

THE BALTIMORE CITY CRIMINAL JUSTICE COORDINATING COUNCIL

MINUTES FROM THE MAY 10, 2017 MEETING

Council Members In Attendance*: Chair Judge Charles Peters, Circuit Court; Mary Abrams, Clerk of the District Court; Kimberly S. Barranco, CJCC Executive Director; Marilyn Bentley, Clerk of the Circuit Court for Baltimore City; Jay Cleary for Sam Abed, Secretary, Department of Juvenile Services; Assistant Sheriff Samuel Cogen for John Anderson, Sheriff of Baltimore City; Kevin Davis, Baltimore City Police Commissioner; Kirsten G. Downs, Baltimore City Public Defender; Elizabeth Embry for Brian Frosh, Attorney General of Maryland; Judge James H. Green for Judge Barbara Baer Waxman, Administrative Judge, District Court; Don Hogan for Lawrence J. Hogan, Jr., Governor of the State of Maryland; Marilyn Mosby, State's Attorney for Baltimore City; Walter Nolley, Regional Administrator, Division of Parole and Probation, Department of Public Safety and Correctional Services; Judge W. Michel Pierson, Administrative Judge, Circuit Court; Catherine E. Pugh, Mayor of Baltimore City; Michael R. Resnick, Commissioner, Division of Pretrial Detention and Services, Department of Public Safety and Correctional Services; Stephen M. Schenning, Acting U.S. Attorney for the District of Maryland; Crista Taylor, President and CEO, Behavioral Health System Baltimore; Dr. Leana Wen, Commissioner of Health, Baltimore City; and Bernard C. "Jack" Young, City Council President.

Others in Attendance*: Gabriel W. Auteri, Baltimore City Health Department; Margaret Boyd-Anderson, Criminal Justice Coordinating Council; Sabrina Brown, VA MHC; Doug Colbert, University of Maryland Francis King Cary School of Law; Debora Darden, DPSCS; Tisha Edwards, Mayor's Office; Clint Fuchs, U.S. Attorney's Office; Deirdre Gardner, Roberta's House; James Gillis, Baltimore Police Department; James S. Haskell, VA Maryland; Kelly R. Hurtt, Community Services; Elizabeth Julian, Former District Public Defender; Leon King, Division of Pretrial Detention and Services; Judge George Lipman, District Court; Paul Plymouth, Office of the President of the Baltimore City Council; Tyrone Roper, Behavioral Health System Baltimore; Claire Rossmark, DLS; Lisa Smith, Baltimore City State's Attorney's Office; and Caryn York, Job Opportunities Task Force.

***We request that all in attendance sign the attendance sheet which is available at each meeting.**

MEETING DIALOGUE

The meeting was called to order at 12:31 p.m. Judge Charles Peters greeted Council members and their representatives.

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I. CHAIR'S REPORT – JUDGE CHARLES PETERS

Judge Peters welcomed new members Crista Taylor, President & CEO of Behavioral Health System Baltimore, Kirsten Gettys Downs, District Public Defender and Acting U.S. Attorney Stephen Schenning. He requested a motion to approve the April 12, 2017 meeting minutes and they were unanimously adopted. Judge Peters advised that there is no June meeting due to the Maryland State Bar Association Annual Meeting and Judicial Conference. He further advised that the next meeting will be held on July 12, 2017 and that there will be a presentation about the LEAD Program.

II. EXECUTIVE DIRECTOR'S REPORT – KIMBERLY SMALKIN BARRANCO

Kimberly Barranco reported that an updated contact list was included in the meeting packets, which contained new contact information for District Public Defender Kirsten Gettys Downs and Acting U.S. Attorney Stephen Schenning. She advised that a copy of a support letter on behalf of the CJCC for the Community Services Program in support of their GOCCP grant funding was also included in member's packets. Ms. Barranco stated that for FY18, the Community Services Program grant had been reduced, and the program will no longer be funded by GOCCP in FY19. She further stated that Community Services Director Ann Elliott continues to seek multiple funding options and will be applying for available grants, and Ms. Barranco stated that she would provide a copy of any additional needed support letters to the Council at future meetings. Ms. Barranco stated that the Circuit Court for Baltimore City would host a Graduation Ceremony for Adult Treatment Court on Friday, May 26, 2017 in Courtroom 234 of Courthouse East, 111 N. Calvert Street. She further stated that the ceremony would begin at 8:45 a.m. and last approximately one and a half hours. Ms. Barranco advised that the keynote speaker will be Mayor Catherine E. Pugh, who would be speaking promptly at 9:00 a.m. Ms. Barranco said that a number of CJCC members attend the drug court ceremony regularly and she encouraged Council members to attend. Ms. Barranco explained that it is very moving to hear the graduates speak from their hearts about how they have their lives back now that they are drug-free. Ms. Barranco advised that a memo with information regarding the ceremony was in Council members' packets. Ms. Barranco thanked the Council for their commitment and support of the CJCC.

Judge Peters thanked Ms. Barranco for the CJCC Executive Director's report.

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III. DIVISION OF PRETRIAL DETENTION AND SERVICES REPORT – MICHAEL R. RESNICK, COMMISSIONER, DIVISION OF PRETRIAL DETENTION AND SERVICES

Commissioner Michael R. Resnick advised that the National Correctional Officers and Employees Week was May 7, 2017 through May 13, 2017. Commissioner Resnick further advised Council members that copies of the Division of Pretrial Detention and Services Statistics Report were included in their meeting packets. He reported that the bookings processed for the month of May was 2,210 and that all categories were down. Commissioner Resnick further reported that there were approximately 142 people on \$30,000 bail or less and that 50% of the population was released within 14 days or less. He advised that the average time in custody is 119 days, which was down from the previous month. He conveyed that the total end of month population was 2,265. Commissioner Resnick reported on the Pretrial Release Services Assessments and Investigations. He stated that 1,104 Pretrial investigative assessments were completed in March 2017 and 103 supplemental investigations were completed. Commissioner Resnick further stated that 966 defendants were supervised in the community at the end of the month. Mayor Catherine E. Pugh asked if the Division of Pretrial Detention and Services does a comparative analysis from year to year and Commissioner Resnick replied that they do not, but they could do so.

Judge Peters thanked Commissioner Resnick for his report.

IV. BALTIMORE POLICE DEPARTMENT REPORT – POLICE COMMISSIONER KEVIN DAVIS

Commissioner Kevin Davis referred Council members to the Commissioner's report, which was included in their packets. He stated that violence is the primary focus and he further stated that there was a 53.7% homicide closure rate this year, compared to 38% in 2016. Commissioner Davis reported that the year-to-date arrests for homicide, burglary, and auto-thefts increased by double digits. He further reported that Mayor Pugh held a press conference to announce the use of the ATF's Mobile Ballistics Van and he shared how the use of the ballistic evidence mobile van has reduced backlogs. Commissioner Davis conveyed that an Opioid Task Force was introduced on Tuesday, May 9, 2017 and he further conveyed that BPD's effort was to get drug dealers off the street. He discussed how BPD has implemented a mandatory policy for BPD officers to administer Naloxone (Narcan) to reduce fatalities associated with opioid overdoses. Commissioner Davis further discussed the hazards of carfentanil and fentanyl. He conveyed how fentanyl has become more available on the streets and how this synthetic opioid drug is less expensive and has become more profitable to drug dealers. Commissioner Davis concluded his report by stating the BPD now has a new

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updated website. Judge Peters asked about the difference between Fentanyl and Carfentanil. Dr. Leana Wen replied that Carfentanil is 100 times stronger than Fentanyl and has been used as an elephant tranquilizer. She further replied that Fentanyl is 100 times more potent than heroin and morphine and that the drug is being mixed with heroin. Dr. Wen stated that she is working with partners to raise awareness. Mayor Pugh commented that this is a serious drug problem across the state. She stated that Anne Arundel and Harford counties are suffering from the same drug issues and she further stated how Governor Larry Hogan has called a State of Emergency in response to the heroin, opioid, and fentanyl crisis.

Judge Peters thanked Commissioner Davis for his report.

V. GOVERNOR OF THE STATE OF MARYLAND'S REPORT – DON HOGAN, CHIEF OF LEGISLATION, GOVERNOR'S OFFICE OF CRIME CONTROL AND PREVENTION

Don Hogan reported that there were approximately 22 fentanyl related deaths in 2014, 192 in 2015, and 738 in 2016, and he stated that this is a serious problem. He advised that Baltimore City was awarded \$32M in grants from 2016-2017 and that some of the awards were in conjunction with the Victims of Crime Act. He discussed the Justice Reinvestment Act and noted that Ganesha Martin from BPD was appointed to the Local Commission. He stated that JRI requires each jurisdiction to provide a need analysis and will emphasize outcome measurements.

Judge Peters thanked Don Hogan for the Governor of the State of Maryland's Report.

VI. OFFICE OF THE PUBLIC DEFENDER REPORT – KIRSTEN DOWNS, BALTIMORE CITY PUBLIC DEFENDER

Elizabeth Julian reported that she was retiring as District Public Defender with the Office of the Public Defender. She further reported that she has been a life-long resident of Baltimore City and a lawyer for 32 years. Ms. Julian stated that at the end of the day, the Office of the Public Defender has given voice to the poor, honored the law, and defended the Constitution. Ms. Julian advised that she has seen the repeal of the death penalty, bail reform, expungements for collateral consequences, and social change during her career, and she was now ready for new adventures. Ms. Julian introduced her successor, Kirsten G. Downs, Esq. who had served as Chief in the Office of the Public Defender's Wabash Office. Ms. Downs reported that the Office of the Public Defender provides tenacious advocacy and are warriors for accountability, equity, and fairness from bail reviews through sentencing. Ms. Downs further reported that the Office of the Public Defender is an essential community partner working with

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many stakeholders in Baltimore City and she asked for the CJCC's continued support. Ms. Downs shared information about the Office of the Public Defender Back to the Neighborhood Event, which provides expungement services. She advised that last year's event served over 600 participants. Ms. Downs further advised that this year's event is scheduled for July 26, 2017.

Judge Peters stated that he was sad to see Ms. Julian leave and thanked her for her contributions, and Mayor Pugh noted that Ms. Julian and her family have given so much public service to the City of Baltimore. Ms. Julian replied that she may be retired, but she was not tired and the CJCC thanked Ms. Julian for her years of service.

VII. MENTAL HEALTH COMMITTEE REPORT- JUDGE GEORGE LIPMAN, CHAIR

Judge Lipman thanked the members of the Mental Health Committee who attend meetings as representatives of the Council members. He stated that the Committee had accomplished a great deal, including facilitating a Hospital Warrants workgroup which after a great deal of discussion and numerous meetings, a BPD General Order detailing the protocol for the service of mental health Hospital Warrants was agreed to by the stakeholders and approved by Commissioner Kevin Davis. He explained that the Hospital Warrant service protocol prioritizes the service of the warrants by BPD and delineates responsibility for service, and they have done an excellent job in locating and serving mentally ill defendants in need of treatment since the protocol was created and the General Order was approved. Judge Lipman noted that there is now a problem with delays in getting defendants to the hospitals for evaluation and that Judge Rasin has had issues with her orders in Circuit Court. He stated that contempt hearings are pending and that this is a serious problem. Judge Lipman advised that another area which is positive is residential drug treatment through 8-507. Judge Lipman further advised that Governor Hogan has provided millions of dollars to address the issue and he thanked the Governor's Office. Judge Lipman further conveyed that the Mental Health Committee will address questions relating to changes in fees for services, such as how will providers sign up and be accepted for 8-507 treatment, and how will clinically appropriate length of stay be determined. He explained that 8-507 is a commitment statute, not just a reimbursement mechanism.

Judge Peters thanked Judge Lipman for his report.

VIII. LEGISLATIVE UPDATES

Judge Peters informed the Council that the Baltimore Police Department;

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Office of the State's Attorney; Baltimore City Council; Baltimore City Health Department; GOCCP; Office of the Attorney General; and Behavioral Health System Baltimore Office would share legislative updates. Judge Peters further informed that a written report on DVCC Domestic Violence Bills was included in Council members' packets.

a. Baltimore Police Department

James Gillis, Director of Government Affairs, Baltimore Police Department referred Council members to the BPD 2017 Legislative Session Activity Summary handout. Mr. Gillis reported that there were approximately 132 public safety and 109 criminal procedure bills introduced this year. He further reported that the sexual assault and sex crimes bills passed this year. Mr. Gillis elaborated on the following legislation.

SB 166/ HB 1037 Baltimore City – Civilian Review Board– Passed

This bill was part of BPD's portfolio targeted at transparency and trust, and was adopted by the Mayor as part of her legislative priorities package. The legislation removes the requirement that civilian complaints be notarized and extends the time for the filing of complaints for excessive force from 90 days to one year.

SB 545/HB 1023 Baltimore City – Law Enforcement Officers' Bill of Rights – Hearing Board – NO ACTION by House or Senate Committees

This bill was also part of BPD's portfolio targeted at transparency and trust, and was adopted by the Mayor as part of her legislative priorities package. The bill, if passed, would have exempted Baltimore City from the portion of LEOBR State law that allows for jurisdictions that engage in collective bargaining to negotiate an alternative hearing board structure for administrative hearings. Mr. Gillis noted that although this bill did not pass he expected it to be introduced and supported by BPD again.

Mr. Gillis discussed the gun and human trafficking legislation. He further discussed how the property tax credit and opioid legislation passed. Mr. Gillis stated that a number of bills codified mandates from the court. He concluded by conveying that the bill to limit possession of firearms on college campuses was defeated.

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b. Office of the State's Attorney

Marilyn Mosby, State's Attorney for Baltimore City thanked Elizabeth Julian for her service and she stated that Ms. Julian was instrumental in the Aim to B' More program. Ms. Mosby further stated that Ms. Julian would be missed. Ms. Mosby referred Council members to the 2017 Legislative Update: Office of the State's Attorney for Baltimore City. She stated that they made a great deal of progress and had legislative victories such as **SB 217/HB 429** and **SB 349/HB 255**, which dealt with a victim's rape kit and sexual assault. Ms. Mosby introduced Lisa Smith, Director of Legislative Affairs and Policy for the State's Attorney's Office. Ms. Smith elaborated on the following legislation.

SB 217/HB 429: Remove physical resistance as a requirement to prove a sex crime

Clarifies that evidence of physical resistance is not required to prove that a sex-crime occurred; the State will no longer have to prove that the victim physically fought back against his or her assailant.

SB 349/HB 255: Mandates evidence retention and victim notification of disposal

Requires law enforcement to retain rape kits for at least 20 years; enables victims who initially wish to remain anonymous to later decide to involve law enforcement.

Ms. Smith advised that the human trafficking workgroup has been extended for another year. She further advised that one of their prosecutors worked to draft a bill on animal cruelty. She elaborated that animal cruelty could be identified as being a lack of water, food, shelter, etc. and that each lack of necessity would serve as a separate count.

SB 790: Clarifies animal cruelty statute by separating each count of cruelty

Clarifies animal cruelty statute so the State and Court can hold animal abusers accountable for each count of lack of proper care. Assistant State's Attorney Wes Corning worked with animal rights advocates to draft this legislation and testify in support; the legislation will help stop animal abusers before they have the opportunity to redirect their violence towards humans.

Ms. Smith discussed the Aim to B' More apprenticeship program. She further discussed support for **SB 880** and she acknowledged that Caryn York from the Job Opportunities Task Force was in attendance. Ms. Smith concluded by reporting that **SB 316/HB369** which would have established a procedure for the admission of

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other bad acts in sex offense cases did not pass but the SAO will be working with stakeholders and advocates to increase its future chances of passage.

c. Baltimore City Council

Paul Plymouth, Legislative Assistant referred Council members to the memorandum from Baltimore City Council President Bernard C. “Jack” Young regarding the Statement on City Council Activities Related to Criminal Justice in Baltimore City. Mr. Plymouth reported on the following legislation that was supported by President Young and the other members of the City Council.

HB 0394/ SB 0317 – The More Jobs for Marylanders Act

This jobs bill will provide tax breaks to manufacturing firms that bring new jobs to Baltimore City, and other areas in the state with high unemployment.

Mr. Plymouth advised that President Young and members of the City Council supported **HB771**, which requires the Baltimore Police Department to report annually the demographic makeup of the BPD and other important topics relating to policing and community interactions. Mr. Plymouth further advised that there was support for the following legislation.

HB 1132/ SB 1149 – Transit Services for Public School Students

This bill will extend the hours that students can receive free ridership on any transit vehicle, providing students with a free and safe way to get to and from school.

President Young stated that they travel to Annapolis every year to testify in favor of bills to strengthen the City of Baltimore and he discussed his disappointment with a lack of legislative support.

d. Baltimore City Health Department

Dr. Leana Wen, Baltimore City Health Commissioner referred members to the Legislative Summary: HOPE Act and Start Talking Maryland Act handout. She reported that there were two specific omnibus packages that dealt with demand: HOPE Act and the Start Act.

Dr. Wen identified the following regarding the **Heroin and Opioid Prevention Effort (HOPE) and Treatment Act of 2017**:

The HOPE Act is an omnibus package tying together a series of different provisions aimed at expanding access to treatment and enhancing the resources available for state and local responses to the epidemic.

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Crisis Treatment Center: The bill requires the state to establish a 24/7 treatment center for individuals suffering from a mental health or substance use disorder crisis. The center must be established before June 1, 2018.

Removal of naloxone training requirement: The HOPE Act allows for the dispensing of naloxone under a standing order without recipients needing to go through a training and certification, which had created a bottleneck in the distribution of this life-saving medication.

Expanded access to buprenorphine: This legislation expands access to treatment by requiring each independent health care facility as well as each health care system to have providers on hand who can prescribe buprenorphine. This provision addresses a logjam in access to this medication, as it will increase the number of doctors who can prescribe the drug throughout the state.

Co-prescribing naloxone: Under this bill, the Department of Health and Mental Hygiene will need to establish guidelines for the co-prescription of naloxone for licensed health care providers who are authorized to prescribe opioids. This will place naloxone in the hands of patients who are at elevated risk of overdose.

Dr. Wen concluded by reporting on the Heroin and Opioid Education and Community Action Act of 2017 (Start Talking Maryland Act). She identified that the Start Talking Maryland Act increases the resources available for addressing the opioid epidemic's impact on public schools and institutions of higher education throughout the state.

e. **GOCCP**

Don Hogan, Director of Legislation, Governor's Office of Crime Control and Prevention referred members to the Governor's Office of Crime Control & Prevention 2017 Justice for Victims Initiative handout. He reported on the **2017 Heroin and Opioid Prevention, Treatment, and Enforcement Package** (SB 539- Controlled Dangerous Substances – Fentanyl; and HB 1432 – The Prescriber Limits Act; and Overdose Prevention Act) legislative proposals which passed. Mr. Hogan also discussed the sex trafficking (Protecting Victims of Sex Trafficking Act of 2017) SB308/HB632 bill which passed and the Victim Services Unit legislation which did not pass. Mr. Hogan concluded by identifying that the Governor's last bill signing day is Thursday, May 25, 2017.

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f. Office of the Attorney General

Elizabeth Embry, Director of the Criminal Division referred Council members to the Maryland Office of the Attorney General CJCC Legislative Update, May 2017 handout. She reported on sexual assault bills SB 349 and SB 734.

SB 349 (HB 255): Criminal Procedure – Sexual Assault Victims’ Rights – Disposal of Rape Kit Evidence and Notification

This bill requires a health care provider that performs a sexual assault evidence collection kit exam on a victim of sexual assault to provide the victim with written information describing the laws and policies governing the testing, preservation, and disposal of a sexual assault evidence collection kit. The bill specifies when a sexual assault evidence collection kit must be transferred to a law enforcement agency, when a sexual assault evidence collection kit or other crime scene evidence relating to a sexual assault may be destroyed or disposed of, and when such evidence must be retained. Specifically, a sexual assault evidence collection kit must be transferred to a law enforcement agency (1) by a hospital or child advocacy center within 30 days after a specified exam is performed or (2) by a government agency in possession of a kit, unless the agency is otherwise required to retain the kit by law or court rule. A law enforcement agency is prohibited from destroying or disposing of a sexual assault evidence collection kit or other crime scene evidence relating to a sexual assault that has been identified by the State’s Attorney as relevant to prosecution within 20 years after the evidence is collected, unless the case for which the evidence was collected resulted in a conviction and the sentence has been completed or all suspects identified by testing a kit are deceased. A law enforcement agency with custody of a sexual assault evidence collection kit, on written request by the victim, must (1) notify the victim at least 60 days before the date specified. The Office of the Attorney General (OAG) must adopt regulations for uniform statewide implementation of the requirements. The bill takes effect October 1, 2017.

SB 734 (HB 1209): Sexual Assault Victims Resources Act of 2017

This bill (1) expands the services that sexual assault crisis programs in the State must provide and (2) requires the Governor to include in the annual budget bill an appropriation of at least \$3 million for the federally recognized State sexual assault coalition and sexual assault crisis programs, as specified. Under specified circumstances, the Governor is authorized to reduce the mandated appropriation by up to 40%. The bill also establishes the Maryland Sexual Assault Evidence Kit Policy and Funding Committee. In fiscal 2018 and in each fiscal year thereafter, the

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Governor must include funds in the State budget to implement the bill's provisions relating to the committee, including funds to operate and maintain an office and employ a full-time assistant Attorney General to staff the committee and assist with the implementation of regulations that must be adopted. This bill takes effect June 1, 2017.

Ms. Embry elaborated on the issues regarding bail reform and she encouraged the CJCC Post-Arrest Practices Committee to monitor, reflect on, and provide guidance on the issue. She concluded her report by discussing SB 304/HB 424 The Taxpayer Protection Act and she mentioned that a dedicated prosecutor works solely on tax fraud cases.

SB 304 (HB 424): Taxpayer Protection Act

This Administration bill makes several changes to current provisions of law regarding tax enforcement and compliance. It prohibits a person from employing an individual not registered with the State Board of Individual Tax Preparers to provide specific tax preparation services. The bill authorizes employees of the Comptroller's Office to act as police officers when enforcing laws. The bill further authorizes civil penalties for persons found in violation of this bill and provides for criminal sanctions. This bill takes effect July 1, 2017.

g. Behavioral Health System Baltimore

Crista Taylor, President and CEO, Behavioral Health System Baltimore referred Council members to the 2017 Maryland General Assembly Legislative Session Summary handout. She reported on BHSB's goal of keeping people out of the criminal justice system and getting people into treatment, which requires a strong and robust health system. Ms. Taylor noted that providers are significantly underfunded. She also discussed the Keep the Door Open Act/HOPE Act.

(HB 580/ SB 467) Keep the Door Open Act/ HOPE Act, which will provide regular reimbursement rate increases for community-based behavioral health providers to ensure these providers can continue delivering high-quality mental health and substance use disorder treatment. BHSB and the Maryland Behavioral Health Coalition worked closely with Delegate Antonio Hayes (Baltimore City) and Senator Guy Guzzone (Howard County) to support an advocacy campaign that was instrumental in advancing in the KTDO Act. This campaign organized a rally that drew hundreds of providers, consumers, and advocates to Lawyer's Mall to call on the General Assembly to support behavioral health by passing the Keep the

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Door Open Act.

Judge Peters thanked all of the legislative update presenters. He adjourned the meeting at 1:36 p.m. The next meeting will be held on Wednesday, July 12, 2017 at 12:30 p.m., Courthouse East, Room 510.

MEETING HANDOUTS

- 1) CJCC May 10, 2017 Meeting Agenda
- 2) Minutes from the April 12, 2017 meeting
- 3) Division of Pretrial Detention and Services Statistics Report
- 4) Baltimore Police Department Report
- 5) **Legislative Updates:**
 - a. Baltimore Police Department
 - b. Office of the State's Attorney Office for Baltimore City
 - c. Baltimore City Council
 - d. Baltimore City Health Department
 - e. Governor's Office of Crime Control & Prevention
 - f. Office of the Attorney General
 - g. Behavioral Health System Baltimore
 - h. DVCC Domestic Violence Bills

Respectfully submitted,

Kimberly Smalkin Barranco
CJCC Executive Director

KSB/mba