. The Monitoring Team has previously described the Consent Decree’s distinction between these two types of assessments:

The Consent Decree requires the Monitoring Team to conduct both compliance reviews and outcome assessments. Compliance reviews are . . . evaluations of BPD performance in different areas of the Consent Decree. They are conducted with an eye toward determining how far BPD has come, and how far it still needs to go, to achieve compliance with [particular] Consent Decree requirements

Outcome assessments, by contrast, are [largely] quantitative assessments designed to determine whether the reforms required by the Consent Decree in each area are having a tangible, measurable impact [overall]—whether, independent and apart from BPD’s progress toward compliance with [any specific] Consent Decree requirements, policing is changing in the real world²⁹

The combined outcome assessment and compliance review consists, first, of a review of BPD’s compliance with Paragraphs 329 through 388, 392 through 405, and 409 through 415. (Paragraphs 389 through 391 address the community-centered mediation program and Paragraphs 406 through 408 address a testing program for ensuring civilian access to the complaint process, which will both be assessed separately when fully implemented.)

Second, the report considers the outcome assessments pertaining to certain types of officer misconduct complaints or investigations, which implicate:

- “[T]he quality of BPD’s complaint investigations” relating to “unlawful Arrests” (Paragraph 459(c)(ii)); and
- An “[a]nalysis of force complaints” (Paragraph 459(d)(ii)).

Third, certain PIB complaint allegation types are of particular substantive interest to other sections of the Consent Decree. Consequently, within the context of this assessment, the Monitoring Team reviewed misconduct complaints and investigations involving allegations relating to force, race, arrests, retaliation, the failure to intervene, and the transportation of persons in custody in relation to evaluating compliance with the sections of the Decree that detail requirements in those areas.

²⁹ Dkt. 279-1 at 22–23.

B. Methodology

1. *Structured Assessment of PIB Misconduct Investigations*

As described in Section II of this report, the Monitoring Team filed in 2020 an initial assessment of the performance of PIB and BPD with respect to investigating and addressing misconduct. The purpose of that initial effort was “to establish a preliminary baseline for assessing the quality of misconduct investigations over the life of the Consent Decree.”³⁰ In 2022, the Monitoring Team conducted an “interim review of PIB misconduct investigations” to evaluate, in something less than a full compliance review and outcome assessment, BPD’s rate of progress in complying with the Decree’s requirements.³¹

For both the 2018 Baseline Assessment and the 2022 Interim Review, BPD, the City of Baltimore, and the Department of Justice approved the Monitoring Team’s methodology for conducting a structured, qualitative review and audit of a sample of misconduct investigations conducted or completed over identified time periods. Specifically, the Parties and Monitoring Team agreed on both the general approach to the compliance review and the structured assessment instrument that the Monitoring Team used to evaluate the sampled misconduct investigations.

To assess BPD’s progress over time, the Monitoring Team’s approach for the present assessment closely mirrors those previous assessments. Nevertheless, during the prior assessments, the Monitoring Team and Parties both made some minor suggestions to improve the qualitative assessment instrument. All proposed changes for which consensus was reached were incorporated into the qualitative assessment instrument used to evaluate misconduct investigations for the present assessment.

For this assessment, the Monitoring Team focused on **cases closed or suspended in the calendar year 2022** (January 1, 2022 through December 31, 2022). The study therefore includes cases that were closed in the year 2022 regardless of when the investigation began or the underlying incident occurred.³² Defined in this way, **the overall population of misconduct investigations was 1,439.**

As the following sections summarize, the Monitoring Team reviewed **(1) a general sample of 91 misconduct investigations** from all 1,439 misconduct investigations closed and suspended in

³⁰ *Summary of Aggregate Results: Monitoring Team Preliminary Baseline Assessment of 2018 OPR Investigations 2* (2020)

³¹ Memorandum re: Interim Review of Public Integrity Bureau Misconduct Investigations at 1 (Sep. 7, 2022).

³² The population *excludes* ERMM (expedited review) incidents, which are evaluated independently below. It *includes* incidents initially flagged for ERMM that were not ultimately accepted for inclusion in the expedited resolution process. The Monitoring Team understands from BPD that the “suspended” designation within the PIB data system means that the incident is pending being heard by the trial board. Accordingly, such “suspended” investigations are included in the overall population.

2022, and **(2) specific, separate reviews of 139 cases involving six specific allegation-type categories.** Thus, the Monitoring Team reviewed a total of 230 misconduct investigations.

a. Overall Sample of All Closed and Suspended Investigations in 2022

The Monitoring Team reviewed a few different, separate samples of these 1,439 total misconduct investigations. **First, it reviewed a random sample of 91 misconduct investigations from this overall total of 1,439 misconduct investigations,** which give the Monitoring Team 95% confidence (a 95% confidence level) that its findings will be within plus or minus 10% (a 10% margin of error) of what it would find if it considered a different sample or reviewed all 1,439 investigations.

The 1,439 misconduct investigations encompassed investigations of 2,618 discrete misconduct allegations (many misconduct investigations involved multiple allegations). The Monitoring Team has identified multiple allegation categories for separate, standalone consideration and sampling. These allegations include:

1. Force-related allegations (specifically, Excessive Force, Failure to Report Use of Force, and Force Out of Policy allegation types);
2. Race & policing (specifically, Discriminatory Policing and Race-Based Profiling allegation types);
3. Arrests-related allegations (including False Arrests, False Arrest/Imprisonment, and False Imprisonment allegation types);
4. Retaliation;
5. Failure to Intervene; and
6. Securing/Treatment of People Being Detained or Transported.

For purposes of the sampling for the general, overall review of all BPD samples, investigations that include the above-identified allegation types *were included in the population for possible sampling.* In this way, **any and all investigations—encompassing any and all allegation types—were eligible to be included in the overall, general sample of misconduct investigations for Monitoring Team review.**

b. Additional, Standalone Samples of 2022 Investigations Involving Six Allegation Types of Interest

Additionally, **as a second and separate inquiry, the Monitoring Team reviewed individual samples of incidents involving the six categories listed above.** That is, the Monitoring Team “zoomed in” on incidents involving specific allegation types and randomly sampled a sufficient number of just these cases—separate and apart from the overall sampling across all 1,439 investigations—in order to gauge performance across these critical areas. The Monitoring Team

conducted these six, standalone, and separate samples across incidents involving the six allegation-type categories in the manner outlined in Table 1, below. The sampling parameters are the same as for the overall misconduct investigation sample—a 95% confidence interval and 10% margin of error.

In this report, the results of the reviews of incidents involving these six allegation-type categories are reported, where appropriate, separate from the overall, general sample of all 1,439 investigations from 2022. The results also will inform other evaluations of other areas that are ongoing and involve additional assessment beyond only looking at misconduct complaints.

Table 1. Sampling Approach for Investigations Involving Specific Allegation Types

	Total	Force-Related Allegations	Race and Policing	Arrests-Related Allegations	Retaliation	Failure to Intervene	Securing/ Treatment of People Being Detained or Transported	All Other Allegations
Total # of Allegations	2,618	101	22	84	9	6	92	2,304
# of Incidents with Allegations	1,439	72	16	65	7	5	66	1,208
Incidents for Sampling (95% confidence interval, 10% margin of error)		42	14	40	7	5	40	<i>N/A</i>

Therefore, the Monitoring Team will review **(1) a general sample of 91 misconduct investigations** from all 1,439 misconduct investigations closed in 2022, and **(2) specific, standalone reviews of six allegation-type categories, totaling 139 investigations.** Thus, the Monitoring Team will review 230 total misconduct investigations.

c. Approach for Structured Reviews of Misconduct Investigations

As with the 2020 misconduct assessment and evaluations of other areas of the Consent Decree, the Monitoring Team used a structured, electronic review instrument to evaluate the quality of

misconduct investigations and whether they complied with the Consent Decree's requirements. The City and Department of Justice approved the assessment instrument.

The 230 misconduct investigations were randomly assigned to nine Monitoring Team members for review. Those Monitoring Team members included experienced former police professionals and lawyers with expertise in investigations and issues related to officer misconduct. The random assignment sought to provide the reviewers cases involving allegations of misconduct that varied in type and severity.

Monitoring Team reviewers examined all materials contained within the BPD investigative file of their assigned cases—including all written summaries, transcripts, video and audio material, investigative checklists, photographs, and other documentary evidence.

The assessment instrument tracked the requirements of the Consent Decree and BPD policy. The summary statistics presenting the percentages of investigations that did or did not meet Consent Decree requirements reflect the aggregate results of the reviewers' findings using the instrument.

Reviewers provided their own narrative descriptions of the evidence of the alleged misconduct and certain aspects of the misconduct investigation. This report used those narratives to summarize specific misconduct investigations.

Using the assessment instrument, the Monitoring Team provided conclusions as to whether the sampled investigation satisfied certain Consent Decree requirements. If the material in the investigative file was insufficient for the reviewer to determine whether the requirement was met, the reviewer made a finding of "unable to determine" as to that requirement, and provided an explanation of what documents were missing that could have allowed for an assessment of that requirement.

Separately, the reviewers could select "not applicable" as to certain requirements. Reviewers were instructed to use this "not applicable" selection only in those instances where the nature of the facts, allegation, or underlying incident made the requirement inapplicable. For example, if the Consent Decree required an investigative file to contain certain material, and the reviewed file did not contain that material, reviewers were to select "no" as a response rather than "not applicable."

Finally, because *all* investigations closed and suspended in 2022 were eligible to be randomly selected for the overall sample, some of the 91 general-purpose samples of investigations included investigations from the 6 allegation-type categories. Because all cases were identified randomly, and the results of the allegation-type categories are not combined with the general sample results, both sampling approaches remain reliable.

2. Structured Assessment of ERMM Incidents

According to BPD Policy 321, the Department addresses certain types of minor misconduct through an Expedited Resolution (“ER”) procedure (also referred to as “ERMM”). Because minor misconduct is still governed by the general provisions of the Consent Decree, the Monitoring Team evaluated how the Department resolves misconduct through the ER/ERMM procedure.

For the calendar year 2022, 318 incidents were handled through the ERMM process. **The Monitoring Team reviewed a sample of 74 randomly-selected ERMM cases.** Reviewing this number of cases means that the Monitoring Team can be 95% confident that its results, even if it reviewed a different set of 74 randomly-selected cases or could review all 318 incidents, would be within 10% of what it found in its review.

To evaluate the ERMM cases, the Monitoring Team used a specialized, structured ERMM evaluation instrument. Nine Monitoring Team reviewers were randomly assigned ERMM cases to assess. Results of these evaluations are reported in the same way that results of misconduct investigation evaluations are reported, described previously.

3. Evaluation of Additional Requirements

The Monitoring Team also assessed other misconduct-related Consent Decree requirements outside of the investigation case review:

- The operation of CRB (§ 339);
- Sexual Misconduct Incident Reviews (§§ 345-46);
- Misconduct investigator qualifications and selection (§ 355);
- The referral of criminal and administrative misconduct investigations to outside entities (§§ 365–71);
- Disciplinary charges (§§ 372–78);
- Disciplinary hearings (§§ 379–84);
- The imposition of discipline (§§ 385–88);
- Tracking of misconduct investigations (§§ 392–95);
- Transparency (§§ 396–405); and
- Training for misconduct investigators (§§ 409–415).

C. Standard of Review

The Consent Decree Monitoring Team is charged with assessing and reporting on whether the requirements of the Consent Decree have been implemented. Although the scheme itself is not required or detailed in the Decree itself, the Parties and Monitoring Team have previously adopted

and used a standardized way of characterizing and summarizing BPD's current status across Consent Decree implementation:

0 – Not Assessed: The Monitoring Team has yet to assess if the City/Department has made progress or complied with the requirement.

1 – Not Started: The City/Department has not yet demonstrated progress toward implementing the requirement, possibly in order to work on other, necessary projects.

2 – Planning/Policy Phase: The City/Department is addressing the planning and/or policy provisions for the requirement.

3 – Training Phase: The City/Department is addressing the training provisions for the requirement, based on approved policy.

4 – Implementation Phase: The City/Department is in the implementation phase for the requirement, having developed any required plan or policy and conducted any required training, but has not yet demonstrated compliance with the requirement.

4a – Implementation - Not Assessed: The City/Department has initiated the implementation phase for the requirement, but the Monitoring Team has not yet assessed the City/Department's progress in implementation.

4b – Implementation - Off Track: The City/Department is not making satisfactory progress toward compliance with the requirement.

4c – Implementation - On Track: The City/Department is making satisfactory progress toward compliance with the requirement.

4d – Implementation - Initial Compliance: The City/Department has demonstrated compliance with the requirement but has not yet demonstrated compliance with all requirements of the section of the Consent Decree in which it is included.

5a – Full and Effective Compliance: The City/Department has demonstrated compliance with all requirements in a Consent Decree section but has not yet sustained compliance for the time period specified in paragraph 504 of the Consent

Decree. This score applies only to an entire Consent Decree section, not to individual requirements within a section.

5b – Sustained Compliance: The City/Department has demonstrated sustained compliance with all requirements in a Consent Decree section by consistently adhering to all such requirements for the time period specified in paragraph 504 of the Consent Decree.

This review is largely focused on whether BPD has, or has not, moved from working to implement the Decree’s requirements relating to misconduct to having successfully implemented those requirements in practice across time, officers, and encounters.³³ To make determinations about whether BPD is in Initial Compliance with a material requirement of the Decree, the Monitoring Team weighs the following factors:

- 1. The quality of BPD’s performance across a material span of time, number of incidents/events, and number of officers.** Successfully carrying out a requirement in practice requires more than meeting expectations on one day, in one case or event, or for one officer. Instead, it requires that BPD adhere to Decree requirements across a material span of time, number and/or portion of incidents, and number of officers. In this way, isolated compliance does not establish “Initial Compliance” in practice. At the same time, however, isolated non-compliance does not, by itself, eliminate the possibility of systemic compliance. The issue is whether, across time, events, and people, BPD is, in aggregate, sufficiently doing what the Decree requires. For some requirements that are applicable only to a relatively small absolute number of incidents or circumstances, performance in a single instance may weigh more significantly than it would in connection with a more commonly implicated requirement.
- 2. The severity or significance of deviations from Consent Decree requirements, BPD policy, and/or law.** The Monitoring Team considers not simply whether BPD’s performance has deviated in some instances from the Decree’s requirements but also the severity or significance of that deviation. Several minor or more technical deviations from administrative requirements may be different in quality than a single significant or gross deviation from core requirements for officer performance in the field. Likewise, deficient performance in connection with less foundational requirements or issues may be different in quality than deficient performance in connection with significant requirements or issues.

³³ See Dkt. 2-2 ¶ 506 (indicating that Initial Compliance with any material requirement of the Consent Decree involves evaluating whether a given requirement “is being carried out in practice by BPD”).

3. **The extent to which BPD is identifying and appropriately addressing problematic performance.** In its focus on accountability, supervision, and mechanisms for fostering critical self-analysis within BPD, the Consent Decree expressly contemplates that a BPD in compliance with the Decree will have mechanisms in place to engage with departmental and officer performance that is deficient in some way. Therefore, the Monitoring Team’s compliance reviews consider whether, when BPD personnel have deviated from policy, law, or Decree requirements, the Department has identified the deviation and, if so, if it has appropriately addressed the issue. With respect to Consent Decree implementation and meaningful organizational change, the Department is in a different condition if a policy deviation is identified and appropriately addressed than if the deviation goes unnoticed and unaddressed.
4. **BPD’s progress over time.** Where possible, the Monitoring Team aims to situate its evaluation of BPD’s performance in terms of progress over time. Steady improvement may suggest positive, meaningful adoption of Consent Decree requirements in a way that erratic swings in performance over time may not.

Courts regularly apply multi-factor approaches where the application of determinative, bright-line rules are impossible, do not adequately incorporate the array of relevant circumstances at issue, or fail to adequately address competing considerations.³⁴ Even as the test articulated above requires different considerations to be weighed together, the test is an “objective” one because the Monitoring Team “must explain how they derived their conclusions from the verifiable facts.”³⁵

In applying this multi-factor test for compliance, the first factor—the quality of BPD’s performance across a material span of time, number of incidents/events, and number of officers—is the initial, threshold inquiry. If BPD and/or its officers’ performance is not what it should be across a sufficient number or portion of relevant circumstances, then things like progress over time or BPD’s identification of the issues are unlikely to cure the basic deficiencies with performance. For example, if BPD meets some Decree requirement in only 25% of cases, the fact that it may have marked an improvement over time would be unlikely to put the Department into compliance with the requirement.

Although the multi-factor test for compliance works to ensure that all relevant objective factors are reasonably weighed, the Monitoring Team seeks to provide guidance to the Department and to

³⁴ See, e.g., *Murr v. Wisconsin*, 582 U.S. ___ (2017) (adopting a multi-factor test for determining whether governmental regulations effectuated a decline in the value of private property so as to be considered a government taking under the Fifth Amendment); *EBay v. MercExchange*, 547 U.S. 388 (2006) (applying four-factor test to determinations about permanent injunctive relief in disputes arising under the Patent Act); *Mathews v. Eldridge*, 424 U.S. 319 (1976) (articulating three factors for courts to consider when determining whether additional governmental and/or judicial procedures are necessary to satisfy the Due Process Clause).

³⁵ James G. Wilson, “Surveying the ‘Forms of Doctrine’ on the Bright Line Balancing Test Continuum,” 27 *Ariz. St. L.J.* 773, 802 (1995).

the community about the benchmarks that it expects and how various levels of BPD performance may shape compliance determinations.

As a working standard, the Monitoring Team considers a compliance rate with any relevant requirement of 85% or above as *possibly*, though certainly not conclusively or even presumptively, consistent with initial compliance. In such instances, the Team weighs the other factors (severity of deviations, BPD's identification of noncompliance, and progress over time). Where the Team determines that BPD has adhered to expectations in 95% or more of relevant circumstances, initial compliance will be found unless one of the other factors—severity of deviations, Department identification of noncompliance, and progress over the time—starkly point in the other direction.

On the other hand, where BPD has adhered to expectations less than 85% of the time, initial compliance will *not* be certified unless one of the other factors points definitively in a positive direction. For instance, if BPD complied with requirements in 80% of relevant circumstances but the Monitoring Team could certify that the significance or severity of instances where requirements were not followed was relatively minimal, that BPD identified and took appropriate corrective action in instances where requirements were not followed, and the Department had made and maintained progress over time, then finding initial compliance with the Decree requirement may be possible.

Additionally, some important requirements apply to, or are activated by, a relatively more limited number of encounters, incidents, or circumstances. Where the absolute number of instances where the requirement applies becomes lower, the application of the percentage-based rules of thumb for determining compliance becomes less useful.

Finally, it is possible that the Monitoring Team might assign, pursuant to the weighing of factors outlined above, a score for an individual Decree requirement that is lower than the score given in a prior report. For instance, the score for a particular requirement might move from “4c” (implementation—on track) to “4b” (implementation—off track). That has not happened yet.

In this report, certain scores have moved from “4d” (initial compliance) to “4c” (implementation—on track). To be clear, where this has occurred, it does *not* represent backsliding or the reversal of progress. Instead, the simple explanation is that, for a small number of requirements primarily spelling out requirements for BPD policy, the Monitoring Team gave a score of initial compliance in prior monitoring team reporting because BPD had indeed finalized policies and conducted training that satisfied the plain language of these requirements.

However, the Monitoring Team has recognized that these provisions cannot simply be about policy; they are also about *performance*—about BPD demonstrating *adherence* to policy. Accordingly, to establish initial compliance with these provisions and ultimately to sustain “full

and effective” compliance pursuant to Paragraph 506, BPD not only must show that it has adopted the pertinent policies, but also must demonstrate through officers’ actions *on the street and in the real world* that, as an agency, it is complying with the policies. Otherwise, the reforms the Consent Decree requires would be nothing more than “paper” reforms, with no obligation to police constitutionally in actuality.

IV. GENERAL CHARACTERISTICS OF 2022 MISCONDUCT INVESTIGATIONS OVERALL & REVIEWED MISCONDUCT INVESTIGATIONS

A. Analysis of 2022 Aggregate Data

This section summarizes overall, aggregate data regarding BPD’s misconduct investigations. The purpose of this analysis is to (a) situate the Monitoring Team’s review of a random, significant sample of investigations from 2022 in the context of all investigations during that timeframe, and (b) report on some of the “underlying data” about “complaints, misconduct allegations, misconduct investigations, and officer discipline” outlined as an outcome assessment in Paragraph 459(n).

In the calendar year 2022, PIB completed a total of 1,554 misconduct investigations. Another 201 investigations were suspended, for a total of 1,755 investigations overall. With the exception of a decrease in completed investigations in 2021—likely related to the impact of the COVID-19 pandemic—the overall volume of completed investigations has remained roughly the same over the period of 2018 through 2022, as Table 2 summarizes.

Table 2. Number of Completed & Suspended BPD Misconduct Investigations, 2018 – 2022

	Completed Misconduct Investigations	Suspended Investigations	TOTAL
2018	1,692	3	1,695
2019	1,843	6	1,849
2020	1,793	9	1,802
2021	1,219	40	1,259
2022	1,554	201	1,755

Source: Monitoring Team Analysis of BPD Data

Note: A “suspended” designation means that the investigation is awaiting a trial board hearing.

Of these 1,755 completed and suspended investigations, a majority (53%) involved internal complaints—that is, they originated with BPD personnel raising a potential misconduct violation or allegation. Another 42% stemmed from external complaints—allegations of misconduct that someone from outside the Department (a civilian, a member of another law enforcement agency, etc.) made. The remaining 5% of investigations involved ethics complaints, which BPD’s Ethics section generally addresses, including instances “when the complaint involves PIB personnel, the complaint alleges corruption, [the complaint] alleges ongoing Misconduct (e.g., [a]llegations that an officer regularly takes bribes or purchases drugs) or requires proactive investigation (e.g.,

surveillance, or undercover operations), and in certain instances when the complaint involves BPD command[-] level members[.]”³⁶

Roughly consistent with their distribution across the Department and the nature of their duties, police officers were most frequently implicated in misconduct investigations, with BPD patrol officers accounting for 74.5% of involved personnel in misconduct investigations. Sergeants accounted for another 12%, and lieutenants another 3%.

With respect to assignment, personnel assigned to units outside patrol—including homicide, the Anti-Crime Section, Special Operations, and SWAT—accounted for 18% of investigated personnel. Among districts, personnel from the Northeastern District accounted for the highest portion of complaints (13.1%), followed by the Western (9.9%) and Southern (9.5%) Districts. The Southwestern District accounted for the lowest number and share of complaints across BPD districts (6.1%).

Across misconduct investigations, at least one allegation was “sustained”—indicating that PIB “determine[d], by a preponderance of the evidence, that the alleged misconduct did occur”³⁷— in 44% of investigations (or 765 total investigations in 2022). About one in five (21%) investigations had a finding of “not sustained,” indicating that “the investigation [was] unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred” or not.³⁸ Meanwhile, another one in five (22%) investigations were adjudicated as “unfounded,” with BPD “determin[ing], by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the accused officer,”³⁹ while involved officers were “exonerated” in 14% of incidents because “the investigation determine[d], by a preponderance of the evidence, that the alleged conduct did occur but did not violate BPD policies, procedures, or training.”⁴⁰

Table 3. Incident Dispositions of BPD Misconduct Investigations, 2018 – 2022

	2018	2019	2020	2021	2022
Closed	860	1	0	0	0
Closed Within Policy*	12	0	0	0	0
Exonerated	14	92	253	183	243
Failure*	1	0	0	0	0
Not Justified*	1	0	0	0	0

³⁶ PIB Manual at 13–14.

³⁷ Dkt. 2-2 ¶ 344(k)(ii).

³⁸ *Id.* ¶ 344(k)(iii).

³⁹ *Id.* ¶ 344(k)(i).

⁴⁰ *Id.* ¶ 344(k)(iv).

Procedural Issue*	0	1	0	0	0
Not Sustained	328	751	454	230	363
Sustained	321	595	433	465	765
Unfounded	143	409	662	381	384
Tracking Only	15	0	0	0	0
TOTAL	1,695	1,849	1,802	1,259	1,755

* Dispositions not permitted for use per specific Consent Decree requirements.

Source: Monitoring Team Analysis of BPD Data

B. General Characteristics of Reviewed Investigations

This section describes the general characteristics and overall features of the randomly-selected misconduct investigations included in the Monitoring Team’s “general” or “overall” sample. (See Section III-B, above.)

Of the misconduct investigations reviewed in the general sample of all misconduct investigations that BPD completed in 2022, nearly three out of five (58%) investigations originated with an external complaint (i.e., a complaint from someone outside the Department who is not a BPD employee), with the remaining 42% originating internally (i.e., from a BPD employee). External complaints most frequently were received via phone (26% of external complaints) and electronically (another 26% of complaints).

In most instances (96% of reviewed cases), the name of the complainant was provided (i.e., the complaint was *not* anonymous). In a significant majority (78%) of cases, a PIB employee received the complaint, with some other employee taking the complaint in the remainder (22%) of instances. Where someone outside of PIB received the complaint, it was typically a non-PIB BPD supervisor (75%).

Among the reviewed cases, four investigations (4.4%) involved a criminal investigation, either concluded or still being conducted as of the time of the review, of one or more BPD members that addressed or was related to the complaint. None of the selected cases involved an underlying complaint or otherwise implicated an incident or events involving either PIB personnel or the Police Commissioner—which would have activated particular procedural requirements.

The reviewed cases involved an array of allegation types, as summarized in Table 4.

Table 4. Allegation Types In Reviewed Cases (General Sample)

	Number of Investigations
Absent Without Leave (AWOL)	1
Abuse of Discretion /Authority	1
Abusive/Discriminatory Language	1
Conduct Unbecoming a Police Officer/Employee	18
Criminal Misconduct /Domestic Violence	2
Criminal Misconduct/Felony	3
Criminal Misconduct /Misdemeanor	1
Criminal Misconduct/ Sexual Misconduct	1
Criminal Misconduct/ Theft Related	1
Improper Stop	1
Inappropriate Association	1
Inappropriate Comments and/or Gesture(s)	2
Inappropriate Workplace Conduct	2
Insubordination	2
Neglect of Duty	31
Neglect of Duty – Failure to Attend PSI Medical Appointment	1
Neglect of Duty – Failure to Render Medical Aid	2
Neglect of Duty – Improper Inspection of Service Vehicle	2
Discourtesy	4
Discriminatory Policing	1
Domestic Incident	4
Excessive Force AND/OR Force Outside of Policy	2
Fail to Attend and Complete Required Training	1
Failure to Intervene	1
Failure to Operate Body-Worn Camera as Required	7
Failure to Write Report	2
False Arrest	2
False Imprisonment	1
False Statement /Untruthfulness	1
Harassment	2
Neglect of Duty – Loss or Damage of Equipment (Not to Include Firearms)	5
Neglect of Duty – Medical Leave Violation	1
Neglect of Duty – Off Post or Leaving Assignment Without Permission	2
Neglect of Duty – Overtime Related	3
Neglect of Duty – Sleeping on Duty	1

Neglect/Failure to Write Report	5
Race-Based Profiling	1
Respondent in Civil Protective Order	1
Securing/Treatment of People Being Detained or Transported	4
Unsafe Operation of Departmental Vehicle	1
Other	1

V. MISCONDUCT INVESTIGATIONS: COMPLIANCE ASSESSMENT

This section summarizes the Monitoring Team’s evaluations, using the methodology outlined in Section III, of full BPD misconduct investigations that were concluded in 2022.

A. Paragraph 329 and the Overall Quality of PIB Investigations

Before assessing the Decree’s specific requirements relating to misconduct and discipline, this section reports on the overall quality of BPD’s misconduct investigations. In this assessment, the Monitoring Team evaluated each of the investigations it reviewed using a simplified scale that the Monitoring Team previously used in the 2018 Baseline Assessment. *See* Figure 1.

Figure 1. Overall BPD Misconduct Investigation Quality Rating Definitions & Standards

<p>5 – Excellent – The investigation complied with all Consent Decree requirements and BPD protocols, and investigators made reasonable attempts to follow all leads and answer all material questions. The investigation was fair, thorough, objective, and timely.</p>
<p>4 – Very Good – The investigation complied with most Consent Decree requirements and BPD protocols and investigators made reasonable attempts to follow all leads and answer all material questions.</p>
<p>3 – Good/Average – Although some aspects of the investigation could be improved, the identified flaws did not appear to materially or unduly impact the quality of the overall investigation. The resulting investigation provided sufficient information to evaluate the incident but could be improved.</p>
<p>2 – Fair – Several aspects of the investigation could be improved. Identified flaws materially impacted the quality of the overall investigation, and the resulting file provided insufficient information to evaluate the incident.</p>
<p>1 – Poor – All or nearly all aspects of the investigation could be improved. The investigation failed to establish sufficient information to support an evidence-based evaluation of the incident due to investigative deficiencies, material omissions, or other issues.</p>

As Table 5 illustrates, **the overall quality of BPD’s misconduct investigations is markedly improved in 2022 as compared to 2018.** Whereas approximately 40% of investigations were of

poor or fair quality in 2018, only 10% of investigations received these deficient rankings in 2023. Indeed, the Monitoring Team concluded that **nearly three-quarters (72%) of investigations were of either “very good” or “excellent” quality** per the standards and definitions described above – compared to just 23% of investigations in 2018. **This constitutes a significant, positive development for which BPD and the Public Integrity Bureau should be commended.**

Table 5. Overall Quality of BPD Misconduct Investigations, 2022 vs. 2018

<i>Based on your overall review of the investigation, what was the overall quality of the investigation?</i>	2022	2018
5 – Excellent	28.6%	2.7%
4 – Very Good	42.9%	20.3%
3 – Good/Average	18.7%	36.7%
2 – Fair	6.6%	21.2%
1 – Poor	3.3%	19.1%

The Monitoring Team identified a number of instances where the overall quality of PIB investigations was impressive:

- **Case No. 1.** An officer conducted a traffic stop on a motor vehicle with expired registration tags. The officer cited the driver through the Maryland Electronic Traffic Information Exchange (“E-TIX.”). However, the officer did so despite knowing that the printer assigned to the vehicle was not working, and the officer also did not use a citation book to issue the tickets. Instead, the officer advised the driver he would mail copies of the citations. The driver never received correspondence with the citations, causing their license to be suspended.

The investigation of the complaint was exceptionally thorough—and proceeded despite the complainant indicating, when detectives met the complainant in-person following failed attempts to contact them by email and phone, that they did not want to move forward with the complaint. In interviews with implicated witnesses, the investigating detective asked pertinent, open-ended questions. The investigator also explored the specific training that the involved officer received on the E-TIX citation system. The detective indeed contacted the IT department regarding the repair process for the printer.

Overall, the detective was objective and fair and completed the investigation in a timely manner. The investigative file itself was in order and contained all material evidence. Overall, the Monitoring Team judged the investigation as “excellent” in quality given

the exhaustive nature of the inquiry and the objectivity of the investigator's approach. The case resulted in a "sustained" finding and discipline for the involved officer.

- **Case No. 2.** PIB investigated an internal complaint involving an officer who had been involved in a foot pursuit of an armed subject. After the conclusion of the foot pursuit, the officer observed that the Taser cartridge case affixed to their duty belt was open, and the secondary Taser cartridge was missing.

In a generally high-quality interview, the subject officer related that they and other officers had experienced problems with their secondary prong device holder opening unexpectedly. The investigator sought out and interviewed the Taser Master Instructor from the Firearms Training Unit who specializes in Taser training for BPD. Although no audio-recording of the interview with the trainer was included in the case file, the case file indicates that the trainer related that they had heard many complaints about the cartridge case opening unexpectedly and observed that the Department was in the process of replacing the devices due to the ongoing problems with them.

In this instance, the PIB investigator followed gathered evidence and information where it led. This included seeking out the Department's internal expert on Tasers and Taser training to evaluate the veracity of the subject officer's account. The case file generally was comprehensive and well-organized. Owing largely to the missing audio recording of the interview with the training instructor, the Monitoring Team rated the investigation quality as "very good" overall.

- **Case No. 3.** The subject officer conducted a traffic stop of the complainant, giving a warning for failing to come to a complete stop at an intersection controlled by stop signs. The complainant alleged that she was unlawfully stopped because there was no stop sign at the intersection—making the complaint by phone and sending in pictures at the intersection that did not show a stop sign.

The PIB investigator's review of body-worn camera footage of the incident revealed that a stop sign was indeed located at the intersection but was partially obscured by overhanging tree branches. The investigator also visited the intersection and took pictures showing a partially obscured stop sign. The investigator's file—which was well-organized and contained all relevant elements—documented numerous, unsuccessful efforts to contact the complainant. Ultimately, the investigation was adjudicated "exonerated." The Monitoring Team judged the overall quality of the investigation as "excellent" in part due to the comprehensive efforts of the investigator to determine which of two competing factual claims were accurate.

At the same time, the Monitoring Team identified a number of cases that were materially deficient:

- **Case No. 4.** A BPD detective conducted a traffic stop of a vehicle that possessed only one registration plate. The driver indicated that they did not have their registration card but provided a driver's license. While speaking to the driver, the detective smelled marijuana. The driver denied having smoked marijuana, but the passenger indicated that they had. The front passenger had an outstanding warrant for arrest. The driver was issued citations for traffic infractions, driving an unregistered vehicle, and driving while uninsured. While addressing these issues, BPD personnel advised a pregnant woman in the back seat of the car that she could remain in the vehicle with another infant. After exiting the vehicle and standing next to a building, officers advised the woman on multiple additional instances that she could sit in the car—with the woman eventually agreeing and one BPD officer turning the car so that the passenger area could be heated. PIB received an external complaint about officer performance during the encounter.

The PIB Investigator did not interview either the subject officer or the complainant—and provided no reason why the interviews did not occur. Although the body-worn camera showed two detectives who were witnesses to the traffic stop at issue, they were neither mentioned in the investigative file nor interviewed. Additionally, there was no evidence that several procedural requirements of the Decree—including evidence that the investigator notified the accused member's personnel of the complaint and evidence that the investigator met to discuss the case with a PIB supervisor—had been met. Ultimately, the failure of the investigator to interview the subject officer, complainant, or other personnel who witnessed the encounter are foundational omissions that fail to ensure that the investigation was as fair and thorough as necessary. Consequently, the Monitoring Team classified the case as “fair.”

- **Case No. 5.** BPD received an anonymous complaint alleging that an officer was involved in ATM robberies and drug sales.

The complaint was classified solely as “Conduct Unbecoming a Police Officer,” even though the allegations were criminal in nature. The case file contains relatively little information regarding the specific investigative steps taken in the investigation. Instead, in an investigative summary, the investigator simply states that the Federal Bureau of Investigation (“FBI”) investigated the case, and no criminal charges were pursued. The case file did not contain substantial information from the FBI regarding its investigation, nor did it contain an interview of the accused officer. Instead, the PIB adjudicated the case as “unfounded.”

Because an administrative investigation is different, and implicates different considerations and standards of conduct, than a criminal investigation, BPD and PIB still had a duty to ensure a comprehensive investigation of the underlying conduct—including conducting an interview, potentially compelled, of the implicated officer. Instead, the PIB appeared to import, without the scrutiny and assessment that the Decree requires, the findings of the outside-entity investigation. In light of these basic deficiencies, the Monitoring Team classified the quality of this case as “poor.”

- **Case No. 6.** An external complaint alleged that two officers did not remain on the scene and investigate a call for service. The investigation also involved allegations that one officer activated their body-worn camera well after responding to the scene and operated their vehicle unsafely by watching a video while driving.

The investigation implicated a number of issues. First, the incident occurred in October 2021. It took until June 2022 for the investigating detective to generate both a five-day and 30-day case update letter, on the same date. No investigative plan was submitted, and all PIB review checklists were left blank. The disciplinary history for the involved officer was not uploaded into the BlueTeam case file until August 2022, and PIB did not conclude the investigation until mid-September 2022. The lack of follow-through on the part of the PIB investigator, and the failure of PIB supervisors to identify the deficiencies, was problematic, and the Monitoring Team judged this case as “fair” because several aspects of the investigation needed to be improved.

Paragraph 329 describes the generalized “outcomes” that the many particular requirements relating to misconduct and accountability that follow in Paragraphs 330 through 415 are designed to realize.⁴¹ “To achieve these outcomes, the City and BPD will implement the requirements set out below” in those many paragraphs that follow.⁴²

Based on the Monitoring Team’s overall evaluation of misconduct investigations and particular assessment across the Decree’s many substantive requirements, discussed in detail below, **the Monitoring Team concludes that BPD is On Track (4c) with respect to compliance with Paragraph 329 and the Misconduct Investigations and Discipline portion of the Decree generally.** This finding is appropriate in light of BPD’s notable progress since 2018 and the many findings of Initial Compliance (4d) with specific paragraphs of the Decree discussed below. At the same time, and as also detailed in the sections that follow, BPD’s progress toward compliance in some areas has lagged behind its global improvements with respect to misconduct investigations and many specific Decree requirements. Accordingly, some specific paragraphs receive an overall compliance status of Implementation – Off Track (4b). The Monitoring Team has some cautious

⁴¹ Dkt. 2-2 ¶ 329.

⁴² *Id.*

but growing optimism that, with sustained focus and commitment on the important details of several Decree requirements and related administrative processes, PIB and the Department could be in the position of reaching Full and Effective Compliance with the whole of the Misconduct Investigations and Discipline portion of the Decree in the not-too-distant future.

B. BPD's Public Integrity Bureau (Formerly the Office of Professional Responsibility)

When the Court ordered the Consent Decree effective, the name of the office within BPD that investigated officer misconduct was called the Office of Professional Responsibility. As the Monitor's many other reports have documented, the office that investigates misconduct complaints within the Department is now known as the Public Integrity Bureau, or PIB. Despite the change in name, all Decree requirements that applied to OPR now apply to PIB.

1. Paragraph 330

The Decree requires that PIB "be physically located in a facility that is separate from other BPD buildings, is easily accessible to the public[,] and has space for receiving members of the public and for permitting them to file complaints."⁴³

OPR, and now PIB, has been in a modern, stand-alone facility located separate and apart from other Baltimore Police or City buildings since 2016. As the Monitoring Team has witnessed over the course of its regular visits to the PIB office, the Bureau's space has evolved over the years to accommodate a growing staff and evolving functions, which has required the outfitting of additional space such as conference rooms, training spaces, etc.

Currently, upon entering PIB's offices at 2425 Kirk Avenue, visitors are met with a secured door that, in the Monitoring Team's experience, is very quickly opened to allow entry. In the receiving area, a PIB staff member works at a welcome desk. Information is clearly posted about the mission of PIB and its staff. Signage and information pamphlets about filing complaints are visible immediately upon entry. The front desk contains a sign-in log for visitors who need to access the PIB offices.

The PIB office has comfortable interview rooms that are used for interviewing employees subject to or involved in situations involving misconduct complaints as well as members of the public. PIB investigator workspaces are modern and well-equipped with the necessary technology and equipment. The building's lighting has been vastly improved to create a workspace that is conducive to the long hours that a PIB investigator must, at times, log.

⁴³ *Id.* ¶ 330.

Overall, the Monitoring Team finds that BPD has reached **Initial Compliance (4d) with Paragraph 330** because it maintains a PIB office that is separate from other BPD buildings, is accessible to the public, and features adequate infrastructure for interacting with members of the public and individuals who may want to make a complaint.

2. *Paragraph 331*

Early in the Consent Decree implementation process, there were significant concerns about misconduct investigators working overtime shifts and secondary employment within assignments that may have created an actual or apparent conflict of interest. BPD quickly ended the practice of extended “detailing” of PIB personnel to other assignments with the Department.

As PIB policies and manuals were established, PIB investigators were permitted to work certain, limited off-duty jobs or extra-duty assignments that clearly did not pose a conflict of interest. Specifically, the September 2020 *Public Integrity Bureau Internal Operations and Training Manual* (the “PIB Manual”) provides:

[2.] PIB investigators will not be assigned to any assignments, to include secondary employment or detail assignments, which could create an actual or perceived conflict of interest for their administrative investigations, including any assignment in which the investigator would report to or work with the subject of an open investigation. To fulfill the above requirements, an investigator shall disclose the circumstances of any relationship with a BPD member accused in an investigation [via a dedicated Recusal Form] to ensure that the nature of the relationship could not be perceived to compromise the investigative process. An investigation shall be reassigned if any of the following conditions exist:

- 2.1 Family relationship;
- 2.2 Outside business relationship;
- 2.3 Romantic relationship (current or past);
- 2.4 Personal friendship; or
- 2.5 Work relationship, including where the investigator would report to or work with the subject of the investigation.⁴⁴

As described in the discussion of Paragraph 356(d) below, the Monitoring Team’s review identified no investigations where an investigator’s then-current or prior assignments or off-duty work violated either Paragraph 331 of the Decree or PIB Manual conflicts of interest provisions. Although the Monitoring Team is aware that, due to BPD’s current staffing dynamics, sworn PIB personnel sometimes work limited details outside their PIB assignment, this activity has, to date,

⁴⁴ The PIB Manual at Section 2.A-I-D-2.

been limited in duration and scope—consisting of assistance with major events or assignments of limited duration addressing acute staffing needs. Indeed, the limited nature of this work outside PIB makes conflicts of interest, actual bias, or apparent bias less likely than if it were regular and/or ongoing.

Consequently, the Monitoring Team concludes that BPD has reached **Initial Compliance (4d) with Paragraph 331** of the Decree pertaining to conflicts of interest.

3. Paragraph 332

Paragraph 332 requires PIB to “have sufficient resources and qualified staff to successfully fulfill its mission.”⁴⁵ As of November 30, 2023, PIB employs 35 investigators: 31 detectives and four civilian investigators. Until recently, these personnel members were organized into six investigative squads addressing general misconduct complaints. Recently, PIB created a seventh investigative squad of investigative sergeants. The number of investigators has increased since 2018, when BPD assigned only 22 sworn personnel to misconduct complaint investigations.⁴⁶

The 35 individuals assigned to PIB include two investigative sergeants, six detectives assigned to the ethics investigation squad, two detectives assigned to FBI task forces, two detectives assigned to administrative duties, one detective assigned to the Maryland Office of Administrative Hearings, and five detectives assigned to the Equal Opportunity and Diversity Section. BPD members wishing to transfer to PIB proceed through a competitive selection process in order to be considered for the position.

BPD’s 2022 update to the Staffing Study found that PIB needs a total of 48 sworn personnel (40 Detectives and 8 Detective Sergeants) in the Investigations Section and another 18 civilian investigators. Across all of PIB’s other sections, including the Ethics Section and Equal Opportunity and Diversity sections, the Staffing Study calls for a total of 91 sworn personnel and another 37 civilians within PIB.

By any measure, then, despite increases in the number of misconduct investigators across the past several years, BPD is falling short of what the Staffing Study’s evidence- and workload-based determinations indicate is required.

At the same time, the Monitoring Team continues to observe staffing levels to ensure that personnel shortages do not disproportionately impact PIB. The Monitoring Team is satisfied that PIB is given an appropriate priority in current staffing discussions among BPD leadership. For this reason, and despite ongoing struggles to grow the numbers of sworn officers and civilian staff

⁴⁵ Dkt. 2-2 ¶ 332.

⁴⁶ [Baltimore Police Department Staffing Study](#) (Dkt. No. 137-1).

across the Department, the Monitoring Team finds that BPD is, nominally, **On Track (4c) toward compliance with Paragraph 332**—even as it must travel substantial distance down that track toward compliance by ensuring a staffing level within PIB consistent with evidence- and workload-based determinations about required resources.

4. *Paragraph 333*

Paragraph 333 articulates the overall “powers and authority” of PIB.⁴⁷ First and foremost, the Decree requires PIB to “investigate all complaints of officer misconduct” and to “coordinate with CRB [the Civilian Review Board] on all complaints within CRB jurisdiction that CRB is also investigating or reviewing.”⁴⁸

BPD’s Court-approved PIB Manual on complaint intake provides that PIB will investigate all complaints and “shall follow the detailed procedures . . . outlined in PIB’s Internal Operations and Training Manual for all complaints received.”⁴⁹ The PIB Manual, which is 155 pages long, provides a robust set of procedures for investigating complaints of officer misconduct⁵⁰ and coordinating with CRB, including procedures for ensuring that all complaints, regardless of how they are received are documented and tracked.^{51 52}

Additionally, the Decree provides that PIB “will oversee investigations into allegations of misconduct that do not involve police-civilian interactions.”⁵³ At the time of the Decree, “[t]hese investigations” were “centralized,” and the Decree contemplated that responsibility for conducting such investigations might be transferred to “supervisors at the officer’s District or Unit” if and when “appropriate policies and training have been developed.”⁵⁴ As this report summarizes elsewhere, responsibility for the investigation of potential misconduct *not* involving interactions between police and civilians remain the responsibility of PIB—with BPD not intending to shift responsibilities in this regard. Consequently, the requirements of Paragraph 333(b) do not currently apply and do not require compliance assessment.

The Monitoring Team concludes that PIB is currently operating consistent with the Decree-specified “powers and authority” and that this scope of responsibility is adequately reflected in BPD policies and guidance to personnel. Consequently, the Monitoring Team finds the Department to be in **Initial Compliance (4d) with Paragraph 333**.

⁴⁷ Dkt. 2-2 ¶ 333.

⁴⁸ *Id.* ¶ 333(a).

⁴⁹ Baltimore Police Department, Policy 306, Complaint Intake Process (last rev. Nov. 7, 2022) at ¶ 36.

⁵⁰ *See* PIB Manual at Chapter 2.

⁵¹ *See id.* at Chapter 1, Section 1.C.

⁵² *See id.* at Chapter 1, Section 1.A.

⁵³ Dkt. 2-2 ¶ 333(b).

⁵⁴ *Id.*

5. *Paragraph 334*

Paragraph 334 requires that the Department “ensure that the [PIB] reviews and revises as necessary its policies and protocols to ensure that investigators and supervisors are provided with sufficient guidance to effectively fulfill their mission.”⁵⁵ As described with respect to Paragraph 333, above, BPD has established the PIB Manual setting forth detailed, pragmatic guidance for PIB personnel about receiving complaints, classifying misconduct allegations, conducting misconduct investigations, gathering and documenting evidence, and memorializing investigative findings. Indeed, as the Monitoring Team reported in early 2020, “[t]he completion of the investigations manual was a milestone achievement,” with the document “among the most thorough internal affairs investigations manuals” that the Monitoring Team’s experts have seen.⁵⁶

The PIB Manual’s procedures touch upon a number of other misconduct-related Consent Decree requirements, and accordingly, the following sections of this report discuss the extent to which BPD is following the PIB Manual in those areas, and, by extension is satisfying those other Consent Decree requirements. The PIB Manual, as written, however, is sufficient. Consequently, the Monitoring Team finds that BPD has reached **Initial Compliance (4d) with Paragraph 334.**

C. Complaint Intake, Classification, and Communication with Complainants

1. *Paragraph 335*

Paragraph 335 outlines a general requirement that BPD “review and revise” its policies for the intake, classification, . . . tracking,” and communication with complainants with respect to complaints in a manner that complies with subsequent, specific requirements.⁵⁷ Because BPD has issued the PIB Manual which revised all of its policies relating to misconduct complaints, and because, as discussed below in the analysis of compliance with other paragraphs of the Consent Decree, BPD personnel are sufficiently following the PIB Manual in practice, the Monitoring Team concludes that BPD has reached **Initial Compliance (4d) with Paragraph 335.**

2. *Paragraph 336*

Paragraph 336 outlines several specific steps that BPD has been required to take to “ensure that the complaint intake process is open and accessible.”⁵⁸ In reviewing and approving the PIB Manual, the Monitoring Team has confirmed that BPD has issued policy mandating that BPD personnel take those steps.

⁵⁵ *Id.* ¶ 334.

⁵⁶ Fourth Semiannual Report at 30.

⁵⁷ Dkt. 2-2 ¶ 335.

⁵⁸ *Id.* ¶ 336.

Critically, Paragraphs 406 through 408 detail specific requirements of a “testing program designed to assess civilian complaint intake” that BPD must establish to help it determine “whether employees are providing civilians appropriate, accurate, and complete information about the complaint process and whether employees are notifying the OPR and the CRB upon the receipt” of complaints.⁵⁹ To date, BPD has not fully implemented this program. Until it does, BPD and the City will not be able to provide the necessary evidence to demonstrate that it is complying with Paragraph 336.

Accordingly, although the Monitoring Team has not yet tested whether BPD personnel are complying with Paragraph 335 in practice, because BPD has finalized the Manual (specifically Section 1.A.) and its BPD Policy 306 (“Complaint Intake and Classification Protocols”) they have achieved a rating of **Implementation – On Track (4c)**.

3. Paragraph 337

Paragraph 337 requires BPD to “ensure that there are adequate protocols” (a) to encourage and protect officers who report violations of policy,” and (b) to ensure “that every BPD officer, regardless of rank, who observes or becomes aware of any act of misconduct” reports it to a supervisor or PIB.⁶⁰

The requirement to report misconduct is addressed in BPD Policy 306, which provides, in relevant part, that “[i]f a member observes or becomes aware of any potential act of Misconduct by a BPD member . . . , that member SHALL report the incident to a supervisor or to PIB for appropriate documentation and investigation.”⁶¹ Likewise, BPD Policy 302 requires all BPD personnel “to report any acts of misconduct by a member . . . through their chain of command, to PIB directly, or by entering it into BlueTeam.”⁶² Meanwhile, BPD’s prohibitions against retaliation are included in Policy 1729 and the PIB Manual.⁶³

To assess whether BPD is ensuring that officers who report policy violations are “protect[ed],” the Monitoring Team reviewed a standalone group of seven misconduct investigations involving allegations of retaliation made or forwarded to PIB by a BPD employee. In one instance, the Department appropriately disciplined an officer, consistent with the disciplinary matrix, for engaging in retaliation.

Monitoring Team reviewers found that no evidence that retaliation-related investigations differed from all other types of investigations. Retaliation investigations had the same strengths and

⁵⁹ *Id.* ¶ 406.

⁶⁰ *Id.* ¶ 337.

⁶¹ BPD Policy 306 at ¶ 18.

⁶² BPD Policy 302 at ¶ 57.

⁶³ *See* BPD Policy 1729; PIB Manual at 6, 66, 85.

weaknesses as investigations of other allegations. Thus, while the deficiencies outlined in this report apply equally to retaliation investigations, BPD is not giving short shrift to complaints of retaliation.

In fact, the overall quality of retaliation investigations was slightly higher than the average identified above in connection with Paragraph 329—with 3 cases “excellent,” 3 cases “very good,” and 1 case “good.” Therefore, although there may be instances of attempted or actual retaliation that are not reported to PIB, the PIB’s system for investigating such complaints when they are received are adequate.

Because BPD has sufficient policies and protocols in place requiring the reporting of potential misconduct and addressing allegations of potential retaliation in the same manner as other types of potential misconduct, the Monitoring Team finds that BPD is in **Initial Compliance (4d) with Paragraph 337**.

4. Paragraph 338

Paragraph 338 and its sub-paragraphs require that BPD classify received complaints “based solely on the nature of the allegations and facts alleged in such allegations.”⁶⁴

Paragraph 338(a) requires a complaint classification protocol that “list[]s all allegation types,” “provide[]s examples of officer conduct that fits each allegation type,” and is “publicly available on BPD’s website.”⁶⁵ As stated in the Monitor’s prior semiannual reports, for several years PIB has used a complaint classification protocol that includes a number of specific allegation categories and detailed procedures for how investigators should make classification decisions.⁶⁶ Pursuant to this protocol, which is laid out in the PIB Manual, and consistent with Paragraph 338(b), a PIB Classification Supervisor “coordinate[]s the initial classification of internal complaints. . . and ensure[]s they are consistent with BPD’s complaint classification protocol.”⁶⁷ Any “changes to a complaint’s classification must be documented in writing and approved by a commander” in PIB⁶⁸ per a process identified in the PIB Manual.⁶⁹

PIB must “promptly refer” CRB-eligible complaints to the Board consistent with the parameters of the complaint intake protocol required in Paragraph 339.⁷⁰ Monitoring Team reviewers identified 13 cases—or about 14% of reviewed investigations—that were eligible for CRB

⁶⁴ Dkt. 2-2 ¶ 338.

⁶⁵ *Id.* ¶ 338(a).

⁶⁶ Baltimore Police Department, *Public Integrity Bureau Internal Operations and Training Manual* 20–37 [hereinafter “PIB Manual”] (last rev. Sept. 2020), <https://public.powerdms.com/BALTIMOREEMD/documents/769853>.

⁶⁷ Dkt. 2-2 ¶ 338(b).

⁶⁸ *Id.* ¶ 338(c).

⁶⁹ PIB Manual ¶ 12.4.

⁷⁰ Dkt. 2-2 ¶ 338(d).

consideration. Of these cases, reviewers found evidence that 8 (62% of CRB-eligible cases) were identified by PIB as eligible for CRB consideration and referred. In one instance, PIB did not appropriately identify the case as CRB-eligible. In another four investigations, reviewers were not able to determine based on available documentation whether PIB did or did not appropriately identify the case as CRB-eligible. PIB has made strides toward implementing required administrative policies and protocols for interacting and interfacing with CRB, and an enhanced ability to clearly identify and document whether complaints that it receives should be routed to CRB should allow BPD to demonstrate compliance going forward.

The Decree requires that PIB, “within 72 hours” of receiving a complaint or otherwise being notified of misconduct, “make an initial determination of the classification of the alleged offense and . . . assign a misconduct investigator.”⁷¹ The Monitoring Team found that the initial classification determination was appropriately made within 72 hours in about four out of five investigations (79%). In the remaining one-fifth (21%) of cases, reviewers either found that classification occurred outside of the 72-hour timeframe or could not determine from the information in the case file whether PIB complied with the timeline. Similarly, complaints were assigned to a PIB investigator within 72 hours of PIB receiving the complaint in about three-quarters (77%) of investigations. More work by PIB to comply with these deadlines is necessary to reach compliance with Paragraph 338.

The Decree also requires that, when a complaint alleges multiple types of violations, “all applicable policy violations shall be charged, but the most serious violation shall be used for purposes of classification and to determine whether OPR will investigate.”⁷² The Monitoring Team’s review found PIB complying with these charging requirements in a substantial majority (95%) of investigations (with PIB not complying in 3% and reviewers not able to determine compliance based on available documentation in the remaining 2% of investigations).

Paragraph 338(h) provides that PIB must “fully and fairly document[], classif[y], and investigate[]” any “misconduct or violations beyond those initially alleged” that is identified during an investigation.⁷³ This report discusses the issue of investigating misconduct uncovered during the course of the investigation elsewhere. Because the Monitoring Team could certify that all relevant BPD officer activity in the incident and any evidence of potential misconduct uncovered, whether or not part of the original allegation, was fully investigated and evaluated in slightly more than three-quarters (76%) of investigations, PIB must make further progress toward satisfying this requirement to come into compliance.

⁷¹ *Id.* ¶ 338(e).

⁷² *Id.* ¶ 338(f). An “[e]xoneration for the most serious offense” does not, however, “preclude discipline for less serious offenses stemming from the same misconduct.” *Id.*

⁷³ *Id.* ¶ 338(h).

The Monitoring Team ultimately concluded that all allegations in the complaints “that, if true, would violate policy,” even those that were not affirmatively identified by the complaint or complainant,⁷⁴ were identified in most (93% of) investigations. In one case in which not all allegations were identified, criminal activity should have been forwarded to relevant authority. In another, discrepancies—subsequently raised by the State’s Attorney investigating the case—between an officer’s statement and what was depicted on body-worn camera were not identified as potential misconduct. In the remainder of the limited number of investigations in which not all allegations were identified, reviewers suggested that identified allegation types were not as precise as they should have been (for instance, identifying Conduct Unbecoming as an allegation type when Abuse of Authority, Failure to Supervise, Neglect of Duty, Abusive Language, and Inappropriate Workplace Conduct all were raised). Thus, the severity of the deviations from compliance is a close call. Because PIB did not uniformly identify issues with allegation charging, and because other elements of Paragraph 338 require continued progress, the Monitoring Team gives BPD a rating of **Implementation – On Track (4c) for Paragraphs 338(g) and (h)**.

Finally, Paragraph 338(i) requires that “supervisors in districts or units conducting investigations into misconduct” who identify allegations of misconduct” that should be investigated by PIB “promptly notify” PIB.⁷⁵ However, pursuant to the PIB Manual and related policies, supervisors in the field are *not* conducting misconduct investigations. Consequently, BPD is complying with these requirements.

Similarly, the Consent Decree provides that if supervisors believe that an officer may have committed a criminal violation, they must notify PIB.⁷⁶ As this report elsewhere describes, there is evidence in both the overall, aggregate data on PIB complaints and investigations that BPD supervisors are referring potential misconduct to PIB. Indeed, among the statistically significant sample of investigations that the Monitoring Team reviewed, 13% of internal complaints were made to a BPD supervisor and forwarded to PIB and more than one out of five (21%) external complaints were received by a BPD supervisor and forwarded to PIB. Although this evidence is encouraging, the Monitoring Team defers specific evaluation of Paragraph 338(j) until it (a) conducts a more comprehensive supervision assessment, which is intended to begin in 2024, and (b) analyzes whether supervisors have appropriately identified and forwarded potential misconduct to PIB relating to use of force and stops, searches, and arrests, which will be considered within the topical assessments of those areas.

Because PIB must still demonstrate progress on the identification and documentation of CRB-eligible complaints, meeting deadlines for initial complaint classification, identifying potential violations not initially raised in the complaint but subsequently identified, and because the

⁷⁴ *Id.* ¶ 338, 338(g).

⁷⁵ Dkt. 2-2 ¶ 338(i).

⁷⁶ *Id.*

Monitoring Team must still fully evaluate whether BPD supervisors are forwarding matters to PIB for investigation, the Monitoring Team concludes that BPD is **Implementation – On Track (4c)** toward compliance with Paragraph 338 overall.

5. *Paragraph 339*

Paragraph 339 requires that BPD and the Civilian Review Board develop protocols outlining each agency’s responsibilities for complaint intake, classification, and investigation and review. CRB must coordinate the initial classification of complaints “received from sources other than BPD” and to have enough information at intake “to determine whether a civilian complaint falls within the jurisdiction of the CRB, regardless of its source and initial classification.”⁷⁷ In addition to outlining the process for incoming cases, any “changes to a complaint’s initial classification must be documented in writing and approved” by the CRB Chief or the PIB Deputy Commissioner.⁷⁸

The PIB Manual and BPD Policy 306 contain a combined “PIB/CRB Protocol for Complaint Intake & Classification” that the Monitoring Team has previously approved as consistent with the Consent Decree, including Paragraph 339. To assess whether BPD is complying with Paragraph 339 in practice, the Monitoring Team reviewed documentation for all CRB complaint investigations closed in 2022, whether received by BPD or other sources, and conducted a review of each CRB complaint investigation—a total of 19 cases. The Monitoring Team found that, in each instance, CRB gathered sufficient information to make classification determinations and coordinate the classification of complaints received from non-BPD sources. Of the 19 cases, there were none in which the classification was changed.

Because BPD and CRB appear to be following established protocols for the intake and classification of complaints, the Monitoring Team finds that the City is in **Initial Compliance (4d)** with Paragraph 339.

6. *Paragraph 340*

Paragraph 340 requires that BPD “develop a system to document and address allegations it receives” about potential misconduct “from the State’s Attorney’s Office or by a judicial officer during a civil or criminal proceeding.”⁷⁹ As with any other type of complaint from any source or entity, the allegations must be “documented, tracked, and assessed for further investigation,” with “[a]ny decision to decline investigation . . . documented in writing.”⁸⁰

⁷⁷ *Id.* ¶ 339(a)–(b).

⁷⁸ *Id.* ¶ 339(c).

⁷⁹ *Id.* ¶ 340.

⁸⁰ *Id.*

The Monitoring Team’s review of a random, statistically significant sample of misconduct investigations identified one investigation that originated with misconduct allegations that were made in post-conviction court proceedings. The allegations were appropriately investigated. Based on the aggregate data that BPD tracks, the Monitoring Team was not able to identify the overall number of cases received from the State Attorney’s Office or a judicial officer.

Although allegations originating with the State’s Attorney’s Office or through judicial proceedings appear to be rare, BPD must receive, classify, and investigate them in the same manner as complaints and misconduct allegations that surface from other sources. Consequently, the Monitoring Team concludes that BPD has reached **Initial Compliance (4d)** with Paragraph 340.

7. Paragraph 341

Paragraph 341 outlines steps that supervisors must take “in response to complaints about officers under their command.”⁸¹ The Monitoring Team can assess BPD’s compliance with some of these requirements through its review of investigation files, but others involve steps supervisors must take when no complaint is made and thus cannot be evaluated through the review of opened investigations. As with Paragraph 338, the Monitoring Team must defer final evaluation of BPD’s compliance with Paragraph 341 pending the completion of its upcoming supervision assessment. Thus, for the present evaluation, Paragraph 341 is **Implementation – Not Assessed (4a)**.

8. Paragraph 342

The Decree requires that PIB investigators “send non-anonymous complainants a written notice of receipt” of the complaint “[w]ithin seven days of receipt.”⁸² The Monitoring Team could verify that this occurred within the seven-day timeframe in fewer than half (46%) of investigations, which falls well short of the performance necessary for compliance. Troublingly, this represents a steep decline from the findings of the Monitoring Team’s prior, non-systematic, interim review of 2021 PIB investigations, when investigative files contained a written notice sent to the complainant within 7 days of the complaint in 28 of 34 reviewed cases (82%).⁸³

The notice of complaint receipt must include the tracking number or barcode originally assigned to the complaint,” any other relevant case numbers, “and the allegations being investigated.”⁸⁴ Of those instances where a written notice was sent to the complainant, this information was appropriately included in approximately 92% of instances (34 of 37 relevant investigations/complainant notice letters). The Monitoring Team could confirm that the notice appropriately “inform[e]d the complainant how he or she may inquire about the status of a

⁸¹ Dkt. 2-2 ¶ 341.

⁸² *Id.* ¶ 342(a).

⁸³ 2022 Interview PIB Misconduct Investigations Review at Appendix A.

⁸⁴ Dkt. 2-2 ¶ 342(a).

complaint”⁸⁵ in 95% of instances. The Monitoring Team did not identify “any language that could reasonably be construed as discouraging participating in the investigation”⁸⁶ in reviewed letters.

Beyond the initial complaint receipt notification, “[p]eriodic updates will be mailed or emailed to the complainant.”⁸⁷ Through the PIB Manual, BPD established that PIB investigators must “send written updates to the complainant at least every 30 days.”⁸⁸ The PIB investigative file provided evidence that updates were circulated every 30 days in slightly more than one-quarter (28%) of investigations. As with the rate at which BPD complies with the requirement that it send notices of receipt of the complaint to the complainant, BPD’s rate of compliance here was lower than in investigations conducted in 2018 (when appropriate communications occurred in more than one-third (36%) of investigations).⁸⁹

Finally, in almost 99% of investigations where the investigative file contained at least some type of record of investigator communication with the complainant, the Monitoring Team found that the communications were “professional and respectful.”⁹⁰ This constitutes a notable improvement from the Monitoring Team’s initial, baseline assessment of misconduct complaints, where investigators were not appropriately professional and respectful in 13% of investigations. Nevertheless, the absence of evidence of investigator communications with complainants in more than one out of five (22%) investigations means that the Monitoring Team cannot yet find initial compliance with Paragraph 342(c).

In early 2023, BPD launched a Public Portal that automatically generates case status updates, every 30 days, to complainants who provide contact information and elect to receive them. Although the creation of the Public Portal occurred after the completion of the investigations reviewed in this assessment, the Monitoring Team is optimistic that it will allow BPD to demonstrate sustained progress with respect to timely and ongoing complainant notice and communication.

At the same time, because this remains a substantial issue nearly four years following the completion of the PIB Manual, and because levels of compliance have slid back toward the levels of compliance that BPD was obtaining more than five years ago in the Monitoring Team’s initial baseline assessment of misconduct investigations, BPD’s compliance score for Paragraph 342 is **Implementation – Off Track (4b)**.

D. OPR Administrative Misconduct Investigations

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.* ¶ 342(b).

⁸⁸ PIB Manual at 69.

⁸⁹ 2018 OPR Assessment at 27.

⁹⁰ Dkt. 2-2 ¶ 342(c).

1. Paragraph 343

Paragraph 343 requires that BPD “ensure that misconduct investigators . . . conduct objective, comprehensive, and timely administrative investigations of all allegations of officer misconduct.”⁹¹ The “findings” of misconduct investigations must “be based on the appropriate standard of proof,” and BPD must memorialize “these standards in policies, training, and procedures and accompany them with detailed examples to ensure misconduct investigators properly apply them.”⁹²

Other paragraphs in the Consent Decree cover these same requirements, either repeating them or adding additional specific mandates:

- Paragraph 344(k) outlines the required “standard of proof” for each of four specific findings that misconduct investigations must use,⁹³ and the Monitoring Team finds below that BPD is On Track (4c) with this requirement.
- The PIB Manual has previously been approved by DOJ and the Monitoring Team, and the Monitoring Team generally finds that BPD has satisfied the Consent Decree’s requirements to create misconduct policies and procedures and to train its officers to comply with them.
- With respect to whether investigators are conducting “objective, comprehensive and timely administrative investigations of all allegations of officer misconduct,” the Monitoring Team’s analysis of a variety of other paragraphs below generally finds PIB having made meaningful progress toward ensuring objective and comprehensive administrative investigations. However, as stated in the discussion of Paragraph 344(i), the Monitoring Team has significant concerns about BPD’s progress toward ensuring that PIB completes administrative investigations within 90 days (unless a written extension is reasonable and approved) and indicates that BPD is Off Track (4b) in this regard.

The Decree does not provide precise guidance on how the Monitoring Team should assess BPD’s overall compliance with Paragraph 343 when it is in compliance with some parts of that paragraph but not others. Although BPD is not on track to reach compliance with the Decree’s 90-day deadline, the Department is largely on track with many other requirements. Moreover, as vital as prompt and timely investigations are, BPD cannot compromise *quality* in order to meet timeline goals. Both the Monitoring Team’s overall evaluations (see Section A, above) and assessment of

⁹¹ *Id.* ¶ 343.

⁹² *Id.*

⁹³ *Id.* ¶ 344(k).

many specific Decree requirements throughout this Part indicate that the quality and comprehensiveness of PIB investigations has been substantively and steadily improving. BPD therefore is **On Track (4c) with Paragraph 343**.

2. *Paragraph 344*

Formally, the Monitoring Team makes determinations about BPD’s state of compliance at the level of the Consent Decree paragraph. Many paragraphs involve several components, but those components are assessed as a unit, and a lack of initial compliance with one component may often mean that the overall paragraph will also not yet reflect initial compliance.

Paragraph 344, however, contains a number of discrete subparts describing specific attributes that BPD’s investigations must possess to ensure their quality, fairness, comprehensiveness and timeliness. Each attribute is broken out into a separate sub-paragraph. Given the importance of each attribute and in order to focus BPD, the Court, and the community on both areas of progress and areas where additional attention is needed, the Monitoring Team has assigned individual compliance scores for each sub-paragraph as well as an overall compliance for all of Paragraph 344.

a. Conducting Investigations Designed to Determine Facts

Paragraph 344 requires that PIB investigators “[c]onduct investigations designed to determine facts.”⁹⁴ Overall, the Monitoring Team’s review found that PIB investigations are generally designed to objectively determine facts. Because the ability of a PIB investigation to establish facts depends on the variety of other investigative steps and techniques outlined in the many other sub-parts of Paragraph 344, we find—for the reasons set forth in the sections below addressing Paragraphs 344(b) through (k)—that BPD is **On Track (4c) toward compliance with Paragraph 344(a)**.

b. Prompt Identification, Collection, and Consideration of All Relevant Evidence

Monitoring Team reviewers certified that investigators “[p]romptly identif[ie]d, collect[ed], and consider[e]d all relevant evidence, including any audio or video recordings”⁹⁵ in 87% (79 of 91) of investigations. Because this rate of compliance falls within the range where BPD is *possibly* but not *presumptively* in compliance, the Team considers the other compliance factors. To this end, for two-thirds of the cases where not all relevant evidence was promptly identified, collected, and/or considered (or 9% of investigations overall), these deficiencies negatively and substantially impacted the overall quality of the investigation—and, critically, were not identified or addressed

⁹⁴ *Id.* ¶ 344.

⁹⁵ Dkt. 2-2 ¶ 344(b).

by PIB supervisors. Specifically, the overall “rating” Monitoring Team reviewers assigned to these cases was 2.25—just slightly better than “fair,” a rating that meant that identified flaws materially impacted the quality of the overall investigation and that the resulting file provided insufficient information to evaluate the incident. Consequently, because of the significance of deficiencies in a foundational area, and because PIB supervisors did not identify those deficiencies, PIB will need to demonstrate additional progress to reach initial compliance. For now, BPD is **Implementation – On Track (4c)** with Paragraph 344(b).

c. Locating and Interviewing Civilians

i. *Civilian Witnesses*

Paragraph 344(c) requires PIB investigators to “take all reasonable steps to locate” civilian witnesses. To that end, Chapter 2, Section III-C-b of the PIB Manual outlines specific procedural and administrative steps that a PIB investigator must take.

In the Monitoring Team’s review of a sample of misconduct investigations, approximately 20% of complaints identified or reasonably implicated civilian witnesses. However, the Monitoring Team could certify that PIB investigators made sustained and reasonable efforts to contact identified or implicated civilian witnesses in fewer than half of these cases (47%) where a canvass for witnesses was reasonably applicable. At least part of the issue appears to be that witness contact efforts were adequately logged less than 40% (38.9%) of the time. Ultimately, this meant that, of the 18 cases in which civilian witnesses were identified, one or more of those witnesses were interviewed in just one-third (33%) of investigations.

In the small number of civilian witness interviews that occurred, the Monitoring Team found, on the one hand, that the interviews appropriately occurred at a time/place convenient and accessible for witnesses, were audio-recorded, reasonably and adequately pursued all relevant lines of inquiry, avoided use of leading questions, and were memorialized for purposes of a full and complete investigative file. Potential investigator bias in a civilian witness interview was identified in one of six applicable investigations.

ii. *Civilian complainants*

Paragraph 344(c), and Chapter II, Section III-C-B of the PIB Manual, also addresses complainant interviews. “In general, PIB investigators must conduct a follow-up formal interview” of the complainant “to ensure all key information is garnered, and to build trust in the process while assuring the complainant that there is activity in the case.”⁹⁶ However, complainants were interviewed in (46%) of reviewed investigations. Problematically, despite the PIB Manual’s

⁹⁶ PIB Manual at Chapter 2, Section III-C-b.

instructions to investigators to document and explain why the complainant was not formally interviewed by the investigator, such documentation was in the investigative file of fewer than half (47%) of those investigations where the complainant was not interviewed.

When interviews occurred, they almost always (95%) occurred at a time and place convenient and accessible for the complainant. No requests or apparent need for translation services or other accommodations were implicated.

In three cases, there was an injury to the complainant. “If there was a possibility of injury, the investigator must ask if photos may be taken and whether [the interviewee] will sign a release to allow for medical records to be gathered.”⁹⁷ In one of the three cases involving an injury to the complainant, photographs were taken. The Monitoring Team could not verify that a medical records release was requested in any of the complainant interviews involving an injury.

Ultimately, Monitoring Team reviewers found 83% of complainant interviews thorough and unbiased. Two interviews (5%) contained problems in this regard, with reviewers unable to make a determination in the remaining 5 interviews (12%), largely due to the interviews not being sufficiently recorded or documented. This represents a marked improvement from 2018, when Monitoring Team reviewers could certify just 21% of complainant interviews as thorough and unbiased.⁹⁸

Additionally, consistent with PIB Manual requirements, all PIB contacts with the complainant were appropriately logged in some 88% of investigations.

iii. *Overall*

PIB is not yet in compliance with Paragraph 344(c). To come into compliance, PIB investigators must (1) do a better job of exhaustively canvassing for and identifying witnesses, and documenting their efforts; and (2) when the complainant is not interviewed, appropriately document and explain why an interview did not occur. For now, BPD is **On Track (4c) toward compliance with Paragraph 344(c)**.

d. Recording Interviews

PIB investigators must “[a]udio record all interviews, and video-record where possible”⁹⁹ unless the complainant or civilian declines to grant the investigator permission to record.

⁹⁷ PIB Manual at 83.

⁹⁸ 2018 OPR Assessment at 32.

⁹⁹ Dkt. 2-2 ¶ 344(d).

Complainant Interviews. Some 88% of complainant interviews were either audio-recorded, video-recorded, or both. Most complainant interviews were audio-recorded (83% of cases where the complainant was interviewed), but video-recording was comparatively infrequent (14% of cases where the complainant was interviewed). In the 12% of the overall cases where an interview with the complainant was not recorded *at all*, only one case involved an instance where a complainant granted permission to record the interview but the interview was not, in fact, recorded—with the remainder of instances not recorded because the complainant never granted permission. Consequently, PIB investigators appropriately recorded, at least via audio, complainant interviews in nearly every instance where they should have.

Civilian Witness Interviews. No interviews of civilian witnesses conducted in the reviewed cases were video-recorded, but all were audio-recorded.

Involved BPD Personnel. Interviews of involved BPD personnel were either audio-recorded, video-recorded, or both in 95% of interviews, with audio recording more common (in 95% of personnel interviews) than video recording (in 16% of personnel interviews).

Overall. Given that the substantial majority of interviews of complainants, civilian witnesses, and involved BPD personnel are at least audio-recorded, with some either instead or also video-recorded, the Monitoring Team finds that BPD’s compliance status is **Implementation – Initial Compliance (4d)** with Paragraph 344(d).

e. Identifying Officers

PIB investigators must “[m]ake all reasonable efforts to identify the officer if the complainant could not identify the officer’s name.”¹⁰⁰ In 83% of reviewed investigations, the complainant specifically identified the subject officer’s name. Of those instances where the complaint did *not* specifically name the officer, the PIB investigator made all reasonable efforts to identify the officers in all but one instance. Consequently, **BPD is in Initial Compliance (4d)** with Paragraph 344(e).

f. Evaluating All Officer Activity in the Incident

PIB investigators must “[e]valuate all relevant BPD officer activity in the incident and any evidence of potential misconduct uncovered during the course of the investigation, whether or not the potential misconduct was part of the original allegation.”¹⁰¹

¹⁰⁰ *Id.* ¶ 344(e).

¹⁰¹ *Id.* ¶ 344(f).

Monitoring Team reviewers found that PIB investigators were adequately considering all relevant BPD officer activity in the incident, and any evidence uncovered, regardless of whether it was a part of the original allegation in 87% of investigations. This rate of compliance requires the Monitoring Team to weigh the additional compliance factors. With respect to the severity or significance of the deviations, in the instances where investigators failed to evaluate all relevant BPD officer activity, the failure inhibited the overall quality of the investigation—and, in many instances, led to an investigation that was insufficiently comprehensive and failed to address other potential misconduct that was discovered through the investigation. Indeed, in all such instances, the issues were not substantively addressed by PIB supervisor review. Although the nature of the misconduct that PIB investigators failed to explore varied in significance, the failure of investigators to meaningfully pursue all misconduct issues arising during an investigation and of supervisors to identify such failures impaired the overall quality and comprehensiveness of the investigations. Therefore, BPD is **On Track (4c) toward compliance with Paragraph 344(f)** but must still ensure that all potential misconduct, whether the ostensible subject of the investigation or something that is discovered or becomes apparent during the course of the investigation, is appropriately and adequately addressed during all PIB investigations.

g. Considering Patterns of Officer Behavior/Disciplinary History

The Decree requires that PIB “[c]onsider patterns in officer behavior based on disciplinary history—including complaints in which allegations were not sustained . . . and officer training records.”¹⁰² The Monitoring Team found sufficient evidence that PIB investigator findings considered patterns in officer behavior based on disciplinary history in slightly more than one-quarter (28%) of investigations overall—a small improvement from 2018, when 16% of investigations considered patterns in officer behavior based on disciplinary history.

PIB investigative findings affirmatively considered the findings of prior complaints in which misconduct allegations were not sustained against implicated personnel in just 6% of investigations—the same rate of compliance that the Monitoring Team found in 2018.

Similarly, BPD training records for involved officers were considered in just 7% of investigations, which represents a very small improvement from 2018 (when training records were considered in 5% of investigations).

PIB supervisors are likewise not yet identifying and rectifying the failure of PIB investigators to consider disciplinary history and training records. Monitoring Team reviewers identified sufficient evidence that PIB supervisors reviewed or considered patterns in officer behavior based on disciplinary history in just over one-quarter (26%) of investigations. This is an improvement from 2018, when supervisors considered disciplinary history in approximately 14% of

¹⁰² *Id.* ¶ 344(g).

investigations, but this requirement has yet to be systematically implemented across supervisor reviews of investigations.

Because neither investigators nor PIB supervisors are uniformly considering an officer's disciplinary history during the review process, BPD has substantial progress to make to comply with Paragraph 344(g). Given the low rate of progress and the relatively straightforward path toward complying with these requirements regarding the consideration of prior officer conduct, the Monitoring Team concludes that BPD is **Off Track (4b) with Paragraph 344(g)** and needs to focus sustained attention to substantially improve PIB's rate of compliance in this regard.

h. Credibility Determinations

PIB investigators must “[m]ake credibility determinations, as appropriate” about the statements of involved and witness parties “based on independent, unbiased, and credible evidence.”¹⁰³ In particular, “[a]n officer's statement must be critically evaluated like any other evidence,” and a “witness's statement” may not be disregarded because the witness either knows the complainant or “has a criminal history.”¹⁰⁴ At the same time, investigators “may take into account the record of any” person “who has been deceptive or untruthful in any legal proceeding” or investigation.¹⁰⁵

In 83% of cases where Monitoring Team reviewers indicated that making credibility determinations were implicated by the case, investigators appropriately made explicit credibility findings that included a specific description of the evidence that supported and/or detracted from a person's credibility. Similarly, in 82% of cases where credibility determinations were implicated by the nature of the evidence and/or investigation, PIB investigator credibility determinations about statements were based on independent, unbiased, and credible evidence. This reflects notable progress toward compliance since the Monitoring Team's 2018 assessment, when 57% of investigations contained explicit credibility findings.

In 82% of cases (62 of 74) where the evaluation of an officer statement was implicated or warranted by the investigation, Monitoring Team reviewers found that PIB investigators evaluated officer statements in an appropriately critical manner. This is also a significant improvement from 2018, when officer statements were critically evaluated in approximately 37% of investigations.

The Monitoring Team could not readily determine, in all instances, if PIB investigators were identifying and considering any past deception or untruthful statements by witnesses, complainants, and officers when weighing the credibility of statements or the importance of

¹⁰³ *Id.* ¶ 344(h).

¹⁰⁴ *Id.* ¶ 344(h)(ii).

¹⁰⁵ Dkt. 2-2 ¶ 344(h)(iii).

evidence. In some 22% of cases, reviewers were unable to determine if investigators were weighing whether issues regarding prior untruthfulness were implicated.¹⁰⁶

Overall, PIB investigators are doing a better and more comprehensive job at making credibility determinations about witness statements and evidence, and at detailing the nature of those evaluations. However, to reach compliance, PIB and its investigators need to ensure that these credibility determinations are uniformly addressed during investigations and investigative summaries. Accordingly, BPD is **On Track (4c) toward compliance with Paragraph 344(h)**.

i. Completion of Administrative Investigations Within 90 Days

The Decree requires that PIB “[c]omplete their administrative investigations within 90 days of the initiation of the investigation.”¹⁰⁷ Only slightly more than one out of five (22%) reviewed PIB investigations were completed within the mandated 90-day period. This is below the level of compliance identified in the 2018 baseline assessment (39% meeting the 90-day requirement).

The Monitoring Team also considered, beyond the sample of cases evaluated for this assessment, overall data about the completion time for *all* PIB investigations that were completed in 2022. (For this analysis, the Monitoring Team excluded PIB investigations that involved a criminal investigation and/or charges against BPD personnel and incidents reviewed by the State’s Attorney’s office, as external investigation and review can add complexities to the PIB investigation that may be beyond the control of PIB and the Department. ERMM cases, which are addressed through the expedited resolution process addressed elsewhere in this report, are included in the aggregate statistics.) Overall, fewer than one-third (32%) of 1,591 investigations were completed within 90 days, leaving more than two-thirds (68%, or 1,076 investigations) of investigations *not* completed within 90 days. Indeed, the *average* duration of a PIB investigation that closed in 2022 was nearly 180 days—about twice as long as Paragraph 342(i) requires. It should be noted that, even when excluding PIB investigations involving ethics allegations, which tend to require more time to complete, the overall statistics do not meaningfully change (with 67% *not* being completed within 90 days and a mean duration of 177 days).

To gauge PIB’s progress over time, the Monitoring Team also compared the 2022 investigation duration data to PIB’s performance in prior years. Table 6, below, summarizes PIB’s performance with respect to meeting the Decree’s 90-day completion requirement for each calendar year since

¹⁰⁶ Different Monitoring Team reviewers interpreted the relevant assessment question differently, making it difficult, in aggregate, to conclude if determinations of “no,” an investigation did not consider past deception or untruthfulness, meant that there *was* prior deception that should have been addressed but was not or if, instead, there *was not* any prior deception such that, consequently, the investigation did not consider it. The Monitoring Team will clarify the assessment instrument for follow-up assessments. Nevertheless, the prevalence of “unable to determine” answers (more than one out of five) means that this confusion does not impact the overall compliance score.

¹⁰⁷ Dkt. 2-2 ¶ 344(i).

the period that the Monitoring Team’s prior compliance review and outcome assessment addressed.

Table 6. PIB Investigation Duration, 2019 through 2022

	2018	2019	2020	2021	2022
Not completed within 90 days	716	1,629	1,519	836	1,076
	44.6%	97.1%	93.5%	75.3%	67.6%
Completed within 90 days	888	49	106	274	515
	55.4%	2.9%	6.5%	24.7%	32.4%
Mean investigation length (days)	141.3	330.4	303.4	222.9	179.9
Median investigation length (days)	42.5	351.0	337.0	267.0	169.0

Source: Monitoring Team Analysis of BPD Data

BPD has regularly indicated that it has been working hard to reduce the length of misconduct investigations. The aggregate data summarized in Table 6 does indeed reflect progress—with BPD increasing the portion of PIB investigations completed within 90 days from just 2.9% of all investigations in 2019 to 32.4% overall in 2022. Meanwhile, the average (mean) length of PIB investigations has gone down from about 330 days in 2019 to 180 days in 2022.

It should be noted that the duration statistics for 2018 appear, at least upon initial appraisal, to be appreciably better than any year since. However, 2018 numbers still reflected BPD procedures in which supervisors in BPD districts, rather than PIB investigators, conducted investigations of officer misconduct complaints—a practice that new BPD policies and the PIB Manual have ended in order to increase the quality and comprehensiveness of all misconduct investigations. PIB personnel note that the transition from a system where district investigations addressed some misconduct to one where PIB investigators address all potential misconduct contributed to a large backlog of incomplete investigations that, especially in 2019 and 2020, prevented in some instances the timelier conclusion of more recent cases. As of 2021 and 2022, however, BPD reports that it had largely worked its way through and eliminated the backlog—which accounts, in relevant part, for the higher portion of PIB investigations meeting the 90-day requirement in those years.

Overall, then, analysis of all PIB data shows that the Department has taken some tangible strides to meet the Decree’s requirements that all misconduct investigations be completed within 90 days of the Department receiving a complaint—with the overall percentage of investigations meeting the 90-day requirement increasing from 2019 to 2022 and the average length of a PIB investigation decreasing by almost 46%.

At the same time, however, the Monitoring Team’s analysis shows that, more than five years into Consent Decree implementation, more than two-thirds (67.6%) of PIB investigations did *not* comply with the Decree’s 90-day requirement. Likewise, although BPD has shown sustained improvement in reducing average investigation length, it would take—at the 2022 pace of an approximate 20% reduction of average length each calendar year—until 2027 to bring the *average* investigation duration to under 90 days.

The Decree does allow the 90-day time limit to be extended so long as the “request for an extension of time” is “approved in writing” by the PIB Commander.¹⁰⁸ However, among the investigations that took more than 90 days, the Monitoring Team identified no instances where an extension of time was approved in writing.

It must further be noted that, even if BPD brought the overall average PIB investigation duration to at or below 90 days, a material number of investigations may still be above the 90-day mark. The Monitoring Team understands Paragraph 344(i) as requiring that all BPD investigations be completed within 90 days and will need to see a sufficient overall *portion* of *all* BPD investigations meet the 90-day requirement before being able to certify initial compliance with the requirement.

The Monitoring Team remains highly concerned about PIB’s ability to meet the Decree’s ultimate requirement that all PIB investigations be completed within 90 days. Although there has been some improvement, the rate of progress to date has been insufficient. Although the numbers are generally moving in the right direction, it does not appear that BPD has developed a sufficiently concrete plan for making more meaningful, swifter progress on meeting the 90-day completion requirement.

In short, BPD has done somewhat better over time to comply with Paragraph 344(i), but much work remains. Lacking a meaningful, operationalized plan for reducing investigative length while maintaining quality and meeting the many other requirements of the Decree, BPD policy, and the PIB Manual that this report discusses, the Monitoring Team finds that BPD’s compliance status can best be characterized as **Off Track (4b) with Paragraph 344(i)**. Unless PIB, BPD, and the City focus more attentively on simultaneously enhancing the timeliness and quality of PIB investigations, this area risks lagging far behind progress in others and extends the duration of the Decree for much longer than may be necessary. The Monitoring Team recommends that PIB develop and implement administrative processes aimed at ensuring that investigations that can reasonably be completed within 90 days are prioritized, rather than delayed while investigators are attending to other investigations. This likely will include additional investigator training on workflow prioritization techniques and ensuring more robust, substantive supervisor involvement aimed at ensuring both timely and comprehensive misconduct investigations.

¹⁰⁸ *Id.* ¶ 344(i).

j. Resolving Material Inconsistencies

PIB investigators explicitly discussed material inconsistencies, providing a precise description of the evidence they relied upon to resolve the inconsistencies, among statements or pieces of evidence in 74% of investigations where such inconsistencies appeared to arise. Although this represents a notable improvement in performance from the Monitoring Team’s 2018 baseline assessment, where only 34% of cases adequately resolved material inconsistencies, PIB still is *not* appropriately addressing material inconsistencies arising in one out of four investigations – which it will need to improve to reach compliance. Consequently, the Monitoring Team finds that **BPD is On Track (4c) with compliance with Paragraph 344(j)** but must still make additional progress before a finding of initial compliance is appropriate.

k. Appropriate Use of Specific Dispositions for Each Misconduct Allegation

PIB investigators must, “[f]or each allegation of misconduct, explicitly identify and recommend” a specific disposition among the four described in the Decree.¹⁰⁹ The Monitoring Team found that investigators appropriately identified one of the four available dispositions in 95% (86 of 91) of reviewed investigations.

The Decree prohibits BPD from using the disposition “administratively closed.”¹¹⁰ The Monitoring Team found no instances of “administratively closed” being used in any of the investigations reviewed—a notable improvement from 2018, where the disposition was still being used in some one-third (33%) of investigations.

The four dispositions that the Decree outlines each include a particular standard of proof that the evidence must meet. Specifically, an allegation may be:

- “Unfounded,” where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the accused officer;
- “Sustained,” where the investigation determines, by a preponderance of the evidence, that the alleged misconduct did occur;
- “Not Sustained,” where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred; or
- “Exonerated,” where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate BPD policies, procedures, or training.¹¹¹

¹⁰⁹ *Id.* ¶ 344(k).

¹¹⁰ *Id.* ¶ 344(k)(v).

¹¹¹ *Id.* ¶ 344(k)(i)–(iv).

Considering the whole of the investigation and all available evidence, Monitoring Team reviewers determined that the investigator’s recommended disposition of each allegation met the required standard of proof in 88% of investigations. The Monitoring Team accordingly turns to the additional compliance factors to determine if this rate of compliance represents initial compliance. On one hand, BPD’s recent performance represents a significant improvement from 2018, where just 61% of investigations reflected investigators using appropriate dispositions that met the implicated standard of proof. On the other hand, meeting the required standard of proof and ensuring that the evidence supports a particular disposition are critical components of a fair, thorough, and comprehensive investigation—and the failure to do so in a critical number of investigations compromised the overall quality and comprehensiveness of the investigations. At the same time, PIB supervisors did not correct or address the deficiencies.

As a result, although the Monitoring Team commends PIB and the Department for its significant progress toward initial compliance with respect to adjudicating misconduct investigations appropriately and meeting required standards of proof, it cannot yet certify initial compliance. BPD’s compliance status with respect to Paragraph 344(k) is **4(c) – On Track**.

1. Paragraph 344 Overall

As stated above, PIB investigators have made notable progress toward conducting “objective, comprehensive, and timely administrative investigations” through the use of sound investigative techniques and following rigorous procedures.¹¹² At the same time, however, PIB has failed to demonstrate improvements in considering patterns of officer behavior and disciplinary history, and in completing investigations within 90 days. Likewise, for a number of other requirements—including collecting and considering all relevant evidence, canvassing for witnesses, conducting complainant and witness interviews, evaluating all officer performance in an investigation, addressing credibility determinations expressly in investigative summaries, expressly resolving material inconsistencies, and ensuring that ultimate dispositions satisfy applicable standards of proof, BPD’s performance is on track but still not in compliance.

Because a plurality of Paragraph 344’s sub-paragraphs are either Initial Compliance (4d) or On Track (4c), the Monitoring Team finds that **BPD is On Track (4c) with Paragraph 344** overall but that PIB and the Department overall must invest sustained attention to the many Decree requirements regarding the conduct and content of misconduct investigations where BPD is not on the right track in order to achieve compliance.

3. *Paragraphs 345, 346*

¹¹² Dkt. 2-2 ¶ 343.

Paragraph 345 requires BPD to “conduct a sexual misconduct incident review at the conclusion of every investigation of a sexual misconduct complaint against a BPD officer or employee concerning conduct against a non-BPD employee, unless the report has been determined to be unfounded.”¹¹³ It provides various, specific requirements for what the review should entail and when it should be completed (i.e., within one month of the conclusion of the investigation).

The Monitoring Team reviewed all 10 cases for the evaluated period (2022) that contained allegations of Sexual Misconduct and where the allegations were not determined to be “unfounded.” However, the Monitoring Team’s evaluation could not identify any evidence that reviews had occurred. When it raised this with BPD during the Comprehensive Assessment, the Department confirmed that—although the completed reviews would not appear in the underlying misconduct investigation file—a process to conduct the reviews required by the Consent Decree was not in place in 2022. BPD requested technical assistance in establishing a process to conduct such reviews in the future, which the Monitoring Team and DOJ provided. The Department piloted its first sexual misconduct reviews in December 2023, and the initial, post-pilot review was scheduled to occur in late March 2024. In a subsequent assessment, the Monitoring Team will need to systematically evaluate the quality of these reviews. Consequently, the compliance status for Paragraphs 345 and 346 is best characterized as **Implementation – Not Assessed (4a)**.

4. Paragraph 347

Paragraph 347 outlines several requirements designed “to ensure that the officer accused of misconduct receives notice that he or she is under investigation.”¹¹⁴ The Monitoring Team considers Paragraph 347 to apply whenever a complainant either specifically identifies the subject officer’s name or an investigator, making reasonable efforts to identify the officer, does specifically identify the involved officer(s). The complainant or the subsequent investigation identified the officer in 82 of 91 reviewed cases.

Officers must receive notice unless “it would jeopardize the investigation.”¹¹⁵ The Monitoring Team found that notice was provided to officers in 84% of the 82 eligible cases where the involved officer(s) were identified. This constitutes a significant improvement from 2018, when involved officers received timely notification of investigations in 24% of applicable investigations. In those cases where notice was *not* provided, Monitoring Team reviewers did not indicate that providing notice would, in fact, have jeopardized the investigation.

¹¹³ *Id.* ¶ 345.

¹¹⁴ *Id.* ¶ 347.

¹¹⁵ *Id.* ¶ 347(a).

In nearly all (97%) of those instances, the provided notice “comport[e]d with due process and the law.”¹¹⁶ The notice contained information about “the nature of the investigation”¹¹⁷ in nearly 96% of instances. In only 2 (3%) cases did the notice contain information that reviewers indicated ran the risk of “unnecessarily jeopardize[ing] the investigation.”¹¹⁸

The Decree requires that PIB’s notice to officers “include provisions prohibiting officers under investigation from speaking to witnesses or complainants, reviewing police reports . . . or body camera footage, or taking other actions that could jeopardize the investigation, until notified by BPD that they are permitted to do so.”¹¹⁹ The whole of this content was present in just 10% of notices. Going forward, PIB needs to ensure that language that conforms to Paragraph 347 is uniformly included across officer notices.

Monitoring Team reviewers found that PIB provided timely notification to supervisors that officer(s) under their command were under investigation in fewer than one-third (31%) of applicable instances (i.e., the 82 of 91 investigations for which a specific officer was identified), which is up from 12% of cases in 2018. Monitoring Team reviewers could only certify that supervisors facilitated involved officer interviews, per Paragraph 347’s requirement, in 21% of cases, which is also up from 5% in 2018. Given that the written steps that supervisors typically take to facilitate an interview are not included in the investigative file, it was difficult for the Monitoring Team to determine what efforts were taken in that regard in the reviewed cases. BPD must more regularly notify supervisors, but if it improves in that regard, the Monitoring Team will in its next assessment narrow its assessment of supervisor facilitation of interviews to instances where PIB makes a specific request for such facilitation.

Despite tangible improvements in officer and supervisor notification, BPD is falling just short of the identified compliance thresholds for the sending of officer notice and well short of requirements relating to the notification of supervisors of officers under investigation. The Monitoring Team therefore concludes that BPD’s compliance with Paragraph 347 is **On Track 4(c)** but that BPD must take focused steps to ensure it timely notifies all involved officers and supervisors.

5. Paragraph 348

Paragraph 348 concerns the integrity of misconduct investigations through a few requirements. First, it requires that “[i]nterfering with a misconduct investigation” in any fashion “will be a terminable offense.”¹²⁰ BPD Policy 302 memorializes this requirement, providing that “[n]o

¹¹⁶ *Id.* ¶ 347(b).

¹¹⁷ Dkt. 2-2 ¶ 347(b).

¹¹⁸ *Id.*

¹¹⁹ *Id.* ¶ 347(c).

¹²⁰ *Id.* ¶ 348.

member shall be dishonest with, interfere with, obstruct or hinder, nor collude with or advise any other person to be dishonest with, interfere with, obstruct or hinder, in any manner, any PIB investigation”¹²¹ The violation of Policy 302 may require termination depending on the facts and circumstances. Policy 302 was the subject of e-learning that BPD personnel completed in 2022. However, the policy was never fully implemented, as BPD requested additional policy revisions. Most recently, the updated Policy 302 was available for public comment and feedback through April 29, 2024.

Second, Paragraph 348 requires that “officers under investigation do not review any investigative files, reports (except for reports about the incident authored by the officer), or other evidence, including body camera footage” in an incident in which they are involved “until notified by BPD that they are permitted to do so.”¹²² Although the Monitoring Team did not exhaustively review electronic access logs for each and every document and file associated with each and every investigation, its review of misconduct investigations did not identify any clear instances of investigated officers impermissibly reviewing files, reports, or other evidence.

At the same time, and as described previously, BPD’s notice to officers under investigation does not uniformly remind officers that they are prohibited from reviewing files or reports—with only 10% of officer notices including such a prohibition. Until this important reminder to officers about evidence access requirements is routinely emphasized in notices at the outset of investigations, the Monitoring Team will be unable to certify that the Department has done what it needs to do to “ensure that officers under investigation do not review any investigative files, reports . . . , or other evidence.”¹²³ BPD is therefore **On Track (4c)** toward compliance with Paragraph 348.

6. Paragraph 349

Paragraph 349 provides a number of requirements that relate to the conduct and performance of PIB investigators. Specifically, Paragraph 349(a) prohibits investigators from “[a]sk[ing] leading questions that suggest legal justifications for the officer’s conduct.”¹²⁴ No leading questions were observed in any civilian witness interview. Investigators avoided leading questions in some 93% of interviews with complainants. Across interviews with involved officers and witness employees, reviewers identified that investigators appropriately refrained from using leading questions in nearly 86% of cases.

Because the overall rates of compliance for interviews with complainants and officer interviews are therefore in the possible but not presumptive range of compliance, the Monitoring Team considers the other compliance factors. In terms of comparative progress, the 2018 misconduct

¹²¹ BPD Policy 302 at ¶ 58.

¹²² Dkt. 2-2 ¶ 348.

¹²³ *Id.*

¹²⁴ *Id.* ¶ 349(a).

assessment found somewhat lower rates of leading questioning in these areas—but, at the same time, the lack of sufficient documentation and recording of interviews meant that a large portion of responses were “unable to determine,” which reduces the value of this particular compliance metric for purposes of Paragraph 349(a).

With respect to the severity or significance of the instances where investigators failed to comply and used inappropriately leading questions, in a majority (75%) of those instances, the overall quality of the investigation was determined to be “very good” or “excellent” and the leading interview questions did not unduly prejudice or compromise the investigation. Indeed, at least *some* use of technically leading questions (e.g., “You were working on patrol on January 15, correct?”) is typically necessary to ensure that an interview is efficient, solicits clear answers, and addresses material avenues of inquiry. This may be, at least to some extent, why the Consent Decree does not require BPD to entirely eliminate the use of leading questions but instead prohibits investigators from “ask[ing] leading questions *that suggest legal justifications for the officer’s conduct, where such questions are contrary to appropriate law enforcement techniques.*”¹²⁵

Going forward, the Monitoring Team would like to see PIB supervisors more systematically consider whether investigators are inappropriately using leading questions in some circumstances. However, in the relatively small portion of involved officer and witness employee interviews where investigators use leading questions, the Monitoring Team’s review established that the leading questions did not suggest legal justifications and therefore did not compromise the overall integrity of the investigation. Indeed, in instances where some technically leading questions were deployed, the questioning was generally consistent with appropriate law enforcement interview techniques that are often necessary to ensure efficient and precise questioning. Accordingly, the Monitoring Team concludes that PIB has reached initial compliance with Paragraph 349(a).

Consistent with Paragraph 439(b), the Monitoring Team did not identify violations of Paragraph 349(b) admonition that investigators avoid statements that could have been “reasonably understood as intended to discourage the BPD employee or witness from providing a full account.”¹²⁶ In the limited instances where reviewers had concern about investigator bias or partiality, it tended to relate to the nature and substance of questioning rather than statements aimed at discouraging the truthfulness of statements.

Paragraph 349(c) requires that PIB investigators complete investigations even if a complainant “seeks to withdraw the complaint” or does not cooperate with the investigation, “[t]he complainant pleads or is found guilty of an offense,” the complainant disagrees with the underlying basis for

¹²⁵ *Id.* (emphasis added).

¹²⁶ Dkt. 2-2 ¶ 349(b).

why the involved officer stopped or cited the complainant, or the subject officer(s) “resign[] or retire[].”¹²⁷

Monitoring Team reviewers did not identify any instances where investigators stopped investigations because a complainant sought to withdraw the complaint, refused to cooperate, pled guilty to a criminal offense, or objected to the underlying basis of an encounter. To the contrary, reviewers flagged multiple instances where investigators went to substantial lengths to proceed with an investigation despite the non-cooperation of complainants beyond the initial submission of a complaint.

Similarly, it appears that BPD is appropriately continuing its investigation and disciplinary process regardless of whether the subject officer(s) remain an employee. In somewhat less than 7% of reviewed cases, an officer who was the subject of the investigation resigned while the misconduct investigation was ongoing. In another 3% of instances, a subject officer resigned after the investigation had been completed but while disciplinary charges were pending. Of those instances where the officer resigned during an investigation, all but one investigation were determined to be “very good” or “excellent” in quality overall—and were completed despite the resignation. In the one case with more significant investigative issues, the problems were not related to the investigation not being pursued to completion. Both of the investigations in which an officer resigned while disciplinary charges were pending were judged “excellent” in overall quality.

Consequently, because the Department is complying with all sub-provisions, the Monitoring Team finds BPD to be in **Initial Compliance (4d)** with Paragraph 349.

7. Paragraph 350

PIB supervisors must “regularly meet with misconduct investigators to evaluate the progress of an investigation” and “properly document[]” such meetings.¹²⁸ The Monitoring Team could only confirm that meetings occurred, via the required documentation, in 60% of investigations. This is an improvement from 2018, when meetings between supervisors and investigators were only documented in 4% of investigations. However, PIB’s rate of compliance is far below what is necessary. PIB supervisors and investigators must focus on ensuring compliance with the relatively straightforward administrative and documentation requirements of Paragraph 350 to ensure compliance. For now, BPD remains **On Track (4c)** with compliance with Paragraph 350, but the Department needs to speed up improvements in the area going forward.

8. Paragraph 351

¹²⁷ *Id.* ¶ 349(c).

¹²⁸ *Id.* ¶ 350.

Paragraph 351 identifies a number of specific elements that PIB investigators must include in a summary investigation report at the conclusion of each misconduct investigation. Specifically, final investigative files must include:

- **“A narrative description of the incident.”**¹²⁹ All investigative files that the Monitoring Team reviewed included a narrative summary of the incident.
- **“Documentation of all evidence that was gathered, including names” and contact information for witnesses.**¹³⁰ Monitoring Team reviewers found that most PIB investigative files (92%) included an adequate description and examination of evidence.

With respect to information about witnesses, the Monitoring Team found that a relatively small portion of cases—just short of 20%—reasonably implicated civilian witnesses. As detailed elsewhere in this report, the Monitoring Team could certify that investigators made sustained and reasonable efforts to contact and interview civilian witnesses in less than half (47%) of those cases where civilian witnesses were reasonably implicated. Investigator efforts to contact civilian witnesses were uniformly logged in less than 39% of investigations. Investigators more regularly contacted, and logged the contact of, BPD personnel who were witnesses.

- **“Documentation of whether officers or other BPD employees were interviewed, including audio and video and a transcript of those interviews, if available.”**¹³¹ As this report explains above, when such interviews occur, PIB is regularly recording interviews of involved officers and BPD personnel—almost always via audio and sometimes via video. For most investigations (86%), this means that the investigative file contains sufficient documentation as to whether officers or other BPD employees were interviewed. In 14% of applicable instances, Monitoring Reviewers noted that the documentation was missing or incomplete.
- **“The names of all other BPD employees who witnessed the incident.”**¹³² Where complaints reasonably implicated BPD employee witnesses, Monitoring Team reviewers found that investigators generally provided the names in the investigative file.

¹²⁹ *Id.* ¶ 351(a).

¹³⁰ *Id.* ¶ 351(b).

¹³¹ Dkt. 2-2 ¶ 351(c).

¹³² *Id.* ¶ 351(d).

However, in some 43% of those investigations where a BPD officer or employee witness was identified or reasonably implicated by the complaint or investigation, the BPD officer or employee was *not* interviewed. Those employees did not decline to be interviewed, and in only one case could the employee not be identified or located. Therefore, the failure to uniformly interview BPD employees who were witnesses to events pertaining to misconduct investigations is troubling and needs to be addressed going forward.

It should be noted that, due to a transcription error in the electronic assessment instrument that reviewers used, a specific question asking about whether the documentation of witness personnel names was sufficient asked whether there was documentation of those who witnessed *interviews* rather than witnessed *incidents*. Consequently, for purposes of this specific requirement, the Monitoring Team cannot provide a precise compliance percentage on this assessment. Instead, reviewing scores for other questions about BPD officer and personnel witnesses and required, narrative summaries of those ratings indicates that reviewers identified no instances where BPD employees were witnesses but were not adequately named.

- **“The misconduct investigator’s evaluation of the incident, based on his or her review of the evidence gathered, including a determination of whether the officer’s actions appear to be within BPD policy, procedure, regulations, orders, or other standards of conduct required of BPD officers.”**¹³³ The Monitoring Team certified that 93% of PIB investigations (or 85 of 91 investigations) contained a sufficient evaluation of the incident and evidence per the requirements of Paragraph 351(e). This level of compliance falls in the possible but not presumptive range of compliance, which leads the Monitoring Team to consider the other compliance factors. On the one hand, PIB’s performance shows notable progress—from 61% of cases providing a sufficient evaluation in 2018 to 93% in 2022. However, the failure of an investigative file and report to include a comprehensive evaluation of the incident, inventory of evidence gathered, and clear determination about whether the evidence does or does not support a particular investigative finding is a significant and foundational omission. Critically, the Monitoring Team did not identify evidence of such deficiencies being remedied or addressed by PIB supervisors reviewing the investigative report.

Therefore, the Monitoring Team finds that the compliance factors point to BPD being on track toward compliance with Paragraph 351(e) but still needing to ensure that investigative summaries are uniformly comprehensive.

¹³³ *Id.* ¶ 351(e).

- “[E]xplicit credibility findings, including a precise description of the evidence that supports or detracts from the person’s credibility.”¹³⁴ The Monitoring Team’s review found that most (82%) investigative summaries where credibility issues were implicated did make explicit credibility findings, including a precise description of evidence that tended to support or detract from the implicated person’s credibility. In 18% of applicable investigations, the investigative summary did *not* make express credibility findings. Although this is a sizeable increase from 2018 (when investigators logged express credibility findings in 47% of investigative summaries), the level of performance still falls short of where it needs to be for the Monitoring Team to entertain the possibility of an initial compliance finding.

In 84% of applicable instances (and an improvement from 53% of applicable instances in 2018), the Monitoring Team concluded that the investigator’s credibility determinations about complainant, officer, and witness statements were based on independent, unbiased, and credible evidence.

- “[E]xplicit resolution of” “material inconsistencies . . . between complainant, officer, and witness statements, . . . including a precise description of the evidence relied upon to resolve the inconsistencies.”¹³⁵ Of the 47 investigations that involved inconsistencies among statements that Monitoring Team reviewers determined were material to the underlying investigation, fewer than three-quarters (72%) of investigative summaries included the explicit resolution or discussion of material inconsistencies that precisely described the evidence that formed the basis for the resolution. Although this marks an improvement from 2018, when material inconsistencies among statements were resolved in 57% of applicable instances, PIB investigators will need to improve their performance in this regard to reach initial compliance.
- “If a weapon was used, documentation that the officer’s certification and training for the weapon were current.”¹³⁶ In the Monitoring Team’s review of a statistically significant sample of *all* misconduct investigations, one case involved an officer using a weapon. That investigation summary did *not* include documentation pertaining to the officer’s certification and training. Further, in the Monitoring Team’s review of another statistically significant sample of force-related cases, as described in Section III above, three cases implicated an officer’s weapon. In *none* of the three cases did the investigative summary include documentation about the officer’s certification and training for the weapon. In the Monitoring Team’s 2018 assessment, weapons

¹³⁴ *Id.* ¶ 351(f).

¹³⁵ *Id.* ¶ 351(g).

¹³⁶ Dkt. 2-2 ¶ 351(h).

certification was included in 3 of 8 cases involving force. Given the small numbers implicated, the Monitoring Team cannot conclude that BPD's 2022 performance represents backsliding in this regard, but it does observe that PIB needs to redouble efforts to ensure that current officer certification and training regarding any implicated weapons are included in investigative files to ensure compliance with Paragraph 351(h) going forward.

- **“Documentation of recommendations for non-punitive corrective action or misconduct charges.”**¹³⁷ The Monitoring Team found that investigator consideration and documentation of nonpunitive action or follow-up was not as uniform as it should be—identifying sufficient documentation of whether additional training, counseling, or intervention was recommended in just one-third (33%) of the 36 investigations where reviewers concluded that the evidence and reasonable implications drawn from that evidence tended to call for such follow-up.

As discussed above, investigators expressly identified and recommended one of the approved dispositions in some 95% of investigations. Likewise, investigators evaluated incidents sufficiently, based on a review of gathered evidence in light of policy and procedure, in 93% of instances. With respect to formal adjudication, including recommendations for findings of misconduct, investigators are complying across most investigations.

Consequently, to reach compliance with Paragraph 351(i), PIB will need to document the consideration of non-punitive follow-up action more systematically within investigative reports.

Overall, PIB and its investigators have improved the quality and comprehensiveness of investigative reports in a number of important ways. To reach initial compliance across all of Paragraph 351's requirements, PIB—both its supervisors and investigators—will need to carefully ensure that reports contain all Decree-, policy-, and PIB Manual-required elements. The refinement of investigative checklists for both investigators and supervisors may assist in this regard and expedite compliance. Overall, BPD remains **On Track (4c)** with compliance with Paragraph 351, but PIB needs to speed the rate of its improvement in order to reach compliance.

9. Paragraph 352

Pursuant to Paragraph 352, BPD must “ensure that completed misconduct investigations are evaluated for policy, training, tactical[,] or equipment concerns,” with that overall evaluation

¹³⁷ *Id.* ¶ 351(i).

addressing several expressly-identified elements.¹³⁸ First, every misconduct investigation must “assess[] . . . whether law enforcement action was in compliance with training and legal standards.”¹³⁹ Across investigator and supervisor reviews, the Monitoring Team identified sufficient evidence and/or documentation of an assessment of whether actions were consistent with training and legal standards in less than two-thirds (62%) of investigations.

Second, each investigation must evaluate whether “[o]ther tactics were more appropriate under the circumstances.”¹⁴⁰ PIB is not uniformly ensuring systematic evaluation of alternative tactics, with less than 31% of investigations containing documentation or other indicia that the possibility of other performance options was evaluated.

Third, PIB and reviews of misconduct investigations must consider whether “[t]he incident indicates a need for additional training, counseling, or other non-disciplinary corrective actions.”¹⁴¹ Monitoring Team reviewers found sufficient documentation or evidence that PIB conducted this assessment in only 30% of investigations.

Finally, the evaluation of misconduct investigations must consider whether “[t]he incident suggests that BPD should revise its policies, strategies, tactics[,] or training.”¹⁴² These areas of inquiry were very rarely considered, with Monitoring Team reviewers finding sufficient consideration in just 17% of investigations.

Overall, then, BPD must more consistently conduct the analyses that Paragraph 352 requires. Although the Monitoring Team’s assessment results show that the Department has some distance to travel before reaching initial compliance, it is **On Track (4c)** toward compliance because, across each of the four enumerated features of evaluations that Paragraph 352 provides, BPD has improved since the 2018 Baseline Assessment.¹⁴³

10. Paragraph 353: Expedited Imposition of Discipline

Paragraph 353 permits BPD to address instances where “an officer agrees to . . . proposed discipline” in “an expedited manner.”¹⁴⁴ If the Department elects to do so, the Department must

¹³⁸ *Id.* ¶ 352.

¹³⁹ *Id.* ¶ 352(a).

¹⁴⁰ *Id.* ¶ 352(b).

¹⁴¹ Dkt. 2-2 ¶ 352(c).

¹⁴² *Id.* ¶ 352(d).

¹⁴³ Specifically, BPD has improved from 35% in 2018 to 62% with respect to evaluations considering whether law enforcement action complied with training and legal standards; from 6% to 31% on considering other tactics; from 11% to 17% on considering whether the incident indicates a need for training, counseling, or other non-disciplinary action; and from 8% to 17% on whether the incident suggests that BPD should revise policies, strategies, tactics, or training based on the incident and/or investigation.

¹⁴⁴ Dkt. 2-2 ¶ 353.

“develop a protocol governing” the expedited process that details (a) what “misconduct allegations . . . qualify for expedited discipline,” and (b) “[h]ow BPD will ensure that expedited discipline . . . is offered in a fair manner, and is appropriately reviewed by chain of command.”¹⁴⁵

BPD has established a process for the Expedited Resolution of certain allegations implicating minor misconduct (“ER” or “ERMM”). As BPD Policy 321 observes, “[m]inor misconduct allegations” often “do not require extensive investigation and adjudication” because “the accused member does not contest the allegations.”¹⁴⁶ “In such cases, Expedited Resolution can provide a more efficient, timely resolution that uses minimal Departmental resources . . . without sacrificing the goals of the corrective action or the disciplinary process.”¹⁴⁷

Specifically, according to BPD’s current policy, the ER process can include several types of allegations so long as (a) “the complaint was not made by, nor does it involve, a member of the public,” and (b) the implicated “level of discipline is within Category A through D of the Disciplinary Matrix.”¹⁴⁸ Currently, this includes:

1. Neglect of Duty - Loss or damage of equipment. (Not to include firearms.)
2. Neglect of Duty - Improper uniform or appearance.
3. Neglect of Duty - Allowing unauthorized persons to use departmental equipment. (Not to include firearms.)
4. Neglect of Duty - Improper maintenance of firearms.
5. Neglect of Duty - Improper inspection of service vehicle.
6. Neglect of Duty - Off post or leaving assignment without permission.
7. Neglect of Duty - Lateness for duty or assignment.
8. Neglect of Duty - Failure to Appear in Court (FTA)
9. Neglect of Duty - Failure to Attend and Complete Required Training
10. Neglect of Duty - Failure to Attend PSI Medical Appointment
11. Absence without Leave (AWOL).
12. Discourtesy (Not to include any allegation involving any member of the public).¹⁴⁹

To determine whether BPD is complying with Paragraph 353 and to the protocol BPD has established to meet that Paragraph’s requirements, which the Department of Justice and Monitoring Team approved, the Monitoring Team evaluated misconduct allegations that were resolved via the ER process. In calendar year 2022, 318 incidents were forwarded to and accepted for ERMM. The Monitoring Team reviewed a sample of 74 randomly-selected ERMM cases. Consequently, the Monitoring Team can have 95% confidence that the findings of its evaluation

¹⁴⁵ *Id.* ¶¶ 353(a)–(b).

¹⁴⁶ Baltimore Police Department, Policy 321 at ¶ 1.

¹⁴⁷ *Id.*

¹⁴⁸ Baltimore Police Department, Policy 321 at Appendix A.

¹⁴⁹ *Id.*

of this sample are within 10% of the results it would identify even if it evaluated all 318 incidents. To evaluate the ERMM cases, the Monitoring Team used a specialized ERMM evaluation instrument. The Monitoring Team reviewed all available BPD documentation relating to the matter flagged for expedited resolution.

In the cases that the Monitoring Team reviewed, a majority (61%) related to Neglect of Duty – Failure to Attend and Complete Required Training. Another one-quarter (23%) of reviewed ERMM cases involved Neglect of Duty – Loss or Damage of Equipment. Another 15% involved Neglect of Duty – Failure to Attend PSI Medical Appointment. A few cases involved Improper Inspection of a Service Vehicle and the Failure to Appear in Court (about 1% in each category). Overall, across all (100% of) reviewed cases, Monitoring Team reviewers concluded that the case was properly classified as ER-eligible and appropriate for ER rather than a full PIB investigation.

PIB classified the implicated misconduct, per the PIB Classification protocol, within 72 hours of receipt via the BlueTeam system¹⁵⁰ in 68% of instances. The PIB Classification Supervisor, upon determining that “the alleged violation fit[] the [expedited resolution] criteria,” appropriately completed the required Part 1 of the Expedited Resolution (ER) form¹⁵¹ in nearly all instances (99% of cases).

According to PIB policy, the expedited resolution is to be routed to the accused member’s Commanding Officer, along with supporting documentation and the accused member’s discipline summary, via BlueTeam within two working days of the PIB Commander approving Part 1 of the Expedited Resolution form.¹⁵² Monitoring Team reviewers could verify that this occurred within the specified timeframe in approximately 60% of instances. “Within 2 working days of receiving the ER referral, the . . . Commander Officer shall notify the [accused] member about the allegation.”¹⁵³ Monitoring Team reviewers could verify that this occurred in just one-fifth (20%) of reviewed cases.

Subsequently, the member’s Commanding Officer must conduct a Presentation Meeting with the involved member “to discuss the allegation(s)” and “propose[] discipline” within seven calendar days from the receipt of the allegation.¹⁵⁴ The Monitoring Team could verify that this occurred in 39% of instances.

The Monitoring Team could verify in 76% of cases that the involved member chose “immediate resolution” as the mechanism for addressing the allegation—accepting the sustained allegation and the Commanding Officer’s recommended disposition (as categorized within the Disciplinary

¹⁵⁰ Baltimore Police Department, Policy 321 at ¶ 10.

¹⁵¹ *Id.* at ¶ 11.

¹⁵² *Id.* at ¶ 12.

¹⁵³ *Id.* 321 at ¶ 13.

¹⁵⁴ *Id.* at ¶ 17.

Matrix).¹⁵⁵ Reviewers could identify no instances where members chose one of the other two options available at the Presentation Meeting: a seven-day reflection period or requesting an immediate, full case investigation.¹⁵⁶

A Resolution Meeting is to be held within seven calendar days of the Presentation Meeting, or “as close to that date as practical.”¹⁵⁷ The Monitoring Team found evidence that this occurred in 47% of the sampled cases. In nearly all instances (98%), the outcome of the Resolution Meeting was the involved member accepting responsibility and the negotiated resolution—with the member and the Commanding Officer signing the Expedited Resolution. Negotiations about discipline were rare. In the remaining 2% of cases, the member did not accept responsibility and/or did not agree with the penalty determined through the Disciplinary Matrix. In those instances, the allegation is referred for a complete administrative investigation.

BPD policy provides a process for an accused member’s Commanding Officer to request an extension of time to review or consider new information, or because they believe that an extension is otherwise in the best interest of the Department or the accused member.¹⁵⁸ This occurred in one case (1%) that the Monitoring Team reviewed. It should be noted that, contrary to policy, the Commanding Officer’s request did *not* sufficiently document the reason or justification for the extension, and the Commander of PIB or their designee did *not* approve the extension. Here, too, BPD and PIB must ensure rigorous adherence to timeline requirements and ensure the documentation of requests for additional time to complete relevant steps in the ERMM process.

After the ER process is complete, the ER form and related documents and data were in every case (100% of the sample) routed back to PIB for approval and processing. However, the Monitoring Team could verify that the Commander of PIB, or their designee, reviewed the ER Agreement and approved or disapproved of the Agreement in less than half of reviewed cases (48%).¹⁵⁹ Especially because Paragraph 353 specifically requires that any expedited discipline be appropriately reviewed by chain of command,” BPD will need to improve its performance with respect to post-ER review by supervisors.¹⁶⁰

In most instances (92%), the final resolution and imposed discipline was within the Disciplinary Matrix guidelines for the allegations at issue.¹⁶¹

¹⁵⁵ See Baltimore Police Department, Policy 321 at ¶ 19.

¹⁵⁶ *Id.* at ¶¶ 19.2–19.3.

¹⁵⁷ *Id.* at ¶ 20.

¹⁵⁸ *Id.* at ¶¶ 32–33.

¹⁵⁹ See *id.* at ¶ 40.

¹⁶⁰ Dkt. 2-2 ¶ 353(b).

¹⁶¹ See Baltimore Police Department, Policy 321 at ¶ 39.

Overall, the Monitoring Team did not observe any significant issues with BPD’s implementation of the ER process—all allegations considered were appropriately minor in nature and eligible for the process and, in the vast majority of instances, the imposed discipline could be verified as appropriate in light of the conduct at issue.

At the same time, however, the ER process does not always follow the administrative process and the timelines required by BPD Policy 321, which serves as the “protocol” for expedited resolution that Paragraph 353 requires. Because of this, the Monitoring Team cannot certify that the expedited discipline that BPD offers is “offered in a” sufficiently “fair manner” and subject to the required chain of command review.¹⁶² Consequently, because the Monitoring Team finds that BPD must still make progress on the implementation of its Decree-required ER protocol, BPD’s compliance status is **Implementation – On Track (4c) with respect to Paragraph 353.**

11. Paragraph 354

Paragraph 354 outlines specific administrative and review processes for completed misconduct investigations. Paragraph 354(a) provides processes “[f]or investigations into allegations of misconduct that do not involve police-civilian interactions, when carried out by supervisors at Districts.”¹⁶³ Per BPD’s Court-approved policies on misconduct and the PIB Manual, District supervisors do not conduct investigations into misconduct allegations. Instead, misconduct allegations are addressed through PIB.

Paragraph 354(b) contains requirements for the review of “investigations conducted by” PIB.¹⁶⁴ Specifically, after the investigator “forward[s] the completed investigation report through his or her chain of command to the Director of” PIB,¹⁶⁵ the PIB Director must “review the report to ensure that” it is “complete,” “meets the requirements of BPD policy and this Agreement, and that the findings are supported by the appropriate standard of proof.”¹⁶⁶ If “it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improving the reliability or credibility of the findings,” the PIB Director may “order additional investigation.”¹⁶⁷

The Monitoring Team found significant evidence of meaningful PIB supervisor and PIB Director interaction with investigators, engagement in investigations, and detailed review of completed investigations. Indeed, the improvements that this assessment demonstrates in the comprehensiveness and quality of misconduct investigations is due to the focused work of PIB investigators and the enhanced involvement of PIB supervisors and leadership.

¹⁶² Dkt. 2-2 ¶ 353(b).

¹⁶³ *Id.* ¶ 354(a).

¹⁶⁴ *Id.* ¶ 354(b).

¹⁶⁵ *Id.*

¹⁶⁶ *Id.* ¶ 354(b)(i).

¹⁶⁷ Dkt. 2-2 ¶ 354(b)(ii).

At the same time, this report discusses elsewhere the areas where PIB must demonstrate continued improvement to reach initial compliance. PIB supervisors will continue to play a critical role in ensuring that investigations and investigative reports contain all of the necessary elements. For these reasons, the Monitoring Team concludes that BPD's compliance status is **Implementation – On Track (4c)**.

12. Paragraph 355

Paragraph 355 requires that any personnel who are “tasked with investigating employee misconduct possess[] excellent investigative skills, a reputation for integrity, the ability to write clear reports, and the ability to be fair and objective”¹⁶⁸ The selection process for misconduct investigators must “consider the candidates’ complaint history, including any patterns of complaints, the severity of the alleged misconduct, and the outcome of the misconduct investigation.”¹⁶⁹

Members of the Public Integrity Bureau are selected in accordance with BPD Policy 1705, Transfer/Detail/Filling Vacancies. BPD posts investigator vacancies. Officers apply to PIB and to Human Resources. Human Resources screens the officer to determine whether they have sufficient time in service to meet qualifications. Human Resources then routes the application to PIB to review the applicant’s discipline history.

Candidates who have adequate time in service are interviewed by a panel of three comprised of two officers of a higher rank than the position being selected and a member of the same rank as the applicant. Prior to the COVID-19 pandemic, officers took a 30-minute writing test immediately prior to their interview. However, BPD suspended, and has not reinstated, the writing test. In the interview, the panel asks each applicant a series of questions that are designed to elicit information on experience conducting investigations, knowledge of policy, and other background information. Each panel member scores the responses to this preselected set of questions. The Deputy Commissioner of PIB then receives the scores and application packets and makes the final selection. The application, discipline history, and completed interview forms from each panel member are maintained in an application file.

The Monitoring Team reviewed the application files for officers applying for transfer to PIB or for promotion within PIB. With very few exceptions, each file contained a request for transfer, letter of interests, resume, record of sustained and open PIB cases, and interview ranking forms for each panel member. In three cases, no letter of interest from the officer was included. In all other cases, the files were complete.

¹⁶⁸ *Id.* ¶ 355.

¹⁶⁹ *Id.*

The Monitoring Team reviewed application files for sworn PIB positions over a 12-month period from late 2022 to late 2023. Of the 66 application files reviewed, most candidates were the subject of open or sustained misconduct investigations. At least one applicant had ten sustained charges on his record. Indeed, only twelve had *neither* an open nor a sustained charge. Importantly, however, although a few applications did involve more serious charges, including those related to the use of force, nearly all sustained charges implicated minor offenses—including lost property (not pertaining to weapons), failure to attend training, tardiness, and the failure to appear in court—that often occurred a number of years prior to their consideration to be a PIB investigator. Most critically, no personnel were ultimately selected to be PIB investigators who had histories of serious misconduct or extended histories of misconduct allegations.

Paragraph 355 includes requirements that PIB select investigators who have “excellent investigative skills,” “the ability to write clear reports,” and other capacities related to conducting investigations.¹⁷⁰ The proof that PIB’s selection process is working ultimately resides with the quality and integrity of the investigations that they are conducting. The Monitoring Team did not find—even in instances where individual investigations were poor—that any investigators lacked the training and aptitude to conduct independent, fair, and comprehensive investigations.

The Monitoring Team also reviewed the application files for civilians applying to be investigators in PIB. These files included a resume, letter of interest, online application, and interview questions form. The Human Relations background check was not included in the file.

The Monitoring Team observes that, especially given the internal accountability systems that BPD is implementing pursuant to the Consent Decree and that are the subject of this assessment, even high-performing personnel with significant skills and a high level of integrity may be the subject, from time to time, of misconduct allegations involving minor performance deficiencies. The misconduct process, including the Expedited Resolution process, is a formal mechanism for the Department to address such issues in a uniform, fair manner. Consequently, the fact that a number of PIB investigators have been the subject of some type of minor performance inquiry is not, by itself, disqualifying.

Therefore, because PIB and BPD are routinely subjecting potential investigators to a background inquiry, and because that inquiry is generally identifying and selecting investigators with the types of attributes and skills that Paragraph 355 requires, the Monitoring Team finds that BPD is in **Initial Compliance (4d) with Paragraph 355.**

13. Paragraph 356

¹⁷⁰ *Id.*

Paragraph 356 outlines several specific requirements addressing actual bias or the appearance of bias” in misconduct investigations.¹⁷¹ Specifically, “[n]o employee who was involved in or a witness to an incident shall conduct or review a misconduct arising out of that incident.”¹⁷² The Monitoring Team found no instances in its general sample of all misconduct investigations where an employee involved in or a witness to the incident was involved in the investigation. It should be noted that the Team observed two instances in other samples—one investigation involving a retaliation allegation and another relating to arrests—where an involved or witness employee conducted or reviewed the investigation. Because this involved just two cases across some 230 reviewed for one sample or another, the Monitoring Team concludes that the two instances are a “temporary or isolated failure to comply during a period of otherwise sustained compliance” and, consequently, do not preclude a finding that BPD is generally complying with Paragraph 356(a). Nevertheless, PIB will need to take care going forward that it complies with Paragraph 356(a)’s requirements in all instances.

Paragraph 356(b) prohibits any employee “who has an external business . . . or close personal relationship with a principal or witness in a misconduct investigation” from conducting, reviewing, or making disciplinary decisions (“including the determination of any applicable grievance or appeal arising from any discipline”).¹⁷³ Here, again, the Monitoring Team found no instances in the general sample of individuals with a business or close personal relationship being involved in misconduct investigations or adjudications. It found one case (dealing with arrest-related allegations) where this appeared to be an issue. As with Paragraph 356(a), this single instance across 230 reviewed investigations appears to constitute a “temporary or isolated failure to comply during a period of otherwise sustained compliance”¹⁷⁴ rather than evidence of continued, systemic non-compliance.

Paragraph 356(c) similarly precludes personnel from being involved in misconduct investigations or the discipline process “with respect to any person who they directly report to in their chain of command.”¹⁷⁵ “In cases where BPD is unable to meet this requirement, the investigation must be referred to an outside authority.”¹⁷⁶ The Monitoring Team identified no instances in its review—either in the general sample or any of the other specific samples of investigations pertaining to identified allegation types—of BPD personnel investigating individuals to whom they report within the Department.

Finally, Paragraph 356(d) precludes PIB investigators from working “any assignments which could create a conflict of interest for their administrative investigations, including any assignment

¹⁷¹ *Id.* ¶ 356.

¹⁷² Dkt. 2-2 ¶ 356(a).

¹⁷³ *Id.* ¶ 356(b).

¹⁷⁴ *Id.* ¶ 506.

¹⁷⁵ *Id.* ¶ 356(c).

¹⁷⁶ *Id.*

in which the investigator would report to or work with the subject of an open investigation.”¹⁷⁷ In the Monitoring Team’s review of investigations, it encountered no instances where a PIB investigator’s then-current or prior assignments appeared to compromise the integrity of the investigation. Although sworn PIB personnel are sometimes required to work “details” outside of their primary PIB assignment, these are limited in duration and scope—and seem unlikely, by themselves, to generate a significant conflict of interest or possibility of bias. Consequently, it appears that BPD is complying with Paragraph 356(d).

Overall, then, BPD and PIB are complying with the requirements of Paragraph 356 that address bias and conflicts of interest in misconduct investigations. Instances of non-compliance were exceptional and appear sufficiently isolated to fall within the type of deviation that, according to Paragraph 506, do not prevent a finding of initial compliance. The Monitoring Team therefore concludes that BPD has reached **Initial Compliance (4d) with Paragraph 356**.

14. Paragraph 357

The PIB Director assigns investigations to PIB investigators. The Director may re-assign an investigation “to another misconduct investigator” so long as it is “documented in writing.”¹⁷⁸ The Monitoring Team found that, although re-assignment occurs, it is infrequent—occurring in less than 6% of investigations. In all but one of these re-assigned investigations, the re-assignment was appropriately documented. We therefore conclude that BPD has reached **Initial Compliance (4d) with Paragraph 357**.

15. Paragraph 358

Paragraph 358 provides that “BPD will provide information to the Office of the Public Defender about how to file and follow-up on complaints about officer misconduct.”¹⁷⁹ BPD previously told the Monitoring Team that it had not sent a formal letter to OPD about the complaint process. However, since 2019, the Office of the Public Defender has submitted four complaints (one in each of 2019, 2020, 2023, and in 2024 (to date)). OPD submitted each complaint electronically via different mechanisms—one via the current public complaint portal on the BPD website, one via email to “complaints@baltimorepolice.org,” and two via the Department’s prior online complaint form (which the public complaint portal on the current BPD website has replaced). Nevertheless, BPD has since indicated that it has sent a specific communication to OPD regarding police misconduct complaints.

¹⁷⁷ Dkt. 2-2 ¶ 356(d).

¹⁷⁸ *Id.* ¶ 357.

¹⁷⁹ *Id.* ¶ 358.

Because OPD has successfully filed complaints, and BPD has more recently re-engaged with OPD on the complaint process, the Monitoring Team finds that BPD is in **Initial Compliance (4d) with Paragraph 358**.

E. Criminal Misconduct Investigations

In some instances, an officer's misconduct might rise to the level of implicating not just violations of BPD policy but of law. The Consent Decree includes several specific provisions relating to protocols and procedures for instances where criminal activity may reasonably be implicated.

1. Paragraph 359

"If at any time during the intake or investigation of the misconduct complaint the investigator finds evidence indicating apparent criminal conduct by any BPD personnel, the investigator shall promptly notify" PIB.¹⁸⁰ PIB must then "consult with the relevant prosecuting agency or federal law enforcement agency regarding the initiation of a criminal investigation."¹⁸¹

Across the Monitoring Team's review of the general sample of misconduct investigations, a criminal investigation related to the complaint was conducted of one or more BPD members in four instances, or about 4% of cases overall. The Monitoring Team did not find any instances where the matter *should* have been referred for a criminal investigation by an outside entity but was not.

"Where an allegation is investigated criminally, [PIB] shall . . . continue with the administrative investigation(s) of the allegation, absent specific circumstances that would jeopardize the criminal investigation."¹⁸² Any "decision to postpone the administrative investigation, along with the rationale for doing so, will be documented in writing and reviewed by the Commissioner."¹⁸³ Of the four cases in the Monitoring Team's general sample that were the subject of criminal investigation, the administrative investigations for three cases were completed after the criminal investigation—six days later in one instance, 48 days in another, and 99 days in the third.¹⁸⁴

The Monitoring Team also considered cases in its other, allegation-specific samples that were referred for outside investigation. Across both the general sample and allegation-specific samples, the Monitoring Team reviewed 16 cases where a criminal investigation of one or more BPD

¹⁸⁰ *Id.* ¶ 359.

¹⁸¹ *Id.*

¹⁸² Dkt. 2-2 ¶ 359.

¹⁸³ *Id.*

¹⁸⁴ The fourth case, investigated by the Baltimore County Police Department, was closed without charges after a suspect was identified and confirmed not to be a BPD officer – which were the grounds for concluding the administrative investigation, as well.

members was conducted. In five of them, the administrative investigation was closed on the day that the criminal investigation concluded—suggesting that an administrative investigation had been previously completed and was awaiting the conclusion of the criminal investigation to be closed. In another three instances, the administrative investigation was closed within two weeks of the criminal investigation ending—also suggesting that the administrative investigation had been either completed or substantially completed prior to the criminal investigation concluding.

However, in another five cases, substantial time elapsed between the end of the criminal investigation and the closure of the administrative investigation—spans of 34, 48, 99, 123, and 267 days, respectively. The Monitoring Team considered, in each instance, first, whether there were any reasonable concerns that conducting an administrative investigation even while the criminal investigation was ongoing would jeopardize that criminal inquiry. In four of five cases, the Monitoring Team did not believe that those concerns would be reasonable; in one case, such concerns were potentially reasonable. Critically, the Monitoring Team considered whether the rationale for postponing or delaying the administrative investigation was documented in writing as required by Paragraph 359. No explanation for the delay was documented in any of the five cases. As such, that written rationale was never reviewed by the Commissioner or designee as required by Paragraph 359.

Overall, then, it appears that PIB is appropriately identifying and flagging potential criminal conduct identified during its investigations. However, even as PIB did pursue administrative investigations during pending criminal investigations in some instances, PIB does not appear to be continuing administrative investigations during criminal investigations as uniformly as it must—and is not documenting or reviewing the rationale when it elects to suspend administrative investigations during criminal investigations. Therefore, BPD’s compliance status is **Implementation – On Track (4c)**.

2. Paragraph 360

In internal administrative investigations—addressing the employment ramifications of potential misconduct—a police agency may compel an employee to provide a statement. In criminal investigations, an officer’s Fifth Amendment rights allow the officer to decline providing a statement. A compelled statement from an administrative investigation cannot be considered in a criminal investigation.

Paragraph 360 outlines protocols for BPD, “[w]hen a BPD officer affirmatively refuses to give a voluntary statement and BPD has probable cause to believe the person has committed a crime,” for “consult[ing] with the prosecuting agency . . . and seek[ing] approval of the Commissioner or

his/her designee” before compelling a statement.¹⁸⁵ BPD has adopted these requirements in the PIB Manual.¹⁸⁶

In the administrative misconduct investigations that the Monitoring Team evaluated that were *also* the subject of a criminal investigation, reviewers identified seven investigations where BPD conducted a compelled administrative investigation interview while a criminal investigation was ongoing. However, in none of the cases could the Monitoring Team identify evidence that PIB consulted with the prosecuting agency or received the Commissioner’s approval before PIB compelled the administrative interview, although it is possible that such consultation occurred but was not documented.

Because BPD is not documenting the consultation with prosecutors and approval by the Commissioner prior to compelling an administrative interview, BPD’s compliance status is **Implementation – On Track (4c)**. Nevertheless, the Monitoring Team found that BPD compelled interviews in appropriate circumstances, which is positive progress. If BPD improves its administrative practices, it should come into compliance with Paragraph 360 quickly.

3. *Paragraph 361*

As noted above, as articulated in *Garrity v. New Jersey* and its progeny, criminal investigators are not permitted to have access to compelled statements provided to administrative investigators, or evidence derived from such statements.¹⁸⁷ The Consent Decree requires PIB to “ensure that criminal investigators do not have access to any materials protected by *Garrity*,” including by “shield[ing] any compelled interview and its fruits from criminal investigators.”¹⁸⁸ To do so, Paragraph 361 requires that the Department “develop and implement protocols to ensure that criminal and administrative investigations of BPD employees are kept appropriately separate.”¹⁸⁹ BPD has adopted such protocols in Chapter 2, Section 2.A.V of the PIB Manual.¹⁹⁰

The Monitoring Team did not identify, in the cases it reviewed in either the overall sample of PIB investigations or in the allegation-specific samples, any instances where it appeared that BPD personnel *failed* to keep the administrative investigation separate from the ongoing criminal investigations into the same conduct. Most of the reviewed cases, however, did not involve concurrent administrative and criminal investigations. Indeed, before July 1, 2022, BPD did not, as a matter of course, conduct concurrent administrative and criminal investigations. After July 1, 2022—or approximately mid-way during the period evaluated in this assessment—BPD and the

¹⁸⁵ *Id.* ¶ 360.

¹⁸⁶ PIB Manual at 99.

¹⁸⁷ 385 U.S. 493 (1967).

¹⁸⁸ Dkt. 2-2 ¶ 361.

¹⁸⁹ *Id.*

¹⁹⁰ PIB Manual at 98–105.

State's Attorney's office establish a working protocol to comply with changes in law. Since that time, the State's Attorney's Office takes six months to proceed with a criminal investigation before BPD then proceeds with an administrative process. Practically, BPD reports that the State's Attorney has been quick to resolve criminal inquiries, which has meant that issues relating to the separation of criminal and administrative investigations have not arisen.

With BPD having procedures and policies in place that help to avoid impermissible materials being considered by the criminal investigation and with the Monitoring Team identifying no instances where impermissible administrative investigation materials were provided to criminal investigators, the Monitoring Team finds that BPD is in **Initial Compliance (4d) with Paragraph 361**.

4. Paragraph 362

Paragraph 362 likewise confirmed that an officer's rights to refuse to make a statement in a criminal misconduct investigation do not alter BPD employees' obligations to make statements "in incident reports[,] arrest reports, Use of Force Reports[,] and similar documents" because those statements "are part of each employee's routine professional duties and are not compelled statements."¹⁹¹ This Paragraph further permits an officer to refuse to provide such a statement only after consultation with a prosecuting attorney and "approval by the Commissioner".¹⁹²

In the Monitoring Team's other assessments, reviewers did not encounter substantial numbers of instances where use of force reports, incident reports, and/or arrest reports were missing because an officer refused to complete them on the grounds that it might incriminate them. In the Monitoring Team's November 2023 Compliance Review and Outcome Assessment Regarding Arrests, reviewers did not identify instances where officers were refusing to complete arrest or incident reports on the grounds that doing so might incriminate them. Within the context of use of force incidents, other factors—including documentation considerations and the failure of supervisors to ensure witness officer reporting—seemed to contribute to the lack of timely or comprehensive reporting. The December 2022 Compliance Review and Outcome Assessment Regarding Use of Force found that officers provided a written use of force report by the end of their tour of duty in more than 92% of incidents in 2020.¹⁹³ However, it also noted that, for firearms discharges, BPD could not establish compliance with the Decree's requirement that officers provide a Public Safety Statement when supervisors arrive to the scene of a firearms discharge.¹⁹⁴

¹⁹¹ Dkt. 2-2 ¶ 362.

¹⁹² *Id.*

¹⁹³ Dkt. 585 at 124.

¹⁹⁴ *Id.* at 123.

Nevertheless, the Monitoring Team cannot yet find that the failure to provide use of force reports in a timely fashion or the failure to provide a Public Safety Statement to supervisors arriving at the scene of a firearms discharge is not related to an officer refusal to provide such a statement that should, but perhaps is not, being reviewed by relevant authorities and the Commissioner. At the same time, it appears that BPD is **On Track (4c) toward demonstrating compliance with Paragraph 362**. The Monitoring Team’s upcoming re-assessment of Use of Force will provide updated insight into compliance with Paragraph 362.

5. *Paragraph 363*

Paragraph 363 provides that, when a “prosecuting agency declines to prosecute or dismisses the criminal case,” PIB “shall request an explanation for this decision,” “document[ing]” the request “in writing and append[ing it] to the criminal investigation report.”¹⁹⁵ In the five cases reviewed where a prosecuting authority affirmatively declined to prosecute, the Monitoring Team could not verify that PIB requested an explanation for that declination—because it was documented in writing and included in the criminal investigation report per Paragraph 363—in any case. Therefore, BPD is not yet in compliance with Paragraph 363.

BPD indicates to the Monitoring Team that, as a matter of course, the State’s Attorney only tells the Department that it is declining prosecution – and not providing any explanation. It may be that the Parties need to discuss further the viability of Paragraph 363’s requirements. However, in the absence of the Parties formally amending the Decree’s requirements, the Monitoring Team must evaluate BPD’s performance in light of the Consent Decree’s current provisions.

Nevertheless, the straightforward, administrative nature of Paragraph 363’s requirements – that BPD ask for an explanation for a declination to prosecution or dismissal of a criminal case – should have enabled, and still should enable, relatively swift compliance. For now, BPD’s compliance status is most accurately characterized as **Off Track (4b) with Paragraph 363**.

6. *Paragraph 364*

PIB must “maintain all reports and files concerning criminal investigation[s] of officers . . . for the duration of the officer’s employment with BPD.”¹⁹⁶ The Monitoring Team’s review of several cases that included criminal investigation materials confirmed that PIB is maintaining all of the files relating to criminal investigations.

Meanwhile, when a member is no longer a BPD officer, that “disciplinary record shall be maintained as a personnel record by BPD Human Resources [‘HR’] section in the normal course

¹⁹⁵ Dkt. 2-2 ¶ 363.

¹⁹⁶ *Id.* ¶ 364.

of business.”¹⁹⁷ BPD HR, in the normal course of business, receives notice of disciplinary actions through inter-office mail, email, and/or in-person notifications. Whenever a disciplinary notice is received, HR includes this in an employee’s personnel files. Those personnel files are maintained during and after employment. During the Monitoring Team’s evaluation, a reviewer visited the HR file rooms and asked to access the records of individuals who had separated from the Department. The files, which were well-organized and systematically maintained, included the relevant disciplinary record materials.

Because PIB and HR are appropriately retaining records regarding criminal investigations, the Monitoring Team finds that BPD is in **Initial Compliance (4d) with Paragraph 364**.

F. Referral of Criminal and Administrative Misconduct Investigations to Outside Entities

1. Paragraph 365

The Decree includes several provisions that address when and how the Department should have personnel investigations conducted by entities outside BPD. Paragraph 365 requires that the Department maintain “separate” “protocols to govern when to refer allegations of administrative or criminal misconduct by BPD officers to another law enforcement agency or qualified outside investigator to conduct the investigation.”¹⁹⁸ “Each protocol will specify the criteria to be considered in making the referral, including how to select the agency or outside investigator to receive the referral.”¹⁹⁹

The PIB Manual outlines “procedures for when outside entities conduct the criminal investigation.”²⁰⁰ Generally, outside agencies may investigate (1) “when BPD is unable to meet the requirement that no employee shall be involved in an investigation” involving any person who they directly report to in their chain of command, . . . include[ing] a case involving an employee assigned to PIB . . . ,” or (2) “where there is compelling public or Departmental interest for the case to be investigated by an outside agency.”²⁰¹ The Commissioner decides what agency to approach to conduct the investigation. The PIB Manual also outlines procedures for ensuring that investigations by outside entities are “of satisfactory quality, and [are] thorough and complete.”²⁰²

During the Monitoring Team’s review of misconduct investigations, it did not identify any cases in its overall, general sample that *should have* been referred for criminal misconduct investigation by an outside entity but were *not*. Two of 40 cases involving allegations related to arrests should

¹⁹⁷ *Id.*

¹⁹⁸ *Id.* ¶ 365.

¹⁹⁹ *Id.*

²⁰⁰ PIB Manual at 104–05 (quoted in sentence case).

²⁰¹ *Id.* at 104.

²⁰² *Id.*

have been, but were not, referred for outside criminal investigation; in no other allegation-specific sample were any cases determined to have required but not received a criminal investigation. The Monitoring Team concludes that these two instances of non-compliance were isolated and non-systematic, and otherwise the performance of PIB and BPD was sufficient to reach initial compliance.

The Monitoring Team also considered, across all investigations, whether the administrative investigation *should* have been conducted by an outside entity. Here, too, in the overall, general sample, the Monitoring Team found no instances where the Decree and PIB Manual should have required an outside entity, rather than BPD, to conduct the investigation. One case where an outside-entity investigation was warranted, identified in one of the special-allegation samples, ultimately appears to constitute isolated non-compliance during an otherwise sustained period of compliance.

With PIB having established protocols for when outside entities should conduct criminal and administrative investigations and the Monitoring Team concluding that PIB is nearly uniformly following those protocols across investigations, the Monitoring Team concludes that BPD has reached **Initial Compliance (4d) with Paragraph 365.**

2. Paragraph 366

Paragraph 366 articulates additional requirements for BPD's protocols relating to referring misconduct allegations to outside entities for investigation. Specifically, it requires that the "protocols . . . include provisions for dealing with incidents in which there are actual or perceived conflicts of interest that would prevent BPD from effectively conducting the investigation."

The PIB Manual includes a specific section pertaining to conflict investigations.²⁰³ When the nature of the conflict pertains to PIB personnel, the head of PIB "must evaluate the conflict and make a recommendation to include a justification of whether or not it can be handled by any investigative group in PIB."²⁰⁴ For complaints involving a PIB member, "typically the Ethics Section will handle the investigation."²⁰⁵ "If the Deputy Commissioner of PIB determines that no one at PIB can investigate the matter without an actual or apparent conflict of interest," the investigation may be referred either "to an outside investigative agency or [to] the Office of the Inspector General."²⁰⁶ "Decisions will be documented in writing"²⁰⁷

²⁰³ *Id.* at 105–106.

²⁰⁴ *Id.* at 105.

²⁰⁵ PIB Manual at 105. If the allegation involves Ethics Section personnel, "the investigation must be handled by an officer of the rank of Lieutenant or above who is *not* assigned to Ethics." *Id.* (emphasis added).

²⁰⁶ *Id.*

²⁰⁷ *Id.* at 106.

“When the case involves a PIB[-]related topic or PIB supervision, . . . the Police Commissioner” ultimately makes a determination, informed by a recommendation from the head of PIB, about whether it should be “assigned to an outside agency or investigator.”²⁰⁸

The Monitoring Team identified no improper conflicts of interest—either in the overall, general sample or in any other case in the allegation-specific samples. As the Monitoring Team has previously explained, in this and in other areas of the Consent Decree, it is possible that situations that implicate particular Decree, policy, and training concerns may rarely or irregularly occur. It is not the case, however, that no compliance determinations may be made unless or until something rare does, in fact, occur. Instead, for these types of requirements, the Monitoring Team must look to ensure that BPD has established all reasonable policy, training, and supervision mechanisms to ensure that—if or when the infrequently applicable requirements *are* implicated—BPD can satisfy the Consent Decree’s requirements. The sufficiency of BPD policy, the PIB Manual, and PIB investigator training leads the Monitoring Team to conclude that BPD is in **Initial Compliance (4d) with Paragraph 366.**

3. Paragraphs 367 and 368

Paragraph 367 also includes required protocols for referring misconduct investigations to outside entities, mandating that BPD issue policy “govern[ing] when BPD’s review of a referred investigation” is “appropriate.” With respect to both outside criminal and administrative investigations referred to agencies outside BPD, the PIB Manual contains sufficient guidance to PIB about the obligation to thoroughly review the investigation upon its conclusion.²⁰⁹

Paragraph 368 essentially requires the successful implementation of the Paragraph 367 protocols—directing PIB to review an investigation completed by an outside entity “to ensure that it is of sufficient quality and completeness.”²¹⁰ “[W]hen it appears that there is additional relevant evidence that may improve the reliability or credibility of the investigation[,]” the PIB Director “shall request that the entity conducting the investigation to conduct additional investigation.”²¹¹

As noted previously, the PIB Manual requires PIB to review outside-entity investigations for quality, thoroughness, and completeness. Importantly, when making the referral, BPD “shall request that the agency adhere to the PIB Manual to the extent possible,” with the outside agency “document[ing] if there are any steps that they cannot conduct” from the Manual and memorializing “the reason why they cannot be taken.”²¹² If an investigation “is not thorough and

²⁰⁸ *Id.*

²⁰⁹ *See* PIB Manual at 104 (regarding review of outside criminal investigations), 106 (regarding review of outside administrative investigations).

²¹⁰ Dkt. 2-2 ¶ 368.

²¹¹ *Id.*

²¹² PIB Manual at 106.

complete,” or additional relevant evidence may improve the reliability or credibility of the investigation,” PIB must request more investigation.²¹³ If the agency “refuse[s] to take additional investigative steps,” BPD must “identify an alternative avenue for the investigation to be completed.”²¹⁴

None of the reviewed cases from the general sample of 91 investigations were referred to outside entities for investigation. As the Monitoring Team has noted elsewhere, when Consent Decree requirements attach to situations that occur infrequently, BPD can demonstrate initial compliance by maintaining the necessary protocols and procedures that would apply and ensure compliance if and when the situation does ultimately occur. In this instance, because the PIB Manual provides sound guidance to BPD and outside-entity investigations, the Monitoring Team finds that PIB and BPD’s compliance status with Paragraphs 367 and 368 is **Initial Compliance (4d)**. However, as the Monitoring Team has also observed, a finding of Initial Compliance is not a one-way determination—it is always possible that BPD’s future performance may demonstrate that the Department’s compliance in the area has eroded. Consequently, because the Monitoring Team will be conducting another assessment of PIB investigations in the near future, it will further evaluate BPD’s compliance with Paragraphs 367 and 368.

4. Paragraph 369

When an outside investigation involves “potentially criminal conduct, should the entity conducting the investigation decide to close the investigation without referring it to a prosecuting agency, this decision must be documented and provided to” PIB.²¹⁵ Regardless of the outside investigating entity’s determination, PIB must “separately consider whether to refer the matter to a prosecuting agency,” also “document[ing] its decision in writing.”²¹⁶

The requirements of Paragraph 369 are sufficiently memorialized in BPD’s PIB Manual.²¹⁷ In the Monitoring Team’s review, these issues were implicated in at least one instance. There, an involved victim discontinued their cooperation, which compelled the outside entity to discontinue the investigation. Although the decision of the outside entity was documented in PIB’s records, consideration of whether the matter should be referred to a prosecuting agency was not. Even as this constituted a single instance of non-compliance, as the Monitoring Team has explained above and in numerous other assessment reports, the importance of BPD adhering to Consent Decree requirements is, in many ways, heightened when they implicate or involve comparatively low-frequency events. Consequently, the Monitoring Team determines that PIB and BPD’s compliance status is **Implementation – On Track (4c)**. To reach compliance, BPD needs to

²¹³ *Id.* at 104–05.

²¹⁴ *Id.* at 105.

²¹⁵ Dkt. 2-2 ¶ 369.

²¹⁶ *Id.*

²¹⁷ PIB Manual at 105.

demonstrate adherence to Paragraph 369 and the PIB Manual and/or establish templates to facilitate required documentation in the future.

5. Paragraph 370

Paragraph 370 addresses those instances where a “prosecuting agency declines to prosecute an officer or dismisses the criminal case,” requiring that PIB “request an explanation for this decision,” with that request “documented in writing and appended to the criminal investigation report.”²¹⁸

The requirements of Paragraph 370 are also sufficiently memorialized in the PIB Manual.²¹⁹ However, across five investigations where the prosecuting agency declined to prosecute, the Monitoring Team could not verify that the PIB requested an explanation of the prosecuting authority’s declination in any instance. Therefore, with PIB demonstrating no applicable instance of compliance, the Monitoring Team finds that PIB’s compliance status is **Implementation – Off Track (4b)**.

6. Paragraph 371

PIB must “maintain all criminal and administrative investigation reports and files of the outside entities performing the investigation after reports and files are completed.”²²⁰ This requirement also appears in the PIB Manual.²²¹ In its review of investigations, the criminal investigations that outside entities conducted were always included within the larger, PIB investigative file. It appears, then, that PIB is appropriately preserving the full files of completed outside-entity investigations. Accordingly, the Monitoring Team finds that BPD is in **Initial Compliance (4d) with Paragraph 371**.

G. Disciplinary Charges

1. Paragraph 372

Paragraph 372 outlines foundational and critical requirements pertaining to officer discipline: First, “BPD will ensure that disciplinary charges for sustained allegations of misconduct are consistently applied, fair, and based on the nature of the allegation.”²²² Additionally, “mitigating and aggravating factors” must be “identified and consistently applied and documented.”²²³

²¹⁸ Dkt. 2-2 ¶ 370.

²¹⁹ PIB Manual at 105.

²²⁰ Dkt. 2-2 ¶ 371.

²²¹ PIB Manual at 105.

²²² Dkt. 2-2 ¶ 372.

²²³ *Id.*

Across the 23 misconduct investigations that involved a sustained finding and resulted in some type of discipline, the Monitoring Team determined that the imposed discipline was based on the nature of the charges and evidence in 22 instances (96%). In the remaining incident, a definitive rating could not be determined based on available documentation.

Similarly, the Monitoring Team concluded that the discipline ultimately imposed was fair in light of the investigative findings in 20 of 22 (91% of) instances, with documentation issues preventing a definitive determination in the remaining two cases.

However, as the discussion below of BPD's compliance with Paragraph 385 details further, Monitoring Team reviewers identified issues with the consideration and documentation of mitigating and aggravating factors. Ultimately, the Monitoring Team found that final discipline decisions were consistent with a fair and reasonable accounting of mitigating and aggravating factors in 19 of 23 instances (83%). At the same time, however, Monitoring Team members concluded that mitigating and aggravating factors were specifically identified, applied, and documented as comprehensively as they should have been in 15 of 23 instances (65%).

Overall, although BPD's discipline determinations appeared fair and based on the evidence in most cases, the Department needs to ensure that it systematically analyzes and applies mitigating and aggravating factors to those determinations. Given the need for improvement in that regard, BPD is **On Track (4c) toward compliance with Paragraph 372.**

2. Paragraph 373

When a misconduct investigation finds that “an officer’s actions . . . violate policy, BPD shall ensure appropriate charges are brought and/or corrective action is taken.”²²⁴

For the misconduct investigations from the Monitoring Team's overall, general sample where PIB sustained at least one allegation relating to at least one officer, the Monitoring Team found that all appropriate disciplinary charges were brought in 96% of instances—or all but one instance. In that case, the reviewer was unable to make a definitive determination based on documentation issues with the case file. Likewise, in 22 of 24 instances (92% of cases), each sustained misconduct allegation was appropriately considered for the purposes of recommending discipline.

In those investigations where some type of discipline was imposed, the Monitoring Team could certify that the discipline was fair in light of the investigative findings in 20 of 22 instances (91%). Reviewers concluded that the imposed discipline was appropriately based on the nature of the charges and evidence in 21 of 22 instances (96%).

²²⁴ *Id.* ¶ 373.

Therefore, the Monitoring Team concludes that BPD is in **Initial Compliance (4d) with Paragraph 373.**

3. Paragraph 374

Paragraph 374 provides “the District Commander” with “the authority to initiate appropriate disciplinary action and/or take corrective action” in instances where the investigated misconduct “does not involve police-civilian interactions.”²²⁵ However, as detailed above, BPD’s current policies and procedures provide for PIB investigating all potential officer misconduct, whether involving an interaction with the public or otherwise. Consequently, Paragraph 374 is inapplicable.

4. Paragraph 375

The Decree sets forth a number of requirements for BPD’s “disciplinary matrices, policies, and procedures.”²²⁶ Specifically, BPD must:

- “Establish a presumptive range of discipline for each type of violation.”
- “Increase the presumptive discipline based on an officer’s prior violations.”
- “Set out defined mitigating and aggravating factors.”
- “Prohibit consideration of the officer’s race, religion, gender, gender identity, sexual orientation, national origin, age, ethnicity, or familial relationships.”
- “Prohibit consideration of the high (or low) profile nature of the incident.”
- “Prohibit taking only non-disciplinary corrective actions in cases in which the disciplinary matrices call for the imposition of discipline.”
- “Provide that the BPD will consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed.”
- “Require that any departures from the discipline recommended under the disciplinary matrices must be justified in writing.”²²⁷

As of this report, two disciplinary matrices are in effect: (1) a BPD Matrix from October 2017, and (2) a State of Maryland matrix that was enacted pursuant to state law and effective for all Maryland police agencies effective July 2022. The latter covers all complaints of police misconduct received after July 1, 2022. Consequently, BPD’s October 2017 matrix (Policy 310) remains active because some cases from before July 2022 are still waiting to be heard by trial boards. As soon as

²²⁵ *Id.* ¶ 374.

²²⁶ *Id.* ¶ 375.

²²⁷ Dkt. 2-2 ¶¶ 375(a)–(h).

outstanding cases from before July 2022 have been heard and completed, the original matrix will be rescinded. For misconduct complaints from July 2022 and later, the state matrix is in effect.

BPD has updated all of the discipline related department policies over the last two years (2022-2023), with the exception of Policy 308. The core of the disciplinary process is covered by the state law and reflected in policy 308. However, since the policy goes into more detail, the policy's development was put on pause until the City implemented the new oversight bodies that the state law requires. The Parties currently anticipate that the updated version of Policy 308 will be finalized imminently.

Overall, BPD previously began revisions to its Disciplinary Matrix to comply with Paragraph 375. The Department updated the policy to ensure fidelity to more recent changes in state law. The parameters of the new state law are themselves broadly consistent with the Decree's requirements relating to discipline. The Monitoring Team anticipates that BPD will be in compliance with Paragraph 375 when the updated version of Policy 308 is finalized. BPD is therefore **On Track (4c) toward compliance with Paragraph 375.**

5. *Paragraph 376*

Paragraph 376 requires, simply, that “[e]ach sustained misconduct allegation shall be considered for the purposes of recommending discipline.”²²⁸ The Monitoring Team found that BPD complied with this requirement across 93% of applicable instances, with reviewers unable to determine, one way or another, whether each sustained allegation was considered for purposes of the discipline determination in two instances.

Because the overall rate of compliance is in the possible but not presumptive range, we turn to the other compliance factors. First, we consider the severity or significance of the instances—in this case, two limited instances—where BPD could not be certified as complying with the requirement. In one of these instances, PIB made a sustained finding against an unidentified, unknown officer. Although there was more that may have been done during the investigation, such as interviewing known officers in the districts, these efforts were unlikely to have produced a different outcome. Consequently, that case constitutes a more unique, “outlier” case. In the other of the two instances, discipline was imposed, and the overall quality of the investigation was high—with the reason that compliance with Paragraph 376 could not be certified ultimately centering on documentation issues.

Although PIB supervisors did not identify or cure the documentation issues in the second of the two cases described above, the Monitoring Team concludes that the sustained compliance across

²²⁸ *Id.* ¶ 376.

the evaluated time period and across a majority of cases outweighs the isolated non-compliance in that case. Therefore, BPD is in **Initial Compliance (4d) with Paragraph 376**.

6. *Paragraph 377*

Under Paragraph 377, BPD must continue a misconduct investigation even when “the [involved] officer[s] resigned.”²²⁹ In the Monitoring Team’s general sample, an officer who was the subject of the investigation resigned while the misconduct investigation was ongoing in close to 7% of (or 6 total) cases. In all instances, the investigation was appropriately pursued and completed even after the officer resignation. In five of six of the cases, the overall investigation was summarized as “very good” or “excellent.” In the sixth case, the investigation was deficient in fundamental ways—with important evidence left unaddressed and material avenues of investigative inquiry not appropriately pursued. These results are generally consistent with the Monitoring Team’s reviews of investigations from the allegation-specific sub-samples, where another seven reviewed investigations involved officers resigning during the pending investigation. In all instances, PIB appropriately completed the investigation. In all but one instance, the quality of the investigations was high (either “very good” or “excellent” overall). In the seventh case, the investigation did not explore several potential allegations and reflected incomplete, rushed documentation (such as the inclusion of blank administrative checklists).

Because the Monitoring Team’s review showed that PIB is continuing investigations even after involved officer(s) have resigned, BPD’s compliance status is **Initial Compliance (4d) with Paragraph 377**. At the same time, the Monitoring Team recommends that both PIB investigators and supervisors pay close attention going forward to ensure that the overall quality of investigations that are completed after involved members separate from the Department remains uniformly high.

7. *Paragraph 378*

Paragraph 378 requires BPD to “provide the required notice to the Maryland Police Training and Standards Commission (“MPTSC”) . . . when an officer resigns while a misconduct investigation or disciplinary charges are pending.”²³⁰ Currently, BPD Human Resources enters this notice directly into MPTSC’s electronic system, providing information on the “type of separation,” “condition of separation,” and the effective date of the separation. Monitoring Team representatives have reviewed available information from BPD HR and have concluded that this MPTSC notification process appears to be effective in practice. With the Department providing MPTSC with the required notice, the Monitoring Team finds that BPD is in **Initial Compliance (4d) with Paragraph 378**.

²²⁹ *Id.* ¶ 377.

²³⁰ *Id.* ¶ 378.

H. Disciplinary Hearings

Paragraphs 379 through 384 address disciplinary hearings. In such hearings, disciplinary hearing board members consider misconduct investigations, determine findings, and make “recommendation[s] of discipline . . . pursuant to the BPD disciplinary matrix.”²³¹

Among other requirements, the Decree provides that all disciplinary hearings must “comport[] with state law.”²³² To that end, BPD is currently, and actively, implementing changes with respect to the disciplinary hearing process to comport to recent changes in Maryland law. This includes, for instance, training for sworn members that will serve on disciplinary hearing boards in late February and early March 2023. Accordingly, the Monitoring Team, Department of Justice, and City have previously agreed that evaluation of Paragraphs 379 through 384 will be deferred and the status of compliance not evaluated in this assessment report. Because BPD is not yet in initial compliance in a number of other areas, this deferral will not delay BPD’s full and effective compliance in the area of misconduct investigations and discipline.

I. Imposition of Discipline

1. Paragraph 385

Paragraph 385 provides that BPD must “ensure that discipline comports with due process and is consistently applied, fair, and based on the nature of the charges, the evidence, and that mitigating and aggravating factors are identified and consistently applied and documented.”²³³

The Monitoring Team considered each of these requirements in its review of misconduct investigations. Across the investigations that resulted in BPD imposing at least some discipline, reviewers certified that the imposition of discipline comported with due process in all but one instance. In that instance, a determination was unable to be made based on the available documentation.

To evaluate whether discipline determinations were “consistently applied, fair, and based on the nature of the charges [and] the evidence,” the Monitoring Team considered several different factors. First, the Team considered whether the imposed discipline was consistent with BPD’s Disciplinary Matrix, the primary document that specifies what discipline ranges are appropriate for what types of offenses and outlines a process for considering various material factors. In most instances (20 of 23, or 87%), the Monitoring Team could certify that BPD had adhered to the

²³¹ *Id.* ¶ 383.

²³² Dkt. 2-2 ¶ 379.

²³³ *Id.* ¶ 385.

disciplinary matrix. In the remaining 3 cases, reviewers indicated they were “unable to determine” adherence to the Matrix based on available documentation.

Second, the Monitoring Team concluded that the imposed discipline was “fair in light of the investigative findings” in 21 of 23 cases (91%). Here, too, the remaining two cases were flagged as “unable to determine” based on available documentation.

Third, the Monitoring Team considered whether the discipline was based on the nature of the charges and evidence. Reviewers concluded that discipline was indeed based on the underlying charges and evidence in 22 of 23 cases (96%), with reviewers unable to make a determination in the final case.

The Monitoring Team separately audited whether the discipline determination reflected a fair and reasonable accounting of mitigating and aggravating factors. Monitoring Team reviewers could certify that mitigating and aggravating factors were appropriately reflected in the final discipline decision in 19 of 23 (83% of) cases. At the same time, those mitigating and aggravating factors were identified, considered, and documented in the level of detail necessary in 15 of 23 (65% of) cases. This reflects that, in some instances, the correct discipline determinations were made, and the appropriate analysis led to the determinations, even as the discipline file did not document mitigating and aggravating factors at the level of detail or as comprehensively as necessary.

Taken together, these factors make the compliance determination a close judgment. Across most of the relevant requirements of Paragraph 385, the BPD is within, or very close to, the range of performance that is consistent with possible compliance. At the same time, because the relative number of cases where discipline was in fact imposed was somewhat low (23 cases), the percentage guidelines are somewhat less useful here—leading the Monitoring Team to consider the other compliance factors. With respect to the severity of non-compliance, the issue in all instances where compliance could *not* be certified was a lack of sufficient documentation or materials in the applicable files—and not that the discipline imposed was affirmatively unfair, inconsistent with the evidence, or outside the parameters of the Disciplinary Matrix. At the same time, the various issues were not identified by supervisors, and—given that the Monitoring Team has not previously evaluated Paragraph 385—progress over time cannot be measured.

The Monitoring Team ultimately finds that BPD is close but has not yet achieved initial compliance. Instead, the Department is definitively **On Track (4c)**. Compliance with the paragraph can occur when BPD ensures necessary and uniform documentation of discipline rationale.

2. Paragraph 386

Paragraph 386 describes that “[w]hen appropriate, the full [misconduct] investigative file, along with all recommendations of discipline made throughout the process, shall be provided to the Commissioner or his/her designee for the ultimate determination of whether to impose discipline.”²³⁴ Per the PIB Manual, BPD’s Disciplinary Review Committee (“DRC”) serves as the standing Commissioner’s designee and “will make a disciplinary recommendation on behalf of the Police Commissioner.”²³⁵ The DRC’s “recommended discipline will be based on the totality of the investigation, and the respondent’s disciplinary history, consistent with the Disciplinary Matrix.”²³⁶

For the cases that the Monitoring Team reviewed where discipline was imposed, it appeared that the investigation file was available to all those in the post-investigation process who needed to review it. Consequently, the Monitoring Team finds BPD in **Initial Compliance (4d) with Paragraph 386.**

3. *Paragraph 387*

PIB must “maintain all administrative investigation reports and files . . . for the duration of the officer’s employment with BPD.”²³⁷ The availability of investigation reports and files that the Monitoring Team reviewed is ample evidence that BPD is maintaining full files. Additionally, the Monitoring Team’s review of overall, aggregate data of all misconduct investigations reveals—through the sequential numbering scheme and the use of the electronic IPro case management platform—that PIB is consistently retaining investigative files in its systems. Accordingly, BPD is in **Initial Compliance (4d) with Paragraph 387.**

4. *Paragraph 388*

Paragraph 388 requires that BPD “eliminate policies that authorize the expungement of records where an employee accepts discipline.”²³⁸ The PIB Manual, and related BPD policies, under which BPD has been operating and that the Court previously approved do not outline any mechanism for the expungement of records. The Monitoring Team did not identify any instances where it appeared that records relating to discipline were expunged because an employee accepted discipline. Therefore, BPD is in **Initial Compliance (4d) with Paragraph 388.**

J. Community-Centered Mediation of Misconduct Complaints

²³⁴ *Id.* ¶ 386.

²³⁵ PIB Manual at 124.

²³⁶ PIB Manual at 124.

²³⁷ Dkt. 2-2 ¶ 387.

²³⁸ *Id.* ¶ 388.

The Decree requires BPD to maintain “a mediation program designed by community organizations and mediated by community members to act as an alternative” to complaint investigations “for certain minor allegations of officer misconduct impacting civilians.”²³⁹ Paragraphs 389 through 391 set forth several specific requirements for the administration of the program. Because BPD is still proceeding through the planning and implementation stages of this work, the Parties and Monitoring Team agreed to defer evaluation of the civilian complaint mediation program for the present assessment. Consequently, the compliance score is **0 – Not Assessed for Paragraphs 389 through 391**. The Monitoring Team will evaluate the mediation program in a subsequent assessment.

K. Tracking Misconduct Investigations

1. Paragraph 392

BPD must “maintain a centralized electronic numbering and tracking system for all allegations of misconduct.”²⁴⁰ As this report mentions, and as the Monitoring Team has previously reported, PIB has fully transitioned to an electronic system called IAPro as its complaint receipt, tracking, and investigation platform. Indeed, the Monitoring Team reviewed investigations, and complete investigative files, by directly accessing the records that the Department maintains within the IAPro system.

BPD’s system must “maintain accurate and reliable data regarding the number, nature, and status of all misconduct allegations . . . , including investigation timeliness and notifications made to the complainant” regarding the “interim status and final disposition” of the complaint.²⁴¹ It appears, based on the Monitoring Team’s combined qualitative and quantitative review, that the aggregate data captured in IAPro’s system adequately reflects the information contained within complaints and their investigations.

This report describes the progress that BPD still must make regarding notification to complainants about the status of ongoing complaint investigations. However, this issue stems primarily from personnel performance rather than issues with BPD’s tracking or case management system.

Paragraph 392(b) provides that BPD will use the numbering and tracking system “to determine the status of misconduct investigations” and “for periodic assessment of compliance with relevant policies and procedures and this Agreement, including requirements of timeliness of investigations.”²⁴² By comparing information within investigative files reviewed to what is captured in aggregate data in BPD’s system, the Monitoring Team can conclude that the IAPro

²³⁹ *Id.* ¶ 389.

²⁴⁰ *Id.* ¶ 392.

²⁴¹ *Id.* ¶ 392(a).

²⁴² Dkt. 2-2 ¶ 392(b).

system appears to be reliably tracking the status of misconduct investigations. Additionally, BPD regularly uses information obtained from the electronic tracking system to update the community and Decree stakeholders on progress with respect to investigation timeliness, numbers of complaint investigations ongoing, discipline imposed, and other metrics—both in written reports and in public Court hearings.

Paragraph 392(c) further provides that “[t]he system will be used to monitor and maintain appropriate caseloads for misconduct investigators, and to monitor supervisory role in investigations.”²⁴³ The Monitoring Team can certify, based on ongoing conversations with PIB about staffing and investigative workload, that BPD is using the IAPro system to monitor PIB investigator assignments and caseloads—with PIB able to generate precise, up-to-the-moment accounting of who is working on what within the organization.

Finally, Paragraph 392(d) requires that “[a]ll documents and files—including audio and video — . . . be kept in a digital format” and accessible via the centralized numbering and tracking system.”²⁴⁴ In its structured assessment of misconduct investigations, the Monitoring Team reviewed all implicated documents and files in an electronic format, which reviewers accessed through the IAPro tracking system.

Therefore, because BPD is maintaining the required numbering and tracking system for misconduct allegations, the Monitoring Team concludes that BPD is in **Initial Compliance (4d) with Paragraph 392.**

2. Paragraph 393

Paragraph 393 is somewhat imprecise in its wording. By its terms, it requires BPD to “develop” and maintain “a protocol to share information from [PIB] misconduct investigations with prosecuting agencies when appropriate.”²⁴⁵ To the extent that this means that PIB must refer to the prosecuting authority any PIB investigation that uncovers potential criminal conduct, the PIB Manual contains guidance for PIB and its investigators for consulting with and providing information to prosecuting agencies. For instance, “[w]hen an officer is accused of criminal conduct, . . . [t]he PIB investigator is responsible for coordinating the investigative steps with the prosecuting authority, conducting the investigative steps, and keeping the prosecutors aware of the progress of the investigation.”²⁴⁶ If PIB “determine[s] that it is appropriate to refer such criminal matters to [a] specialized unit[] within the Department,” and this is approved by the Commissioner, the PIB Manual sets forth requirements that the new “lead investigative unit . . . communicate with the relevant prosecuting authority,” with PIB still ensuring that “the relevant

²⁴³ *Id.* ¶ 392(c).

²⁴⁴ *Id.* ¶ 392(d).

²⁴⁵ *Id.* ¶ 393.

²⁴⁶ PIB Manual at 101.

prosecuting authority” is “aware of the criminal investigation.”²⁴⁷ Further, the PIB Manual outlines a variety of specific “procedures for maintaining contact with the prosecuting authority.”²⁴⁸

At the same time, the Paragraph may be reasonably understood to also include the obligation of PIB to provide potential impeachment evidence to prosecuting authorities in compliance with *Brady/Giglio* obligations—that is, the requirement that PIB share bad officer conduct to the State’s Attorney to ensure that the State’s Attorney turns over to the defense any prior bad acts that could be used to impeach an officer witness in a criminal case. The protocol for turning over this kind of information is covered by Policy 1809, which the Monitoring Team and DOJ approved in 2019 but has not yet been activated.²⁴⁹ The Department of Justice and Monitoring Team have previously approved the PIB Manual and the content relating to the sharing of information and communication with prosecuting authorities. The DOJ and Monitoring Team have also approved Policy 1809’s requirements relating to BPD providing potential impeachment evidence to prosecuting authorities, but BPD still has to implement that policy in practice.

Separately, BPD has established a Memorandum of Understanding for sharing officer conduct information that could be exculpatory or impeachment evidence with the State’s Attorney’s Office. However, the Consent Decree requires that there be a procedure in place for *all* prosecuting offices (e.g., the U.S. Attorney’s Office or any other prosecutor that is relying on a BPD officer witness). This MOU (and the PIB Manual) does not provide a procedure for those other prosecuting offices. The draft Policy 1809, which is not yet effective, *does* have procedures that apply to all prosecuting offices, including those beyond the State’s Attorney’s office.

Therefore, the Monitoring Team concludes that BPD is **On Track (4c) toward compliance with Paragraph 393** and is poised to reach compliance once it demonstrates that it has meaningfully implemented and complied with Policy 1809.

3. Paragraph 394

“BPD will ensure that complainants and the public will be able to assess the status of, and track, misconduct investigations” by, in part, complying with a number of specific requirements.²⁵⁰ First, “[a] complainant may contact BPD between 8:30 and 4:30 to determine the status of his or her complaint, and BPD will provide the status.”²⁵¹ Second, “BPD will ensure that individuals who contact any officer or unit of BPD to inquire about the status of a complaint investigation will be

²⁴⁷ *Id.* at 102.

²⁴⁸ *Id.* at 103–05.

²⁴⁹ *See* Dkt. 246.

²⁵⁰ Dkt. 2-2 ¶ 394.

²⁵¹ *Id.* ¶ 394(a).

promptly routed to” PIB.²⁵² These two requirements are the subject of the “testing program designed to assess civilian complaint intake” that the Decree requires in Paragraphs 406 and 408. As discussed in greater detail below, the Parties and Monitoring Team have agreed that, with work ongoing to establish this testing program, requirements that relate to or depend on the testing program are not the subject of assessment in this report.

Meanwhile, Paragraph 394(c) requires BPD to “aggregate and analyze data about misconduct investigations on at least an annual basis.”²⁵³ Paragraph 402 of the Decree, also discussed in greater detail below, requires PIB to analyze data on complaints and misconducts across a number of specific dimensions. Because the Monitoring Team’s evaluation of PIB quarterly public reports demonstrates compliance with Paragraph 402, the Monitoring Team can conclude that BPD is complying with Paragraph 394(c) and 394(d).

Because Paragraphs 394(a) and (b) are not evaluated at present, the global compliance status for Paragraph 394 is **Implementation – Not Assessed (4a)**.

4. Paragraph 395

Paragraph 395 sets forth a number of specific complaint categories that PIB must track. The PIB Manual’s extensive protocols regarding classification and sub-classification, and definitions and descriptions of a variety of such categories, fully incorporate the required categories that the Decree requires. The Monitoring Team’s review of individual investigations and overall review of PIB data—including summary statistics described earlier in this report—both certify that the categories that Paragraph 395 requires are being used in practice and across complaint investigations. Consequently, BPD is in **Initial Compliance (4d) with Paragraph 395**.

L. Transparency Measures

1. Paragraph 396

In Paragraph 396, “[t]he City and BPD recognize the importance of transparency to improving BPD-community relations” and “will continue to take steps to increase transparency, including the following provisions” outlined in subsequent paragraphs.²⁵⁴ Because Paragraph 396 is primarily an introductory paragraph that memorializes a general premise and introduces the many paragraphs to come, a standalone compliance determination with respect to Paragraph 396 is unnecessary.

²⁵² *Id.* ¶ 394(b).

²⁵³ *Id.* ¶ 394(c).

²⁵⁴ *Id.* ¶ 396.

2. Paragraph 397

Paragraph 397 requires “[t]he City and BPD” to “develop and implement a program to promote awareness . . . about the process for filing complaints.”²⁵⁵ “The program will address how to inform members of vulnerable communities in Baltimore of the existence of the complaint investigation process, and may include collaborating directly with local community groups.”²⁵⁶

In 2021, BPD developed a Transparency Initiatives Plan that provided a roadmap and plan for enhancing transparency. BPD has conducted several public information sessions on making complaints in both English and Spanish, and PowerPoint materials from these sessions are available on BPD’s website. Meanwhile, BPD is actively working on partnering with the Enoch Pratt library system to distribute BPD materials, including information about the process for filing complaints. The Department is also currently pursuing other partnerships and initiatives geared toward the widespread dissemination of information about the complaint process—several of which are innovative and show a commitment to the type of transparency and dissemination of information of complaints that Paragraph 397 advances.

Therefore, although the Department will need to continue implementing and advancing its Transparency Initiatives Plan going forward, Monitoring Team finds that BPD has reached **Initial Compliance (4d) with Paragraph 397**.

3. Paragraph 398

Paragraph 398 relates to BPD maintaining written information about the complaint process on its website. Specifically, BPD’s website must include “a detailed written description, in plain language, of the BPD administrative investigative process from the intake of a complaint to the imposition of discipline.”²⁵⁷ These materials are currently available on BPD’s website at <https://www.baltimorepolice.org/transparency/accountability/misconduct-discipline>. That page contains an accessible overview of the complaint process, including what can be expected to occur at each stage of the process, and links both to materials from public information sessions involving the complaint process and to the PIB Manual. Another page focuses on “How to File a Police Complaint” and is currently accessible at <https://www.baltimorepolice.org/how-to-file-police-complaint>. That page contains information about where to file a complaint and links to a flyer on complaints and multiple presentations regarding the mechanics around making a complaint.

The website must “also include a description of the CRB complaint option and a link to the CRB website.”²⁵⁸ On this front, the current BPD website falls short. On the sub-page “How to File a

²⁵⁵ Dkt. 2-2 ¶ 397.

²⁵⁶ *Id.*

²⁵⁷ *Id.* ¶ 398.

²⁵⁸ *Id.*

Police Complaint,”²⁵⁹ the available information describes the mission of PIB, links to a flyer about filing a complaint that focuses on the Department’s PIB acceptance of complaints and the PIB process, and links to the Department’s complaint portal. The bottom of the flyer and the web copy about how to file a complaint does appropriately observe that “[i]f you do not wish to file a complaint at a police district,” you may file a complaint in-person or by calling” PIB (on both PDF flyer and web copy), the Civilian Review Board (on the PDF flyer but not the web copy), the Police Accountability Board (on the PDF flyer but not the web copy), and/or the Office of Equity and Civil Rights (on the web copy). There is no immediately available, substantive “description of the CRB complaint option” per Paragraph 398—and how it may differ from taking complaints directly to BPD and/or PIB. Further, although the BPD website links to the Office of Equity and Civil Rights – of which the CRB is a part—individuals must navigate through to that Office’s main site, to a sub-page entitled “Police Accountability,” and then scroll to a description of the Civilian Review Board (listed last among “three civilian entities” within the Office “that handle police accountability for Baltimore City”) to access a three-sentence overview of CRB and a link to “File a Complaint with the Civilian Review Board.”²⁶⁰ The BPD website should link more directly to the Civilian Review Board’s sub-page²⁶¹ and to the CRB’s complaint intake page.²⁶²

Because the Department’s website does not sufficiently explain the option to make a complaint with CRB and does not link directly enough to the CRB website and the CRB’s complaint intake page, BPD is not yet in initial compliance with Paragraph 398. When it successfully describes the CRB option and links directly to it, BPD will reach initial compliance. For now, BPD’s compliance status is **Implementation – On Track (4c)** because the Department’s website does contain appropriate and sufficient information about how to make a complaint and the administrative investigation process.

4. Paragraph 399

Paragraph 399 requires that BPD maintain video information on its website “that explains the jurisdiction and duties of entities, including” PIB and SIRT (the Special Investigative Response Team).²⁶³ This video was set to be published on the Department’s website in the summer of 2023, but edits were required to remove references to former Commissioner Harrison. It was then set to be published toward the end of 2023, but a reorganization in PIB leadership delayed this timeline, as well. Most recently, the Monitoring Team understands that BPD is prioritizing the completion

²⁵⁹ Baltimore Police Department, Misconduct & Discipline, “How to File a Police Complaint,” <https://www.baltimorepolice.org/how-to-file-police-complaint> (last visited Feb. 20, 2024).

²⁶⁰ City of Baltimore, Office of Equity and Civil Rights, Police Accountability, <https://civilrights.baltimorecity.gov/police-accountability> (last visited Feb. 20, 2024).

²⁶¹ City of Baltimore, Office of Equity and Civil Rights, Police Accountability, “Civilian Review Board,” <https://civilrights.baltimorecity.gov/civilian-review-board> (last visited Feb. 20, 2024).

²⁶² City of Baltimore, Office of Equity and Civil Rights, Police Accountability, Civilian Review Board, “File a Complaint Online,” <https://civilrights.baltimorecity.gov/civilian-review-board/file> (last visited Feb. 20, 2024).

²⁶³ Dkt. 2-2 ¶ 399.

and posting of a video explaining the public complaint portal system, as this information is what community members are most likely to request, until the PIB leadership re-organization is completed. As of February 15, 2024, the required video is not yet available to the public.

Paragraph 399 separately requires that BPD “make publicly available all policies and procedures regarding its internal investigation and disciplinary process.”²⁶⁴ The Monitoring Team can verify that the Department makes various Department policies relating to investigation and disciplinary process and procedural manuals, like the PIB Manual discussed throughout this report, available on its website at <https://www.baltimorepolice.org/policies>.

Overall, then, the Monitoring Team finds that BPD is **On Track (4c) toward compliance with Paragraph 399** and is almost certain to reach compliance upon successful publishing of the required, in-progress videos on its website.

5. *Paragraph 400*

BPD must “post and maintain at the reception desk” both “at BPD headquarters and in locations at all District stations . . . permanent placards clearly and simply describing the BPD and CRB civilian complaint intake process.”²⁶⁵ These placards must (a) “include relevant contact information, including telephone numbers, email addresses and Internet sites,” and (b) “be in both English and Spanish.”²⁶⁶

The Monitoring Team visited all BPD stations, Headquarters, the Training Academy, and PIB Headquarters in November 2023 and verified that all BPD buildings had the required placards available that described the complaint intake process, provided contact information, and were available in English and Spanish. Therefore, BPD is in **Initial Compliance (4d) with Paragraph 400**.

6. *Paragraph 401*

Paragraph 401 requires that “[t]he City and BPD . . . create complaint forms, and informational materials, including brochures and posters that describe the internal investigation and disciplinary process at CRB and BPD.”²⁶⁷ Those materials must “provide information about” how “individuals may file complaints; information about how and where individuals may check the status of the complaint investigations; and contact information for the OPR and CRB.”²⁶⁸

²⁶⁴ *Id.*

²⁶⁵ *Id.* ¶ 400.

²⁶⁶ *Id.*

²⁶⁷ *Id.* ¶ 401.

²⁶⁸ Dkt. 2-2 ¶ 401.

The City has successfully created a unified Police Complaint Form, available in both English and Spanish, that both BPD and CRB use to take complaints from the public about police performance.²⁶⁹ Separately, early in the Consent Decree implementation process, BPD created posters and brochures providing basic information about the complaint process. BPD’s website includes links to several of these flyers and presentation materials.²⁷⁰

Having successfully created the required complaint forms and informational materials, the City and BPD are in **Initial Compliance (4d) with Paragraph 401.**

7. *Paragraph 402*

To promote transparency and accountability, PIB and CRB must each “separately produce a quarterly public report on misconduct investigations” that contains a variety of information and data.²⁷¹

The Monitoring Team and Department of Justice have provided ongoing technical assistance to PIB and CRB and worked to identify mechanisms for best summarizing and presenting the specific data and analyses that Paragraphs 402(a) through (h) require. Both PIB and CRB began to produce the required reports as of Q4 2020, with an initial report that summarized data captured in Q4 2019. Both PIB and CRB reports have been fine-tuned since that time. As internal data collection and tracking systems have improved, some of the data collection and analysis has been able to be automated—making the process of compiling the reports somewhat easier and quicker over time. As the Monitoring Team has observed elsewhere, for both PIB and CRB, “[t]he quality of the data included in the reports and clarity of its presentation continues to improve.”²⁷²

Both PIB and CRB are working to provide the regular analyses of misconduct investigation data that Paragraph 402(c) requires—many of which focus on the “average and median” time that it takes for investigations to pass various milestones or administrative checkpoints.²⁷³ The reports of both organizations to date have been incomplete with respect to those requirements. With PIB and CRB both generating quarterly reports that provide a host of data and information about misconduct complaints and investigations, including the specific types of analyses that Paragraph 402 otherwise requires, the City and BPD are **On Track (4c) toward compliance with Paragraph 402** and will likely reach compliance as soon as the Monitoring Team can verify that the quarterly

²⁶⁹ City of Baltimore, “Police Complaint Form,” *available at* https://civilrights.baltimorecity.gov/sites/default/files/Unified%20Complaint%20Form_2020-12-30%20-%20Fillable.pdf (last accessed Feb. 20, 2024).

²⁷⁰ Baltimore Police Department, Misconduct & Discipline, “How to File a Police Complaint,” <https://www.baltimorepolice.org/how-to-file-police-complaint> (last visited Feb. 20, 2024).

²⁷¹ Dkt. 2-2 ¶ 402.

²⁷² Ninth Semiannual Report at 24.

²⁷³ Dkt. 2-2 ¶ 402(c).

reports contain the appropriate summary of data about investigative and administrative processes that Paragraph 402(c) mandates.

8. Paragraph 403

Paragraph 403 requires BPD to “develop a protocol to ensure appropriate transparency concerning the disciplinary hearing process and outcomes.”²⁷⁴ Since the Court approved the Consent Decree, changes to state law that relate to the disciplinary process have implicated transparency considerations. BPD, DOJ, and the Monitoring Team have agreed that, although the Department will need to finalize a transparency protocol regarding disciplinary hearings and determinations, Paragraph 403 is **Not Assessed (0)** in this evaluation.

9. Paragraph 404

Paragraph 404 provides that, “[a]fter final disposition of misconduct complaints, BPD shall make detailed summaries readily available to the public . . . in electronic form on a designated section of its website that is linked to directly from BPD’s home page[,] with prominent language that clearly indicates to the public that the link provides information about investigations of misconduct by BPD officers.”²⁷⁵ BPD must adhere to these requirements “to the full extent permitted under state and federal law.”²⁷⁶

As of February 2024, BPD has not yet fully implemented the required processes for posting detailed summaries of misconduct complaint investigations and findings. BPD indicates that this will likely be underway in the latter half of 2024. These detailed summaries will likely require some investment in administrative staffing given the current caseload of PIB personnel. Although the Department has convened internally to address the best way for efficiently accomplishing the tasks required in Paragraph 404, the Department has not yet finalized a roadmap to implementation. Because BPD is still in the process of planning for meeting the requirements of Paragraph 404, the Department’s compliance status is best characterized as **2 – Planning/Policy Phase**. The Monitoring Team will expect that the Department has fully implemented Paragraph 404, and has established clear administrative processes to ensure continuous, timely public posting of the misconduct investigation summaries that the Decree requires, by the end of 2024 at latest.

10. Paragraph 405

²⁷⁴ *Id.* ¶ 403.

²⁷⁵ *Id.* ¶ 404.

²⁷⁶ *Id.*

“BPD will audit, on at least an annual basis, BPD’s disciplinary process to ensure quality control,” including an audit of “complaint intake, investigation, and the imposition of discipline.”²⁷⁷ BPD must “make public any of the audits’ findings, to the extent state and federal law permits.”²⁷⁸

As of January 2024, the Department has begun to conduct a disciplinary system audit. Instead of conducting a single audit, BPD has decided to break the audit down into several smaller audits over the course of the year. Because BPD is actively implementing its plans to conduct a disciplinary audit over the course of 2024, the Department’s implementation status is **Implementation – On Track (4c) for Paragraph 405**. The Monitoring Team suspects that, with the successful completion of a high-quality audit in 2024 and clear protocols for conducting similar audits going forward, the Department can reach initial compliance in a follow-up assessment.

M. Additional Measures to Encourage Proper Oversight (Civilian Complaint Testing Program)

Paragraphs 406 through 408 require BPD to establish a testing program designed to assess complaint intake” and whether BPD is adhering to requirements regarding the provision of information about and the intake of complaints. As noted previously in this report, BPD, the DOJ, and the Monitoring Team have all agreed that this assessment would not evaluate compliance with paragraphs involving or implicating the civilian complaint testing program because the Department is still in the process of initial implementation. The Monitoring Team will consider BPD’s compliance with Paragraphs 406 through 408 in a future assessment.

N. Training

1. Paragraph 409

BPD must provide all PIB investigators “with at least 40 hours of comprehensive training on conduct[ing] employee misconduct investigations.”²⁷⁹ As the Monitoring Team previously reported to the Court, “all 68 PIB investigators, as well as CRB investigators” completed “a five-day, in-class [training] course” in April and May 2021:²⁸⁰

The training’s 13 modules cover[ed] intake and classification, developing an investigative plan, conducting investigations, preparation of reports, review of investigations, legal requirements, collaboration between PIB and CRB, and administrative hearings.²⁸¹

²⁷⁷ *Id.* ¶ 405.

²⁷⁸ Dkt. 2-2 ¶ 405.

²⁷⁹ *Id.* ¶ 409.

²⁸⁰ Dkt. 415 at 1.

²⁸¹ *Id.* at 1–2.

The training, developed in conjunction with outside experts, “reflect[ed] substantial input and feedback from community members and BPD officers.”²⁸² In April and May 2021, representatives of the Monitoring Team observed the PIB investigator training and determined that the instruction, as delivered, was consistent with the approved curriculum and was of consistently high quality.²⁸³

Accordingly, BPD and the City have reached **Initial Compliance (4d) with Paragraph 409.**

2. Paragraph 410

Paragraph 410 contains requirements that training for PIB investigators must include. Because the PIB investigator training was the subject of prior Consent Decree process review and approval,²⁸⁴ which included a review to ensure that the curriculum used includes all Decree-required elements, the Monitoring Team concludes that BPD is in **Initial Compliance (4d) with Paragraph 410.**

3. Paragraph 411

Paragraph 411 provides a further requirement for PIB investigator training: that it “be provided by sources both inside and outside of BPD.”²⁸⁵ As the Monitoring Team certified to the Court in May 2021, the PIB investigator “curriculum was developed by an external subject matter expert and modified through extensive discussions with BPD, DOJ, and the Monitoring Team.”²⁸⁶ At that time, the Monitoring Team also indicated that the investigator training appropriately provided guidance “on investigative techniques that are specific to the Baltimore community, and BPD policies, procedures, and disciplinary rules.”²⁸⁷ Consequently, the City has reached **Initial Compliance (4d) with Paragraph 411.**

4. Paragraph 412

Paragraph 412 requires that CRB investigators also receive “at least 40 hours of comprehensive training on conducting” misconduct investigations,²⁸⁸ including instruction on the nearly identical specific areas as PIB investigators need to receive pursuant to Paragraph 410. As noted above, the 40-hour investigator training was provided to all CRB investigators in April and May 2021.²⁸⁹ Because the Monitoring Team concluded that both the designed curriculum and provided training

²⁸² *Id.* at 2.

²⁸³ *Id.*

²⁸⁴ *Id.* at 1.

²⁸⁵ Dkt. 2-2 ¶ 411.

²⁸⁶ Dkt. 415 at 1.

²⁸⁷ *Id.* at 2 (quoting Dkt. 2-2 ¶ 411).

²⁸⁸ Dkt. 2-2 ¶ 412.

²⁸⁹ Dkt. 415 at 1.

was satisfactory and met the specific requirements of Paragraphs 410 and 412, BPD and the City are in **Initial Compliance (4d) with Paragraph 412.**

5. *Paragraph 413*

Paragraph 413 requires that BPD “ensure the training that is provided to BPD misconduct investigators pursuant to this Agreement is available to CRB investigators.”²⁹⁰ The joint training for PIB and CRB investigators, developed and implemented pursuant to the Decree requirements summarized above, adequately ensured that CRB investigators have access to the same training that BPD’s misconduct investigators have received. Therefore, the Monitoring Team concludes that BPD and the City are in **Initial Compliance (4d) with Paragraph 413.**

6. *Paragraph 414*

The first part of Paragraph 414 relates to BPD providing eight hours of training to “BPD Supervisors and personnel who may become responsible for investigating complaints [of] misconduct *not* involving police-civilian interactions.”²⁹¹ As discussed previously, no BPD supervisors are currently investigating misconduct complaints outside of PIB. Accordingly, this training requirement practically applies to PIB personnel who investigate misconduct. Following the successful provision of initial training to misconduct investigators, BPD has been providing continuing, ongoing training to misconduct investigators in 2022 and 2023—and is slated to provide additional training in 2024 via a one-day course to all PIB investigators.²⁹² Accordingly, BPD is in **Initial Compliance (4d) with Paragraph 414.**

7. *Paragraph 415*

The Decree also requires that, in addition to providing training for misconduct investigators, BPD also “provide training to all police personnel on BPD’s revised or new policies related to misconduct investigations and discipline” that addresses a number of topics listed in Paragraph 415’s various sub-paragraphs.²⁹³ BPD completed comprehensive training for all personnel in 2023 that addressed “revised discipline policies and processes,” as well as an “in-depth review of serious BPD misconduct cases from the last 15 years” and the “Brady/Giglio requirements” regarding obligations to disclose information and evidence in criminal investigations.²⁹⁴ As with other Decree training, Department of Justice and Monitoring Team representatives reviewed and provided feedback on the training curriculum, approved the final version of the training, and attended training sessions to ensure that the quality of instruction as delivered was consistent with

²⁹⁰ Dkt. 2-2 ¶ 413.

²⁹¹ *Id.* ¶ 414.

²⁹² Baltimore Police Department, Education & Training Section, *2024 Master Training Plan* (Jan. 2024) at 13.

²⁹³ Dkt. 2-2 ¶ 415.

²⁹⁴ Baltimore Police Department, *2024 Master Training Plan* (Jan. 29, 2024) at 4.

the curriculum and the Decree's general requirements surrounding adult learning. Because the training provided to BPD personnel in 2022 and 2023 sufficiently addressed the specific requirements of Paragraph 415, the Monitoring Team concludes that BPD has reached **Initial Compliance (4d) with Paragraph 415.**

VIII. COMPLIANCE ASSESSMENT CONCLUSIONS

The following chart inventories the compliance scores described previously in this report for each Consent Decree paragraph relating to misconduct. As also described previously, although the Consent Decree refers to BPD’s prior Office of Professional Responsibility (OPR), the obligations attach to the City and Department regardless of the name of the entity that investigates misconduct – which is currently the Public Integrity Bureau (PIB).

Consent Decree Paragraph		Compliance Score
329	A robust and well-functioning accountability system in which officers are held to the highest standards of integrity is critical to BPD’s legitimacy, and a priority of the Department. A well-functioning accountability system is one in which BPD: openly and readily receives complaints reported by civilians and officers and fully, fairly, and efficiently investigates them; supports all investigative findings by the appropriate standard of proof and documents them in writing; holds accountable all officers who commit misconduct pursuant to a disciplinary system that is fair, consistent, and provides due process; and treats all individuals who participate in BPD’s internal disciplinary process—including complainants, officers, and witnesses—with respect and dignity. To achieve these outcomes, the City and BPD will implement the requirements set out below within their respective spheres of control.	4c (Implementation – On Track)
A. BPD’s Office of Professional Responsibility		
330	The OPR shall continue to be physically located in a facility that is separate from other BPD buildings, is easily accessible to the public and has space for receiving members of the public and for permitting them to file complaints.	4d (Initial Compliance)
331	Employees working in OPR will not be assigned to duties that may create any conflict of interest, or appearance of conflict of interest, with their investigatory responsibility.	4d (Initial Compliance)
B. Complaint Intake, Classification, and Communication with Complainants		
332	The OPR will have sufficient resources and qualified staff to successfully fulfill its mission.	4c (Implementation – On Track)
333	The OPR will have the following powers and authority: <ul style="list-style-type: none"> a. The OPR will investigate all complaints of officer misconduct and will coordinate with CRB on all complaints within CRB jurisdiction that CRB is also investigating or reviewing; b. The OPR will oversee investigations into allegations of misconduct that do not involve police-civilian interactions. These investigations are currently centralized, and may, after appropriate policies and training have been developed, be conducted by supervisors at the officer’s District or Unit[.] 	4d (Initial Compliance)

334	BPD will ensure that the OPR reviews and revises as necessary its policies and protocols to ensure that investigators and supervisors are provided with sufficient guidance to effectively fulfill their mission.	4d (Initial Compliance)
335	BPD will review and revise as necessary its policies governing OPR to ensure its processes for complaint intake, classification, and tracking, and its processes for communicating with complainants, to comply with the terms of this Agreement.	4d (Initial Compliance)
336	<p>BPD will ensure that the complaint intake process is open and accessible for individuals who wish to file complaints about BPD officers' conduct:</p> <ul style="list-style-type: none"> a. BPD will ensure individuals may make complaints in multiple ways, including in person or anonymously, by telephone, online, and through third parties to ensure broad and easy access to its complaint system: <ul style="list-style-type: none"> i. BPD will make complaint forms widely available at public buildings and locations throughout Baltimore City, and will make them available to community groups to provide to their members; ii. Complaint forms will be made available, at a minimum, in English and Spanish. BPD will comply with the law to make complaints accessible to people who speak other languages (including sign language). The fact that a complainant does not speak, read, or write English, or is deaf or hard of hearing will not be grounds to decline to accept or investigate a complaint; iii. BPD will ensure that a free, 24-hour hotline exists for members of the public to make complaints, and will clearly display this information on its website and other BPD printed materials; b. BPD will ensure that all complaints they receive about BPD officer conduct will be accepted and investigated whether submitted by a BPD employee or a member of the public; whether submitted verbally or in writing; in person, by phone, or online; whether submitted by a complainant, someone acting on the complainant's behalf, or anonymously; c. BPD will document all complaints in writing; d. BPD will ensure that complaints about officers in specialized units are accepted, even if the complainant could not identify the officer's name or badge number; e. BPD's complaint form will not contain warnings about the potential criminal consequences for filing false complaints; f. BPD will coordinate with CRB to develop a unified complaint form that will satisfy the requirements of state law and this Agreement; g. BPD will ensure all officers carry complaint forms in their BPD vehicles, and provide complaint forms to individuals upon request. Alternatively, BPD may provide a card, approved by the Monitor and DOJ, with information about how to file a complaint electronically instead of a complaint form to comply with the requirements of this paragraph. BPD will ensure officers will provide their name and badge number upon request; h. The City will ensure that civilian complaints of police misconduct it receives through other existing systems, such as CrimeStoppers tip line, the Mayor's office, or the Civilian Review Board, are timely forwarded to the OPR. BPD will ensure that these complaints, where appropriate, will also be timely forwarded to the CRB; 	4c (Implementation – On Track)

	<p>i. BPD will ensure that individuals who make complaints in person receive a copy of their complaint form upon intake. Each complaint form will prominently display a unique tracking number or barcode. This tracking number or barcode will be linked with any case number ultimately assigned to the complaint, if any. Complainants may use the barcode or tracking number to obtain information about the status of the investigation.</p>	
337	<p>BPD shall ensure that there are adequate protocols to encourage and protect officers who report violations of policy by other officers and that every BPD officer, regardless of rank, who observes or becomes aware of any act of misconduct by a BPD officer against a member of the public shall report the incident to a Supervisor or to the OPR for appropriate documentation and investigation. BPD will ensure:</p> <ol style="list-style-type: none"> a. Where an act of misconduct is reported to a Supervisor, the Supervisor shall timely document and report the information to the OPR; b. The failure to report an allegation of misconduct, as defined in this Agreement, will be considered misconduct, and will be subject to discipline and/or appropriate corrective action based on the seriousness of the conduct; c. All forms of retaliation, interference, intimidation, coercion, or adverse action against any person, civilian or sworn officer, who, because that person reports misconduct, attempts to make or makes a misconduct complaint, or cooperates with an investigation of misconduct, are strictly prohibited and shall result in discipline, demotion, and/or appropriate corrective action based on the seriousness of the conduct[.] 	<p>4d (Initial Compliance)</p>
338	<p>BPD complaint classification will be based solely on the nature of the allegations and the facts alleged in such allegations:</p> <ol style="list-style-type: none"> a. OPR will develop a protocol to ensure that all complaints are properly classified. The protocol will list all allegation types and provide examples of officer conduct that fits each allegation type. The protocol will be publicly available on BPD's website; b. A commander in BPD's OPR will coordinate the initial classification of internal complaints received by BPD employees and ensure they are consistent with BPD's complaint classification protocol; c. Changes to a complaint's classification must be documented in writing and approved by a commander in OPR; d. In accordance with Public Local Law, OPR will promptly refer civilian complaints to the Civilian Review Board, pursuant to the protocol developed under Paragraph 339; e. Upon being notified of any allegation of misconduct through an internal or external complaint, the OPR will, within 72 hours, make an initial determination of the classification of the alleged offense and will assign a misconduct investigator; f. When an allegation of misconduct contains multiple categories of offenses or multiple separate policy violations, all applicable policy violations shall be charged, but the most serious violation shall be used for the purposes of classification and to determine whether OPR will investigate. Exoneration for the most serious offense will not preclude discipline for less serious offenses stemming from the same misconduct; g. The OPR will require that all allegations that, if true, would violate BPD policy, are captured and classified appropriately even if the complainant does not affirmatively identify the violation; 	<p>4c (Implementation – On Track)</p>

	<ul style="list-style-type: none"> h. BPD will require that at any time an investigator determines that there may have been additional misconduct or violations beyond those initially alleged, OPR shall take all necessary steps to ensure that such misconduct is fully and fairly documented, classified, and investigated; i. If supervisors in districts or units conducting investigations into misconduct identify allegations of misconduct that, under BPD policy, should be investigated by OPR, the investigator shall promptly notify OPR; j. If a supervisor believes that the principal of an investigation may have committed a violation that is criminal, he or she shall promptly notify the OPR. 	
339	<p>BPD and CRB will each develop a protocol delineating each agency’s responsibilities for complaint intake, classification, investigation and review, and how the agencies will interact throughout the investigation and disciplinary process. The protocols will provide that:</p> <ul style="list-style-type: none"> a. The CRB will coordinate the initial classification of complaints received from sources other than BPD; b. The CRB will have information sufficient to determine whether a civilian complaint falls within the jurisdiction of the CRB, regardless of its source or initial classification; and c. Changes to a complaint’s classification must be documented in writing and approved by the CRB Director or the OPR Director. 	<p>4d (Initial Compliance)</p>
340	<p>OPR shall develop a system to document and address allegations it receives concerning BPD officer conduct from the State’s Attorney’s Office or by a judicial officer during a civil or criminal proceeding. Such allegations will be documented, tracked, and assessed for further investigation. Any decision to decline investigation shall be documented in writing.</p>	<p>4d (Initial Compliance)</p>
341	<p>OPR shall develop a system to document and address allegations it receives concerning BPD officer conduct from the State’s Attorney’s Office or by a judicial officer during a civil or criminal proceeding. Such allegations will be documented, tracked, and assessed for further investigation. Any decision to decline investigation shall be documented in writing.</p> <ul style="list-style-type: none"> a. If an individual indicates to an officer that they would like to make a complaint about that officer, the officer will promptly inform their supervisor and ask the supervisor how long it would take them to respond to the scene. The officer will then inform the individual that their supervisor can respond to the scene to assist the individual in filing a complaint, if the individual desires and is willing to wait for the supervisor to arrive; b. If the individual desires, the supervisor will respond to the scene, assist the individual, and provide the individual with a copy of the completed complaint form. Otherwise the officer will provide the complainant with information to assist them in filing a complaint, including a copy of the completed complaint form; c. An officer shall not be required to delay taking law enforcement action while they wait for the supervisor to arrive, including, where appropriate, making an arrest; d. Where a supervisor receives a complaint alleging that misconduct has occurred, the supervisor shall gather all relevant information and evidence and provide the information and evidence to the OPR. This may include identifying witnesses and their contact information; video or photographic evidence; and any other physical evidence. All misconduct complaints shall be referred to the OPR by the end of the 	<p>4a (Implementation – Not Assessed)</p>

	shift in which the misconduct complaint was received, absent exceptional circumstances.	
342	<p>In the course of investigating a civilian complaint, the misconduct investigator will send periodic written updates to the complainant by mail and by email, if the complainant provides an email address:</p> <ol style="list-style-type: none"> Within seven days of receipt of a complaint, the misconduct investigator will send non-anonymous complainants a written notice of receipt. The receipt shall include the tracking number or barcode originally assigned to the complaint, along with any other case number subsequently assigned, if applicable, and the allegations being investigated. The notice will inform the complainant how he or she may inquire about the status of a complaint. The notice will not contain any language that could reasonably be construed as discouraging participating in the investigation, such as a warning against providing false statements or a deadline by which the complainant must contact the investigator; Periodic updates will be mailed or emailed to the complainant; and BPD shall ensure that all investigators communicate with complainants in a professional and respectful manner; investigators who fail to do so shall be subject to discipline, demotion, and/or appropriate corrective action based on the seriousness of the conduct. 	4b (Implementation – Off Track)
C. OPR Administrative Misconduct Investigations		
343	BPD will ensure that misconduct investigators will conduct objective, comprehensive, and timely administrative investigations of all allegations of officer misconduct. All findings will be based on the appropriate standard of proof. BPD will clearly delineate these standards in policies, training, and procedures and accompany them with detailed examples to ensure misconduct investigators properly apply them.	4c (Implementation – On Track)
344	In each misconduct investigation, investigators shall ensure that they:	4c (Implementation – On Track)
	a. Conduct investigations designed to determine the facts;	4c (Implementation – On Track)
	b. Promptly identify, collect, and consider all relevant evidence, including any audio or video recordings;	4c (Implementation – On Track)
	c. Take all reasonable steps to locate and interview all witnesses, including civilian witnesses and attempt to interview any civilian complainant or witness in person at a time and place that is convenient and accessible for the complainant or witness;	4c (Implementation – On Track)
	d. Audio record all interviews, and video-record where possible;	4d (Initial Compliance)
	e. Make all reasonable efforts to identify the officer if the complainant could not identify the officer's name;	4d

		(Initial Compliance)
	f. Evaluate all relevant BPD officer activity in the incident and any evidence of potential misconduct uncovered during the course of the investigation, whether or not the potential misconduct was part of the original allegation;	4c (Implementation – On Track)
	g. Consider patterns in officer behavior based on disciplinary history – including complaints in which allegations were not sustained, if available, and officer training records;	4b (Implementation – Off Track)
	h. Make credibility determinations, as appropriate, including; <ul style="list-style-type: none"> i. Making credibility determinations about civilian, officer and witness statements based on independent, unbiased, and credible evidence; ii. An officer’s statement must be critically evaluated like any other evidence. Misconduct investigators will not disregard a witness’s statement solely because the witness has some connection to either the complainant or the officer or because the witness or complainant has a criminal history, but those factors should be considered along with other indicia of credibility; iii. In conducting the investigation, misconduct investigators may take into account the record of any witness, complainant, or officer who has been determined to have been deceptive or untruthful in any legal proceeding, misconduct investigation, or other investigation. 	4c (Implementation – On Track)
	i. Complete their administrative investigations within 90 days of the initiation of the investigation. Any request for an extension of time must be approved in writing by the Director of the OPR;	4b (Implementation – Off Track)
	j. Make all reasonable efforts to resolve material inconsistencies between officer, complainant, and witness statements; and	4c (Implementation – On Track)
	k. For each allegation of misconduct, explicitly identify and recommend one of the following dispositions for each allegation of misconduct in an administrative investigation: <ul style="list-style-type: none"> i. “Unfounded,” where the investigation determines, by clear and convincing evidence, that the alleged misconduct did not occur or did not involve the accused officer; ii. “Sustained,” where the investigation determines, by a preponderance of the evidence, that the alleged misconduct did occur; iii. “Not Sustained,” where the investigation is unable to determine, by a preponderance of the evidence, whether the alleged misconduct occurred; iv. “Exonerated,” where the investigation determines, by a preponderance of the evidence, that the alleged conduct did occur but did not violate BPD policies, procedures, or training; v. BPD shall discontinue use of the disposition “administratively closed”. 	4c (Implementation – On Track)
345	BPD shall conduct a sexual misconduct incident review at the conclusion of every investigation of a sexual misconduct complaint against a BPD officer or employee concerning conduct against a non-BPD employee, unless the report has been determined to be unfounded. Such review shall ordinarily occur within one month following the conclusion of	4a (Implementation – Not Assessed)

	<p>the investigation of the allegation. The review team shall include upper-level management officials, with input from line supervisors and investigators. The review team shall:</p> <ol style="list-style-type: none"> a. Consider whether the report or investigation indicates a need to change BPD policies or practices to better prevent, detect, or respond to sexual misconduct; b. Consider where the incident occurred and the staffing in that area to assess whether physical or other conditions in that area may enable abuse; and c. Prepare a report of its findings, including any recommendations for improvement. This report shall be provided to BPD leadership. 	
346	BPD shall document its reasons for implementing or not implementing the recommendations of the sexual misconduct incident review team.	4a (Implementation – Not Assessed)
347	<p>BPD will develop and implement policies to ensure that the officer accused of misconduct receives notice that he or she is under investigation:</p> <ol style="list-style-type: none"> 1. Officers under investigation will not receive notice if it would jeopardize the investigation, and will only receive notice prior to being formally interviewed by OPR; 2. Such notice will comport with due process and the law, and will contain the nature of the investigation, and will not contain any information that may unnecessarily jeopardize the investigation; 3. When BPD provides notice to officers that they are under investigation, such notice will include provisions prohibiting officers under investigation from speaking to witnesses or complainants, reviewing police reports (other than reports about the incident authored by the officer) or body camera footage, or taking other actions that could jeopardize the investigation, until notified by BPD that they are permitted to do so; 4. BPD shall require its employees to cooperate with administrative investigations, including appearing for an administrative interview when requested by a BPD investigator, and providing all relevant documents and evidence under the person’s custody and control. Supervisors shall be notified when an officer under their supervision is summoned as part of a misconduct complaint or internal investigation and shall facilitate the officer’s appearance, absent extraordinary circumstances, documented in writing. If a criminal investigation has been commenced, the head of the prosecuting agency may request that an interview of an officer or employee be postponed during the course of the criminal investigation. If such a request is made the BPD Commissioner or his/her designee will determine whether the administrative interview will be postponed. This determination will be documented in writing. 	4c (Implementation – On Track)
348	Interfering with a misconduct investigation, colluding with other individuals to undermine an investigation, including intentionally withholding evidence or information from a misconduct investigator, will be a terminable offense. BPD will ensure that officers under investigation do not review any investigative files, reports (except for reports about the incident authored by the officer), or other evidence, including body camera footage, unless publicly released by BPD, or other photographic evidence, related to an incident under investigation, in which they are the principal or a witness in an investigation, until notified by BPD that they are permitted to do so.	4c (Implementation – On Track)

349	<p>BPD will ensure that misconduct investigators do not:</p> <ul style="list-style-type: none"> a. Ask leading questions that suggest legal justifications for the officer’s conduct, where such questions are contrary to appropriate law enforcement techniques, during interviews of witnesses, complainants, or the principal of an investigation; b. Make statements that an employee or witness could reasonably understand as intended to discourage the BPD employee or witness from providing a full account; and c. Close an investigation for any of the following reasons: <ul style="list-style-type: none"> i. The complainant seeks to withdraw the complaint or is unavailable, unwilling, or unable to cooperate with an investigation; if the complainant is unable or unwilling to provide additional information beyond the initial complaint, the investigation will continue as necessary to resolve the original allegation(s) where possible based on the available evidence and investigatory procedures and techniques; ii. The complainant pleads or is found guilty of an offense; iii. The principal resigns or retires; BPD and CRB will continue the investigation and reach a finding, where possible, based on the evidence and investigatory procedures and techniques available; iv. The complainant disagrees with the officer’s rationale for stopping or citing the complainant (such as contending that she was not committing a violation), if the complaint also includes an allegation of officer misconduct in addition to a disagreement with the officer’s rationale for the encounter. 	<p style="text-align: center;">4d (Initial Compliance)</p>
350	<p>BPD will ensure that OPR supervisors regularly meet with misconduct investigators to evaluate the progress of an investigation. BPD will ensure that those meetings are properly documented.</p>	<p style="text-align: center;">4c (Implementation – On Track)</p>
351	<p>At the conclusion of each investigation, misconduct investigators will prepare an investigation report. The report will include:</p> <ul style="list-style-type: none"> a. A narrative description of the incident, including a precise description of the evidence that either justifies or fails to justify the officer’s conduct based on the misconduct investigator’s independent review of the facts and circumstances of the incident; b. Documentation of all evidence that was gathered, including names, phone numbers, and addresses of witnesses to the incident. In situations in which there are no known witnesses, the report will specifically state this fact. In situations in which witnesses were present but circumstances prevented the misconduct investigator from determining the identification, phone number, or address of those witnesses, the report will state the reasons why. The report also will include all available identifying information for anyone who refuses to provide a statement; c. Documentation of whether officers or other BPD employees were interviewed, including audio and video and a transcript of those interviews, if available; d. The names of all other BPD employees who witnessed the incident; e. The misconduct investigator’s evaluation of the incident, based on his or her review of the evidence gathered, including a determination of whether the officer’s actions appear to be within BPD policy, procedure, regulations, orders, or other standards of conduct required of BPD officers; 	<p style="text-align: center;">4c (Implementation – On Track)</p>

	<ul style="list-style-type: none"> f. In cases where credibility determinations must be made, explicit credibility findings, including a precise description of the evidence that supports or detracts from the person’s credibility; g. In cases where material inconsistencies must be resolved between complainant, officer, and witness statements, explicit resolution of the inconsistencies, including a precise description of the evidence relied upon to resolve the inconsistencies; h. If a weapon was used, documentation that the officer’s certification and training for the weapon were current; and i. Documentation of recommendations for non-punitive corrective action or misconduct charges. 	
352	<p>BPD will develop a process to ensure that completed misconduct investigations are evaluated for policy, training, tactical or equipment concerns, including any recommendations for how those concerns will be addressed. This evaluation will include:</p> <ul style="list-style-type: none"> a. An assessment of whether the law enforcement action was in compliance with training and legal standards; b. Other tactics were more appropriate under the circumstances; c. The incident indicates a need for additional training, counseling, or other non-disciplinary corrective actions; and d. The incident suggests that BPD should revise its policies, strategies, tactics or training. 	<p>4c (Implementation – On Track)</p>
353	<p>BPD may develop a protocol governing the imposition of discipline in an expedited manner, when an officer agrees to the proposed discipline. BPD shall reserve the right to revoke the expedited disciplinary agreement if BPD discovers additional misconduct arising out of the same incident. The protocol will describe:</p> <ul style="list-style-type: none"> a. Those misconduct allegations that qualify for expedited discipline; b. How BPD will ensure that expedited discipline, when it is made available, is offered in a fair manner, and is appropriately reviewed by chain of command. 	<p>4c (Implementation – On Track)</p>
354	<p>The reviews of misconduct investigations will be conducted as follows:</p> <ul style="list-style-type: none"> a. For investigations into allegations of misconduct that do not involve police- civilian interactions, when carried out by supervisors at Districts, the supervisor shall forward the completed investigation report through his or her chain of command to the District Commander: <ul style="list-style-type: none"> i. Where the findings of the investigation report are not supported by the appropriate standard of proof, the supervisor’s chain of command shall document the reasons for this determination; ii. The supervisor’s chain of command shall take appropriate action to address the inadequately supported determination and any investigative deficiencies that led to it; iii. District Commanders shall be responsible for the accuracy and completeness of investigation reports into allegations of misconduct that do not involve police-civilian interactions prepared by supervisors under their command; iv. District Commanders will forward the completed investigation report to the OPR; 	<p>4c (Implementation – On Track)</p>

	<p>b. For investigations conducted by OPR, the investigator will forward the completed investigation report through his or her chain of command to the Director of the OPR:</p> <ul style="list-style-type: none"> i. The Director of the OPR will review the report to ensure that the report is complete, that it meets the requirements of BPD policy and this Agreement, and that the findings are supported by the appropriate standard of proof; ii. The Director shall order additional investigation when it appears that there is additional relevant evidence that may assist in resolving inconsistencies or improving the reliability or credibility of the findings; iii. Whenever a superior officer orders additional investigation, it shall be documented in writing. 	
355	<p>BPD will ensure that anyone tasked with investigating employee misconduct possesses excellent investigative skills, a reputation for integrity, the ability to write clear reports, and the ability to be fair and objective in determining whether an employee committed misconduct. When selecting new investigators, BPD will consider the candidates' complaint history, including any pattern of complaints, the severity of the alleged misconduct, and the outcome of the misconduct investigation.</p>	<p>4d (Initial Compliance)</p>
356	<p>BPD recognizes the negative impact of actual bias or the appearance of bias on the legitimacy of internal investigations. For that reason, conflicts of interest in misconduct investigations or in those assigned by BPD to hold hearings and make disciplinary decisions shall be prohibited. This provision requires BPD to ensure the following:</p> <ul style="list-style-type: none"> a. No employee who was involved in or a witness to an incident shall conduct or review a misconduct investigation arising out of that incident; b. No employee who has an external business relationship or close personal relationship with a principal or witness in a misconduct investigation shall conduct or review the misconduct investigation. No such person may make any disciplinary decisions with respect to the misconduct including the determination of any applicable grievance or appeal arising from any discipline; c. No employee shall be involved in an investigation or make any disciplinary decisions with respect to any person who they directly report to in their chain of command. In cases where BPD is unable to meet this requirement, the investigation must be referred to an outside authority. Any outside authority retained by BPD must possess the requisite background and level of experience of internal affairs investigators and must be free of any actual or perceived conflicts of interest; d. OPR investigators will not be assigned to any assignments which could create a conflict of interest for their administrative investigations, including any assignment in which the investigator would report to or work with the subject of an open investigation. 	<p>4d (Initial Compliance)</p>
357	<p>At the discretion of the Director of the OPR, a misconduct investigation may be assigned or re-assigned to another misconduct investigator. This assignment or re-assignment shall be documented in writing.</p>	<p>4d (Initial Compliance)</p>

358	BPD will provide information to the Office of the Public Defender about how to file and follow-up on complaints about officer misconduct.	4d (Initial Compliance)
D. Criminal Misconduct Investigations		
359	If at any time during the intake or investigation of the misconduct complaint the investigator finds evidence indicating apparent criminal conduct by any BPD personnel, the investigator shall promptly notify the OPR. The OPR shall consult with the relevant prosecuting agency or federal law enforcement agency regarding the initiation of a criminal investigation. Where an allegation is investigated criminally, OPR shall and, when applicable, CRB may continue with the administrative investigation(s) of the allegation, absent specific circumstances that would jeopardize the criminal investigation. In such circumstances, the decision to postpone the administrative investigation, along with the rationale for doing so, will be documented in writing and reviewed by the Commissioner or his/her designee, and, when applicable, the Director of CRB.	4c (Implementation – On Track)
360	When a BPD officer affirmatively refuses to give a voluntary statement and BPD has probable cause to believe the person has committed a crime, BPD shall consult with the prosecuting agency (e.g. State’s Attorney’s Office or the United States’ Attorney’s Office), and seek approval of the Commissioner or his/her designee before taking a compelled statement for the purposes of conducting an administrative investigation. All decisions regarding compelling an interview, all decisions to hold any aspect of an administrative investigation in abeyance, and all consultations with the criminal investigator and prosecuting authority shall be documented in writing.	4c (Implementation – On Track)
361	The OPR will ensure that criminal investigators do not have access to any materials protected by <i>Garrity v. New Jersey</i> , 385 U.S. 493 (1967), and shield any compelled interview and its fruits from criminal investigators. To protect BPD officers’ rights under the Fifth Amendment, BPD shall develop and implement protocols to ensure that criminal and administrative investigations of BPD employees are kept appropriately separate and to ensure that any <i>Garrity</i> -compelled statement taken during an OPR investigation will not compromise the criminal investigation or criminal prosecution for the same conduct.	4d (Initial Compliance)
362	Nothing in this Section shall alter BPD employees’ obligation to provide a public safety statement regarding a work-related incident or activity, including Use of Force Reports and incident reports. BPD shall make clear that all statements by personnel in incident reports arrest reports, Use of Force Reports and similar documents, and statements made in interviews such as those conducted in conjunction with BPD’s routine use of force review process, are part of each employee’s routine professional duties and are not compelled statements. Where an employee believes that providing a verbal or written statement will be self-incriminating, the employee shall affirmatively state this and shall not be compelled to provide a statement without prior consultation with the prosecuting attorney (e.g., State’s Attorney’s Office or the United States’ Attorney’s Office), and approval by the Commissioner.	4c (Implementation – On Track)
363	If BPD refers an investigation of an officer for prosecution and the prosecuting agency declines to prosecute or dismisses the criminal case after the initiation of criminal charges,	4b

	the OPR shall request an explanation for this decision, which shall be documented in writing and appended to the criminal investigation report.	(Implementation – Off Track)
364	The OPR shall maintain all reports and files concerning criminal investigation of officers after they are completed for the duration of the officer’s employment with BPD. Thereafter, the officer’s disciplinary record shall be maintained as a personnel record by BPD’s Human Resources section in the normal course of business.	4d (Initial Compliance)
E. Referral of Criminal and Administrative Misconduct Investigations to Outside Entities		
365	BPD shall develop protocols to govern when to refer allegations of administrative or criminal misconduct by BPD officers to another law enforcement agency or qualified outside investigator to conduct the investigation. There shall be separate protocols for referring a criminal investigation and an administrative investigation. Each protocol will specify the criteria to be considered in making the referral, including how to select the agency or outside investigator to receive the referral.	4d (Initial Compliance)
366	The protocols shall include provisions for dealing with incidents in which there are actual or perceived conflicts of interest that would prevent BPD from effectively conducting the investigation.	4d (Initial Compliance)
367	The protocols shall include provisions that govern when BPD’s review of a referred investigation would be appropriate.	4d (Initial Compliance)
368	In cases when BPD review is appropriate, OPR shall review the completed investigation to ensure that it is of sufficient quality and completeness. The Director of the OPR shall request the entity conducting the investigation to conduct additional investigation when it appears that there is additional relevant evidence that may improve the reliability or credibility of the investigation.	4d (Initial Compliance)
369	In the case of potentially criminal conduct, should the entity conducting the investigation decide to close the investigation without referring it to a prosecuting agency, this decision must be documented in writing and provided to the OPR. The OPR shall separately consider whether to refer the matter to a prosecuting agency and shall document its decision in writing.	4c (Implementation – On Track)
370	If the prosecuting agency declines to prosecute an officer or dismisses the criminal case after the initiation of criminal charges, the OPR shall request an explanation for this decision, which shall be documented in writing and appended to the criminal investigation report.	4b (Implementation – Off Track)
371	The OPR shall maintain all criminal and administrative investigation reports and files of the outside entities performing the investigation after reports and files are completed.	4d (Initial Compliance)

F. Disciplinary Charges		
372	BPD will ensure that disciplinary charges for sustained allegations of misconduct are consistently applied, fair, and based on the nature of the allegation, the evidence, and that mitigating and aggravating factors are identified and consistently applied and documented.	4c (Implementation – On Track)
373	Where, after OPR conducts a misconduct investigation and an officer's actions are found to violate policy, BPD shall ensure appropriate charges are brought and/or corrective action is taken.	4d (Initial Compliance)
374	Where the investigation concerns misconduct that does not involve police-civilian interactions and is conducted by a Supervisor at a District or a Unit, the District Commander will have the authority to initiate appropriate disciplinary action and/or take corrective action depending on the seriousness of the misconduct.	Not Applicable
375	In order to ensure consistency in the imposition of discipline, BPD will review its current disciplinary matrices, policies, and procedures and will amend them as necessary to ensure that they: <ul style="list-style-type: none"> a. Establish a presumptive range of discipline for each type of violation; b. Increase the presumptive discipline based on an officer's prior violations; c. Set out defined mitigating and aggravating factors; d. Prohibit consideration of the officer's race, religion, gender, gender identity, sexual orientation, national origin, age, ethnicity, or familial relationships; e. Prohibit consideration of the high (or low) profile nature of the incident; f. Prohibit taking only non-disciplinary corrective action in cases in which the disciplinary matrices call for the imposition of discipline; g. Provide that the BPD will consider whether non-disciplinary corrective action also is appropriate in a case where discipline has been imposed; and h. Require that any departures from the discipline recommended under the disciplinary matrices be justified in writing. 	4c (Implementation – On Track)
376	Each sustained misconduct allegation shall be considered for the purposes of recommending discipline.	4d (Initial Compliance)
377	BPD will review its policies and procedures regarding resignation of officers under investigation, and referral of officers found to have engaged in misconduct to state and federal agencies. BPD will ensure that such policies do not authorize suspending a misconduct investigation solely because the officer resigned.	4d (Initial Compliance)
378	BPD will provide the required notice to the Maryland Police Training and Standards Commission, including when an officer resigns while a misconduct investigation or disciplinary charges are pending.	4d (Initial Compliance)

G. Disciplinary Hearings		
379	If a disciplinary hearing is convened, BPD will ensure the disciplinary hearing comports with state law and the following requirements.	0 (Not Assessed)
380	Two civilian voting members will participate and vote in each disciplinary hearing conducted by BPD, if permitted by law.	0 (Not Assessed)
381	Disciplinary hearings will be audio recorded in their entirety.	0 (Not Assessed)
382	If an accused officer provides new and material evidence at a disciplinary hearing, the hearing will be suspended, upon the Department's motion, unless there is good cause to continue with the hearing explained in writing by the hearing panel. If the hearing is suspended, BPD shall ensure that the new and material evidence is properly investigated and evaluated before resumption of the hearing. The OPR shall initiate a new or consolidated misconduct investigation if it appears that the officer intentionally withheld the new and material evidence during the initial misconduct investigation.	0 (Not Assessed)
383	Where a disciplinary hearing is convened, BPD shall require that the hearing board provide in writing the findings, as well as a recommendation of discipline made pursuant to the BPD disciplinary matrix. When the hearing board decides not to impose discipline or non-disciplinary corrective action, it will set forth its justification for doing so in writing. All documentation from the disciplinary hearing will be included in the Department's investigative file. Dissenting hearing board members may also provide their conclusions and reasoning in writing.	0 (Not Assessed)
384	Disciplinary hearings shall be scheduled within 30 days of informing the involved officer of the recommended discipline. BPD will use its best efforts to ensure that disciplinary hearings will be conducted within 120 days of informing the involved officer of the recommended discipline.	0 (Not Assessed)
H. Imposition of Discipline		
385	BPD will ensure that discipline comports with due process and is consistently applied, fair, and based on the nature of the charges, the evidence, and that mitigating and aggravating factors are identified and consistently applied and documented.	4c (Implementation – On Track)
386	When appropriate, the full investigative file, along with all recommendations of discipline made throughout the disciplinary process, shall be provided to the Commissioner or his/her designee for the ultimate determination of whether to impose discipline.	4d (Initial Compliance)
387	The OPR shall maintain all administrative investigation reports and files after they are completed for the duration of the officer's employment with BPD. Once the officer leaves BPD employment, that officer's disciplinary record will be maintained as a personnel record by BPD Human Resources Division in the normal course of business.	4d (Initial Compliance)
388	BPD will eliminate policies that authorize the expungement of records where an employee accepts discipline.	4d (Initial Compliance)

389	<p>BPD will continue to provide a mediation program designed by community organizations and mediated by community members to act as an alternative to the investigation process described above for certain minor allegations of officer misconduct impacting civilians. BPD will ensure that the complaint-mediation program is designed to increase understanding and trust between community members and BPD officers and to prevent future misconduct and complaints of misconduct. The City will support this program when it is involved. The program will specifically provide that:</p> <ol style="list-style-type: none"> a. Complaints will only be resolved through mediation where both the complainant (or his or her designee) and the subject officer agree to participation in the mediation process; b. Only certain minor complaint allegations will be eligible for mediation, as set out in BPD policy; a screening process for identifying complaints that may be suitable for mediation shall include a review of the principal’s disciplinary history, including investigations that resulted in a finding of not sustained, to look particularly for patterns of behavior or allegations of retaliation; and c. Where the mediator determines that the officer is not participating in the mediation program in good faith, the mediation shall end and the complaint investigation shall resume. 	<p>0 (Not Assessed)</p>
390	<p>BPD and the City, to the extent it is involved, will ensure that the program is effectively administered. BPD will disseminate information to the public about the availability of community mediation.</p>	<p>0 (Not Assessed)</p>
391	<p>BPD will ensure that any complaints that are sent to community-centered mediation are tracked in its centralized electronic numbering and tracking system for all allegations of misconduct.</p>	<p>0 (Not Assessed)</p>
J. Tracking Misconduct Investigations		
392	<p>BPD will maintain a centralized electronic numbering and tracking system for all allegations of misconduct, whether internally discovered or based upon a civilian complaint:</p> <ol style="list-style-type: none"> a. The centralized numbering and tracking system will maintain accurate and reliable data regarding the number, nature, and status of all misconduct allegations, from initial intake to final disposition, including investigation timeliness and notifications made to the complainant of the interim status and final disposition of the complaint; b. The system will be used to determine the status of misconduct investigations, as well as for periodic assessment of compliance with relevant policies and procedures and this Agreement, including requirements of timeliness of investigations; c. The system also will be used to monitor and maintain appropriate caseloads for misconduct investigators, and to monitor supervisory role in investigations; d. All documents and files – including audio and video – will be kept in a digital format, and shall be accessible via the centralized numbering and tracking system. 	<p>4d (Initial Compliance)</p>
393	<p>BPD will develop a protocol to share information from OPR misconduct investigations with prosecuting agencies when appropriate. In developing this protocol, BPD will seek to collaborate with local prosecuting attorneys (e.g., State’s Attorney’s Office or the United States’ Attorney’s Office).</p>	<p>4c (Implementation – On Track)</p>

394	<p>BPD will ensure that complainants and the public will be able to assess the status of, and track, misconduct investigations, including the following:</p> <ul style="list-style-type: none"> a. A complainant may contact BPD between 8:30 and 4:30 to determine the status of his or her complaint, and BPD will provide the status; b. BPD will ensure that individuals who contact any officer or unit of BPD to inquire about the status of a complaint investigation will be promptly routed to OPR; c. BPD shall aggregate and analyze data about misconduct investigations on at least an annual basis; d. As permissible by law, BPD shall share this information with the public[.] 	<p>4a (Implementation – Not Assessed)</p>
395	<p>The OPR will track, as a separate category of complaints, at least the following:</p> <ul style="list-style-type: none"> a. Allegations of discriminatory policing, including allegations that an officer issued a Citation, or conducted a stop or arrest based on an individual’s Demographic Category, or used a slur based on an individual’s Demographic Category; b. Allegations of unlawful Stop, Search, Citation, or Arrest practices; c. Allegations of excessive force; d. Allegations of misconduct involving individuals who are known to be homeless; e. Allegations of misconduct involving individuals who have a disability, including mental illness; f. Allegations of theft by BPD officers; g. Allegations of retaliation; h. Allegations that BPD officers interfered with civilians’ constitutionally protected free expression; i. Allegations that BPD officers engaged in sexual misconduct; j. Allegations of inappropriate conduct by officers during investigations of sexual assault or other crimes of violence against women; k. Allegations of misconduct in officers’ interactions with people who are LGBT; l. Allegations of misconduct in officers’ interactions with sex workers; and m. Allegations of misconduct in officers’ interactions with Youth. 	<p>4d (Initial Compliance)</p>
<p>K. Transparency Measures</p>		
396	<p>The City and BPD recognize the importance of transparency to improving BPD-community relations and BPD has already taken significant steps to increasing transparency about its operations, including how it conducts internal investigations into officer misconduct. The City and BPD will continue to take steps to increase transparency, including the following provisions.</p>	<p>Not Applicable</p>
397	<p>The City and BPD will develop and implement a program to promote awareness throughout the Baltimore City community about the process for filing complaints about the conduct of BPD officers. The program will address how to inform members of vulnerable communities in Baltimore of the existence of the complaint investigation process, and may include collaborating directly with local community groups.</p>	<p>4d (Initial Compliance)</p>
398	<p>BPD shall make available on its website a detailed written description, in plain language, of the BPD administrative investigative process from the intake of a complaint to imposition of discipline. BPD’s website will also include a description of the CRB complaint option and a link to the CRB website.</p>	<p>4c (Implementation – On Track)</p>

399	In addition to a written description, BPD shall create a short video that explains the jurisdiction and duties of entities within BPD, including the Office of Professional Responsibility, the Internal Affairs Section, and the Special Investigative Response Team. The video shall be posted on the website of the BPD. BPD shall make publicly available all policies and procedures regarding its internal investigation and disciplinary process.	4c (Implementation – On Track)
400	BPD will post and maintain at the reception desk at BPD headquarters and in locations at all District stations that are clearly visible to members of the public permanent placards clearly and simply describing the BPD and CRB civilian complaint intake process. The placards shall include relevant contact information, including telephone numbers, email addresses, and Internet sites. The placards shall be in both English and Spanish.	4d (Initial Compliance)
401	The City and BPD will create complaint forms, and informational materials, including brochures and posters that describe the internal investigation and disciplinary process at CRB and BPD, respectively; provide information about the multiple places and ways individuals may file complaints; information about how and where individuals may check the status of the complaint investigations; and contact information for the OPR and CRB.	4d (Initial Compliance)
402	<p>The OPR and the CRB will separately produce a quarterly public report on misconduct investigations, including, at a minimum, the following:</p> <ul style="list-style-type: none"> a. Aggregate data on complaints received from the public, broken down by district; rank of principal(s); nature of contact (traffic stop, pedestrian stop, call for service, etc.); nature of allegation (rudeness, bias-based policing, etc.); complainants' demographic information (age, gender, race, ethnicity, etc.); complaints received from anonymous or third parties; and principals' demographic information; b. Aggregate data on internally-generated misconduct allegations, broken down by similar categories as those for civilian complaints; c. Aggregate data on the processing of misconduct cases; the average and median time from the initiation of an investigation to its submission by the investigator to his or her chain of command; the average and median time from the submission of the investigation by the investigator to a final decision regarding whether to impose charges; the average and median time from the decision to impose charges to a final disposition; the average and median time from the receipt of the complaint to the initial contact with the complainant; the number of investigations returned to the original investigator due to conclusions not being supported by the evidence; and the number of investigations returned to the original investigator to conduct additional investigation; d. Aggregate data on the outcomes of misconduct investigations, including the number of sustained, not sustained, exonerated, and unfounded misconduct complaints; the number of sustained allegations resulting in a non-disciplinary outcome the number resulting in disciplinary charges; e. Aggregate data on the disposition of charges, including the number resulting in written reprimands, suspension, demotion, and termination; f. Aggregate data on outcomes of misconduct investigations by allegation, broken down by race, ethnicity, and gender of the complainant and the officer; g. Aggregate data on officers with persistent or serious misconduct problems, including the number of officers who have been the subject of more than two completed misconduct investigations involving serious misconduct allegations in the 	4c (Implementation – On Track)

	<p>previous 12 months; the number of officers who have had more than one sustained allegation of serious misconduct in the previous 12 months, including the number of sustained allegations and the number of criminal prosecutions of officers, broken down by criminal charge;</p> <p>h. Aggregate data on officers who have been the subject, in the previous 12 months, of more than 2 complaints of the following categories, regardless of the outcome of those complaint investigations:</p> <ul style="list-style-type: none"> i. Allegations of biased policing, including allegations that an officer conducted an investigatory stop or arrest based on an individual's Demographic Category or used a slur based on an individual's Demographic Category; ii. Allegations of excessive force; allegations of unlawful stops, searches and arrests, including allegations of improper Strip Searches; iii. Allegations of interference with constitutionally protected expression; and iv. Allegations of criminal misconduct, broken down by allegation. 	
403	BPD will develop a protocol to ensure appropriate transparency concerning the disciplinary hearing process and outcomes.	0 (Not Assessed)
404	After final disposition of misconduct complaints, BPD shall make detailed summaries readily available to the public to the full extent permitted under state and federal law, in electronic form on a designated section of its website that is linked to directly from BPD's home page with prominent language that clearly indicates to the public that the link provides information about investigations of misconduct by BPD officers.	2 (Planning/Policy)
405	BPD will audit, on at least an annual basis, BPD's disciplinary process to ensure quality control. The audit(s) will include complaint intake, investigation, and the imposition of discipline. BPD will make public any of the audits' findings, to the extent state and federal law permits.	4c (Implementation – On Track)
L. Additional Measures to Encourage Proper Oversight		
406	<p>BPD shall establish a testing program designed to assess civilian complaint intake. The testing program shall assess whether employees are providing civilians appropriate, accurate, and complete information about the complaint process and whether employees are notifying the OPR and the CRB upon the receipt of a civilian complaint. The testing program shall:</p> <ul style="list-style-type: none"> a. Assess complaint intake for complaints made in person at BPD facilities, complaints made telephonically, and complaints made electronically by email or through BPD's website; b. Include sufficient random and targeted testing to assess the complaint intake process, using surreptitious video and/or audio recording of testers' interactions with BPD personnel to assess the appropriateness of responses and information provided, to the extent state law permits; c. Assess whether complainants of different races, ethnicities, or gender identities are treated differently; d. Assess whether employees who take complaints promptly notify the OPR and the CRB of civilian complaints and provide accurate and complete information. 	0 (Not Assessed)

407	<p>The testing program shall not:</p> <ol style="list-style-type: none"> a. Assess investigations of civilian complaints, and BPD shall design the testing program in such a way that it does not waste resources investigating fictitious complaints made by testers; b. Interfere with officers taking law enforcement action; c. Attempt to assess complaint intake in the course of traffic stops or other law enforcement action being taken outside of City facilities. 	0 (Not Assessed)
408	<p>BPD shall produce an annual report on the testing program. This report shall include, at a minimum:</p> <ol style="list-style-type: none"> a. A description of the testing program, including the testing methodology and the number of tests conducted broken down by type (i.e., in-person, telephonic, and electronic); b. The number and proportion of tests in which employees responded inappropriately to a tester; c. The number and proportion of tests in which employees provided inaccurate information about the complaint process to a tester; d. The number and proportion of tests in which employees failed to promptly notify the OPR of the civilian complaint; e. The number and proportion of tests in which employees failed to convey accurate information about the complaint to the OPR; f. An evaluation of the civilian complaint intake based upon the results of the testing program; and g. A description of any steps to be taken to improve civilian complaint intake as a result of the testing program. 	0 (Not Assessed)
L. Additional Measures to Encourage Proper Oversight		
409	<p>BPD will provide all investigators assigned to the OPR with at least 40 hours of comprehensive training on conducting employee misconduct investigations.</p>	4d (Initial Compliance)
410	<p>BPD's training will include instruction in:</p> <ol style="list-style-type: none"> a. Investigative skills, including proper interrogation and interview techniques; gathering and objectively analyzing evidence; and data and case management; b. How to appropriately classify complaints pursuant to BPD policy; c. The particular challenges of administrative law enforcement misconduct investigations, including identifying alleged misconduct that is not clearly stated in the complaint or that becomes apparent during the investigation; d. Weighing the credibility of witnesses, including properly weighing the credibility of civilian witnesses against officers' credibility; e. Using objective evidence to resolve inconsistent statements; f. The proper application of the appropriate standard of proof; g. Relevant BPD rules and policies, including protocols related to administrative investigations of alleged officer misconduct; h. BPD policies, including the requirements of this Agreement and protocols related to administrative investigations of officer misconduct; and i. Relevant state and federal law. 	4d (Initial Compliance)

411	The training will be provided by sources both inside and outside of BPD, in order to ensure the highest training on investigative techniques that are specific to the Baltimore community, and BPD policies, procedures, and disciplinary rules.	4d (Initial Compliance)
412	<p>The City will provide all investigators employed by the CRB with at least 40 hours of comprehensive training on conducting investigations into officer misconduct. This training will include instruction in:</p> <ol style="list-style-type: none"> a. Investigative skills, including proper interrogation and interview techniques; gathering and objectively analyzing evidence; and data and case management; b. How to appropriately classify complaints pursuant to CRB policy; c. The particular challenges of misconduct investigations, including identifying alleged misconduct that is not clearly stated in the complaint or that becomes apparent during the investigation; d. Weighing the credibility of witnesses, including properly weighing the credibility of civilian witnesses against officers' credibility; e. Using objective evidence to resolve inconsistent statements; f. The proper application of the appropriate standard of proof; g. Relevant BPD and CRB rules and policies, including protocols related to investigations of alleged officer misconduct; h. The requirements of this Agreement and protocols related to investigations of officer misconduct; and i. Relevant state and federal law. 	4d (Initial Compliance)
413	BPD will ensure the training that is provided to BPD misconduct investigators pursuant to this Agreement is available to CRB investigators.	4d (Initial Compliance)
414	All BPD Supervisors and personnel who may become responsible for investigating complaints misconduct not involving police-civilian interactions will receive 8 hours of in-service training annually related to conducting misconduct investigations. BPD will provide 4 hours of in-service training to all Supervisors on their obligations when called to a scene by a subordinate to accept a civilian complaint about that subordinate's conduct.	4d (Initial Compliance)
415	<p>BPD will provide training to all police personnel on BPD's revised or new policies related to misconduct investigations and discipline. This training shall include instruction on:</p> <ol style="list-style-type: none"> a. Identifying and reporting misconduct, the consequences for failing to report misconduct and the consequences for retaliating against a person for reporting misconduct or participating in a misconduct investigation; b. To properly handle complaint intake, including how to provide complaint materials and information and the consequences for failing to take complaints; c. The proper categorization of complaints including recognizing allegations of misconduct even when not explicitly identified by the complainant; d. Strategies for turning the complaint process into a positive police-civilian interaction; e. The consequences for intentionally mis-categorizing complaints related to: discriminatory policing based on an individual's Demographic Category; allegations of unlawful stops, searches and arrests; allegations of improper Strip Searches; allegations of interference with constitutionally protected expression; and any allegations of criminal misconduct, including sexual misconduct; and 	4d (Initial Compliance)

	f. The consequences for failing to provide information, or failing to make information available.	
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