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CIRCUIT COURT FOR
BALTIMORE CITY

STATE OF MARYLAND

2016 JAN * 4 P 3:09 IN THE

v.

* CIRCUIT COURT FOR
CRIMINAL DIVISION BALTIMORE CITY
* CASE No. 115141032
* (filed under seal)

CAESAR GOODSON

* * * * *

**STATE’S RESPONSE TO DEFENDANT’S MOTION TO STRIKE THE STATE’S
EXPERT STANFORD O’NEILL FRANKLIN AND REQUEST FOR HEARING**

Now comes the State of Maryland, by and through Marilyn J. Mosby, the State’s Attorney for Baltimore City; Michael Schatzow, Chief Deputy State’s Attorney for Baltimore City; Janice L. Bledsoe, Deputy State’s Attorney for Baltimore City; and Matthew Pillion, Assistant State’s Attorney for Baltimore City; and responds as follows to the Defendant’s Motion to Strike the State’s Expert Stanford O’Neill Franklin and Request for Hearing:

1. The Defendant’s Motion moves to “strike the State’s untimely designation of proffered expert Stanford O’Neill Franklin” and to “preclude Mr. Franklin from testifying at [the Defendant’s] trial.” Def. Mot. at 1-4. The Defendant offers three bases for this request: (1) his belief that the State’s disclosure is untimely because “[i]t is highly unlikely that Mr. Franklin was just made known to the State,” *id.* at 2; (2) his view that the disclosure “has injected a new legal theory or area of testimony at the proverbial eleventh hour” so as to prejudice the defense, *id.*; and (3) his assertion that Mr. Franklin vicariously violated the gag order imposed on the State’s Attorney’s Office, *id.* at 3.

2. Regarding the timing and novelty of the State’s disclosure of Mr. Franklin, the State first contacted Mr. Franklin on December 17, the day after the mistrial in *State v. William Porter*. On December 18, the State and Mr. Franklin scheduled a meeting to be held the following week. On December 21, Mr. Franklin came to the Office of the State’s Attorney, where prosecutors consulted with him. The next day, the decision to utilize

him as an expert witness was made. The State then prepared an expert disclosure, which the State promptly sent to defense counsel on December 23.

4. Though the Defendant suggests that Mr. Franklin's prior public comments somehow make this chronology "highly unlikely," the State consulted with and retained Mr. Franklin as a direct result of the Defendant's December 7 disclosure of his own experts and as a result of this Court's unanticipated rulings during the December trial of *State v. William Porter*. Indeed, on December 7, the Defendant disclosed that he intends to call an expert named John Ryan "to testify regarding police training policies, general orders, practices, custom, safety, transportation, and law enforcement generally" and "to testify that Officer Goodson acted reasonably and consistently with his training, as well as with the general orders and policies in place at the time, relative to the transportation of Mr. Gray." See Def. Reports or Statements of Experts at 18-19 (attached as State's Exhibit 1). While the State had previously retained a law enforcement expert, namely Dr. Michael Lyman, who would have addressed many of these topics, this Court during the *Porter* trial issued a ruling that limited the scope of Dr. Lyman's testimony. Given the unexpected nature of this ruling and the possibility that it would recur in the Defendant's trial, compounded with the Defendant's recently proffered expert opinion that his transportation of Mr. Gray was reasonable and consistent with his training, the State's subsequent retention of Mr. Franklin to testify to local police and prisoner-transportation practices fully comported with Rule 4-263 and the State's traditional right to rebut defense evidence.

5. Indeed, Rule 4-263 does not require the defense to make its required disclosures until 30 days before trial, despite the State's far earlier deadline of 30 days after defense

counsel's entry of appearance. The Defendant's suggestion that the State must have disclosed Mr. Franklin by that June 26 deadline or else should be precluded from offering his testimony would not only deprive the State of any opportunity to counter subsequently disclosed defense experts but would run contrary to Maryland's criminal discovery rules. Rule 4-263's 30-day State disclosure provision does not by its terms preclude the use at trial of information disclosed after the expiration of the 30-day deadline.¹ Instead, the State "is under a continuing obligation to produce discoverable material and information" to the defense. Rule 4-263(i). Maryland's appellate courts have recognized that this continuing obligation includes the disclosure of expert opinions formed after the initial discovery deadline and expert opinions sought out in response to subsequent defense disclosures.

For example, in *Joyner v. State*, 208 Md. App. 500, 529 (2012), the State filed an initial disclosure that the State intended to call a then-unknown chemist to provide expert testimony that certain substances were cocaine and marijuana. The State made the substances available to the defense for independent testing, but the State did not give notice of the chemist's name or disclose her report until eight days before trial. *Id.* Though the defendant there protested that this disclosure should have been made within

¹ Indeed, Maryland law does not even require disclosure of certain information until after that period has elapsed in a typical case. For example, Section 10-915 of the Courts Article does not require the disclosure of DNA analysis results and data until 30 days before trial. Cts. & Jud. Proc. Art. § 10-915(c)(2). Likewise, Rule 5-902(b) provides that certified business records need only be disclosed at least 10 days before trial. Moreover, Rule 4-271(a) does not require that a trial date even be set until the same deadline Rule 4-263 sets for the State's disclosures. To read Rule 4-263 as literally mandating that the State disclose all discovery by the end of the 30-day deadline would require an extraordinarily fast turn-around between counsel's or the defendant's first appearance and the trial date in order to avoid rendering the DNA and business record deadlines mere surplusage. Such a reading would also ignore Maryland's speedy trial jurisprudence which recognizes that the "span of time from charging to the first scheduled trial date is necessary for the orderly administration of justice," *Howell v. State*, 87 Md. App. 57, 82 (1991), and that in assessing the permissible period of delay before trial that "courts must be cognizant of both the degree of complexity associated with a particular charge and the potential impact an adverse verdict would have on the accused," *Glover v. State*, 368 Md. 211, 224 (2002).

Rule 4-263's initial 30-day deadline, the Court of Special Appeals construed the State's disclosure as having "fulfilled its 'continuing duty to disclose' by supplementing its discovery" and determined that the lateness of the notice did not warrant a sanction because the defendant "failed to demonstrate any prejudice that resulted from any delay in disclosing the name of the [] chemist who would testify or the admission of her report, as soon as her identity was known to the prosecutor." *Id.*

Likewise, in *Hoey v. State*, 311 Md. 473, 489 (1988), the State offered a medical expert—a physician who had previously treated the defendant—in rebuttal to certain defense evidence of a lack of criminal responsibility. Though the State "did not reveal [the expert's] name, address, or statements to defense counsel until the day [the expert] was called as a witness," the Court of Appeals held that the expert's testimony was properly admitted over a defense objection because neither "the letter" of Rule 4-263 was broken nor was "its spirit." *Id.* at 489. The Court reasoned that the State had not "consulted" with the expert until after the need to rebut the defendant's case and so had not violated Rule 4-263's expert disclosure provisions. While the defendant claimed he was nevertheless unfairly surprised by the State's last-minute expert, the Court disagreed:

[I]t must be remembered that the function of a rebuttal witness is to respond to evidence presented during the opposing party's case in chief. Accordingly, until a defendant has actually completed his case in chief, the State cannot determine what evidence will need to be rebutted. Therefore, forcing the State's Attorney to disclose all possible rebuttal witnesses before trial would be a difficult if not impossible task.

Id. The Court also noted that where the defendant had entered a plea of not criminally responsible, "sound preparation" of the defense included contemplating a prior treating

physician as a possible rebuttal witness so that requiring the State to disclose such a witness pretrial was “unnecessary to prevent surprise.” *Id.* at 489-90.

6. Similarly here, the State’s December 23 disclosure was made three weeks before the currently anticipated January 13 start of the presentation of evidence at the Defendant’s trial—far longer notice than the eight days deemed nonprejudicial in *Joyner*. Moreover, as in *Hoey*, the State had not “consulted” with Mr. Franklin under Rule 4-263 until December 21 and did so only in an effort to address the expected defense case in advance after reviewing the defense disclosures and having the guidance of this Court’s rulings regarding the permissible scope of the testimony that will be permitted from the State’s originally planned law enforcement expert, Dr. Lyman. The State’s disclosure, thus, comported with the State’s “continuing duty to disclose” new discoverable information and constituted a traditional effort by the State to find evidence to rebut defense witnesses.

7. Furthermore, while the Defendant claims Mr. Franklin’s disclosure prejudices the defense and comes as an unfair surprise, the Defendant’s complaint focuses on Mr. Franklin’s supposed testimony regarding “generally accepted policies, procedures, practices, training and custom throughout the United States” and “retaliatory prisoner transportation practices.” Def. Mot. at 1. This description misstates the actual expert disclosure, which informed the Defendant that “Mr. Franklin is expected to testify regarding police training, policies, general orders, practices, customs, safety, transportation, retaliatory prisoner transportation practices, and law enforcement generally” and will testify that “the actions of Officer Goodson were unreasonable and inconsistent with the actions of a reasonable officer with similar training and experience.”

Def. Mot. at Def. Exhibit 1. Because such a disclosure simply mirrors and counters the Defendant's December 7 disclosure regarding Mr. Ryan's expected testimony, the Defendant's claims of prejudice, unfair surprise, and novelty from Mr. Franklin's expected testimony are meritless efforts to prevent the State from fairly rebutting the Defendant's case. The lack of genuine surprise or novelty becomes even more obvious given that the State's prior disclosures regarding Dr. Lyman also covered areas of police practices, policies, general orders, prisoner safety and transportation, and law enforcement responsibilities and duties. *See* State's Exhibit 2 (prior disclosure regarding Dr. Lyman). In short, the Defendant's first two arguments for precluding Mr. Franklin's testimony provide no basis for this Court to impose such a harsh sanction.²

8. The Defendant's final argument suggests precluding Mr. Franklin's testimony as a sanction for his purported vicarious violation of the gag order on the State's Attorney's Office. As proof of this claim, the Defendant attached as his Exhibit 3 an online news article dated December 27, 2015, that quotes Mr. Franklin commenting on the *Porter* mistrial. Because the date of this article falls after the date on which the State disclosed Mr. Franklin as an expert witness, the Defendant reasons that Mr. Franklin's comments violate this Court's gag order, warranting the sanction of precluding his testimony. The flaw in this argument is the Defendant's attempt to use the article to prove that Mr. Franklin's comments were made on December 27. If the Defendant had conducted fuller research, the Defendant would have seen that the December 27 article merely republished

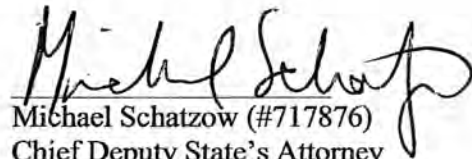
² The State also must note that although the Defendant protests the disclosure of Mr. Franklin on December 23, the very next day, on December 24, the Defendant casually disclosed to the State an additional thirty-five pages of documents and records, four photographs, and three new videos that he intends to use at trial. This conduct only further underscores the meritless nature of the Defendant's Motion to Strike and the routine nature of parties continuing to exchange discovery after their initial deadlines and as circumstances develop.

comments Mr. Franklin made in the immediate aftermath of the *Porter* mistrial. The State has attached as State's Exhibits 3 and 4 respectively a December 18 article published by the Gazette Union and a December 19 article by the Observer Oracle that contain the same quotes from Mr. Franklin, clearly showing that he spoke to the media prior to his being retained by the State. Moreover, once Mr. Franklin had been retained, the State explicitly asked Mr. Franklin not to speak to the press, and he agreed. The Defendant's suggestion that Mr. Franklin's comments constituted a deliberate violation of the gag order is simply wrong.

Wherefore, the State asks that this Court deny the Defendant's Motion to Strike the State's Expert Stanford O'Neill Franklin and Request for Hearing.

Respectfully submitted,

Marilyn J. Mosby



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CERTIFICATE OF SERVICE


I hereby certify that on this 4th day of January, 2016, a copy of the State's Response to the Defendant's Motion to Strike the State's Expert Stanford O'Neill Franklin and Request for Hearing was mailed and e-mailed to:

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Respectfully submitted,

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All written statements of witnesses that relate to this matter are located in the charging documents, the discovery previously provided by the State or any report(s) attached thereto, and/or are provided pursuant to Maryland Rule 4-263(k)(2).

II. REPORTS OR STATEMENTS OF EXPERTS PURSUANT TO RULE 4-263(e)(2)

Included below is the name and address of each defense witness the defense intends to call to testify as an expert witness, the subject matter on which the expert is expected to testify, the substance of the findings and opinions to which the expert is expected to testify, the substance of any oral report and conclusion by the expert, and a summary of the grounds for each opinion. Defendant also hereby provides the State with the opportunity to inspect and copy all written reports or statements made in connection with the action by the expert, including the results of any physical or mental examination, scientific test, experiment, or comparison. The contents of the designations outlined below are reflective and responsive to the contents of the State's expert disclosures. To the extent the State provides more detailed descriptions of its experts' anticipated testimony and opinions, the Defense will be in a position to better respond with a more detailed description of its experts' testimony.



A. Law Enforcement Experts

The Defendant hereby gives notice to the State of the intent to call all of the law enforcement officers disclosed as witnesses in this case to testify as experts in their respective fields. Any of the law enforcement officers called as witnesses may testify as experts in police training, police procedure, police policy, police orders, police safety procedures, police email, police investigations, police misconduct, police transportation of prisoners, and law enforcement generally. These expert witnesses may be called upon to testify that the actions of Defendant Goodson were reasonable and/or in accordance with accepted police practices, procedures, custom and/or protocols. These experts may be called upon to testify about the purpose of general orders, guidelines and procedures, in that they are intended to provide internal guidance and discipline and not to form the basis of criminal prosecutions. These experts may be called upon to render testimony about the proper method of disseminating general orders. These experts may be called upon to render testimony about the training of Baltimore City Police Officers, as it relates to providing medical attention to arrestees, the transportation of arrestees and the facts and law that should form the basis of detaining individuals in various situations. These witnesses may be called upon to directly refute those opinions rendered by the State's experts. Once those opinions have been further clarified, the Defendant reserves the right to amend this designation. These experts may include, but not be limited to, the following Baltimore City Police Department employees:

- Lieutenant Robert Quick
- Captain Justin Reynolds

- Colonel Stanley Brandford
- Detective Dawnyell Taylor
- Sergeant Tashawna Gaines
- Detective William Boyd
- Detective Charles Anderson
- Detective Syreeta Teel
- Officer Zachary Novak
- Officer Mark Gladhill
- Officer Matthew Wood

B. Timothy Longo, J.D.

**c/o Public Agency Training Council/Legal & Liability Risk Management
Institute
5235 Decatur Blvd
Indianapolis, Indiana 46241**

Mr. Longo has been the Chief of Police for the City of Charlottesville, Virginia since 2001. Prior to taking that position, Chief Longo was a twenty-year veteran of the Baltimore City Police Department, during which time he served in various command and supervisory roles. Chief Longo has a bachelor's degree from Towson University and his juris doctor from the University of Baltimore School of Law. Additionally, Chief Longo completed the Senior Management Institute for Police, an intensive, three-week course administered by the Police Executive Research Forum. A copy of Chief Longo's curriculum vitae is attached hereto as **Exhibit 1**.

Chief Longo's opinions will be based on his education, training, and experience, as well as on his review of the discovery produced in this case, including written and recorded statements, other audio and video recordings, reports, photographs, maps, diagrams, Mr. Gray's presentation during stops at Druid Hill Avenue and Dolphin Street, and at North Avenue and Pennsylvania Avenue, and relevant Baltimore City Police

Department General Orders and Policies, as well as generally accepted policies, procedures, practices, training, and custom throughout the United States.

If called to testify, Chief Longo is expected to testify regarding police training, policies, general orders, practices, custom, safety, transportation, and law enforcement generally. Chief Longo is expected to testify that the actions of Officer Goodson were at all times reasonable and consistent with the actions of a reasonable officer with similar training and experience. Chief Longo is expected to testify that Officer Goodson's actions in obtaining medical attention and/or treatment for Mr. Gray were reasonable and consistent with Officer Goodson's training and experience, as well as with the general orders and policies in place at the time of Mr. Gray's arrest. In particular, Chief Longo is expected to testify regarding an officer's training in evaluating an arrestee's need for medical care, whether requested or not. Chief Longo is further expected to testify as to the relationship between an arrestee's request or need for medical care, and police booking procedures.

Chief Longo is further expected to testify that Mr. Goodson acted reasonably and consistently with his training, as well as with the general orders and policies in place at the time, relative to the transportation of Mr. Gray. Chief Longo is expected to testify that Officer Goodson's actions relative to the use of a seat belt were reasonable, under the totality of the facts and circumstances of this case. Chief Longo is expected to testify that officers are instructed to exercise discretion in following any general order or policy, including any applicable to seat belting, especially when officer safety is a concern.

Moreover, Chief Longo is expected to testify that Policy 1114 was not disseminated in accordance with generally accepted policing practices and with the Baltimore City Police Department's own General Order relative to the proper dissemination of General Orders.

Chief Longo is also expected to testify that General Orders are not intended to create criminal liability, are administrative in nature, and are never intended to supersede officer and public safety. Chief Longo is expected to discuss other jurisdictions' policies regarding seat belting, including the fact that other jurisdictions do not even have seat belts in their vans. Chief Longo is expected to opine that discretion is always built into a police officer's job, as he must constantly assess safety concerns for the public, the arrestee, and the officer himself.

Chief Longo is prepared to comment on and directly address the theories, opinions, and testimony advanced by any expert called by the State at trial concerning Mr. Goodson's actions.

**C. Dr. Michael Woodhouse
BioMX Consulting
222 West 21st Street
Norfolk, Virginia 23517**

Dr. Woodhouse is an expert in biomechanical engineering and analysis. Dr. Woodhouse's biomechanical analysis is based upon a review of the relevant medical records, along with inspection and numerical documentation of the subject transport wagon. Dr. Woodhouse is expected to opine that Mr. Gray's injuries, as described in the April 20, 2015 Post Mortem Examination Report, are biomechanically consistent with a rearward fall mechanism resulting in impact to the left posterior inferior portion of the

head, causing hyper-flexion motion in the cervical spine with an axial load to the head. Considering the various stops, and positioning and repositioning of Mr. Gray in the subject transport wagon during his arrest sequence, biomechanically, Dr. Woodhouse is expected to testify that Mr. Gray sustained his cervical injury following the 5th stop at the 1600 block of W. North Avenue and not before that period of time.

Dr. Woodhouse's opinion is based upon his review of the discovery, the various witness statements and a visual inspection of the van. Through counsel for Officer Porter, Dr. Woodhouse has provided the State with his data, notes and any animations or other demonstrative evidence he intends to use at trial. Dr. Woodhouse may be called upon to rebut or refute certain opinions rendered by the State's experts. Moreover, Dr. Woodhouse's opinions may be supplemented or modified in light of evidence generated during the State's case in chief. A copy of Dr. Woodhouse's curriculum vitae is attached as **Exhibit 2**.

D. Lt. Robert Quick
Baltimore Police Department
242 West 29th Street
Baltimore, Maryland 21211

The defense intends to call Lt. Robert Quick as an expert in police training, police policies, police general orders, police practices, police procedures, crime scene analysis/reconstruction, and law enforcement generally. Lt. Quick is expected to provide testimony as to the specific police practices and policies which governed the actions of the officers in this incident and the training that the officers received regarding such encounters. Lt. Quick is further expected to opine that the actions of Officer Goodson in

this case were reasonable, consistent with accepted standards of police training, policies, custom and procedures, and consistent with the actions of a reasonable police officer similarly situated. Lt. Quick will also render testimony concerning the nature and purpose of general orders and police policies, the creation of general orders and police policies and the appropriate dissemination of general orders and police policies. It is further anticipated that Lt. Quick will offer testimony concerning the opinions offered by the State's designated experts. Lt. Quick's opinions will be based upon his review of the records produced during discovery, any written and recorded statements, reports, photographs, maps, diagrams, and other documents relevant to the actions of the officers, as well as his knowledge, training, experience, and expertise. Lt. Quick may be called upon to rebut or refute certain opinions rendered by the State's experts. Moreover, Lt. Quick's opinions may be supplemented or modified in light of evidence generated during the State's case in chief.

**E. Captain Justin Reynolds
Baltimore Police Department
242 West 29th Street
Baltimore, Maryland 21211**

The defense intends to call Captain Justin Reynolds as an expert in police use of force, police training, police policies, police practices, police procedures, crime scene analysis/reconstruction, and law enforcement generally. Captain Reynolds is expected to provide testimony as to the specific police practices and policies which governed the actions of Defendant Goodson for this incident and the training that Officer Goodson received regarding arrests and prisoner transport. Captain Reynolds is further expected to

opine that the actions of Officer Goodson relative to this case were reasonable, consistent with accepted standards of police training, policies, custom and procedures and consistent with the actions of a reasonable police officer similarly situated. It is further anticipated that Captain Reynolds will offer testimony concerning the opinions offered by the State's designated experts. Captain Reynolds's opinions will be based upon his review of the records produced during discovery, any written and recorded statements, reports, photographs, maps, diagrams, and other documents relevant to the actions of the officers, as well as his knowledge, training, experience, and expertise. Captain Reynolds may be called upon to rebut or refute certain opinions rendered by the State's experts. Moreover, Captain Reynolds's opinions may be supplemented or modified in light of evidence generated during the State's case in chief. A copy of Captain Reynolds's Curriculum Vitae is attached as **Exhibit 3**.

**F. Colonel Stanley Brandford
Baltimore Police Department
242 West 29th Street
Baltimore, Maryland 21211**

The Defendant intends to call Colonel Stanley Brandford, Chief, Criminal Investigations Division, Baltimore Police Department, as an expert in the field of police policies, practices, safety, transportation, custom, criminal investigations, homicide investigations and law enforcement generally. Colonel Brandford was the head of the Joint Task Force assigned to investigate the death of Mr. Gray. Colonel Brandford is expected to testify that the actions of the Defendant, Caesar Goodson, were at all times reasonable and consistent with those actions of a reasonable officer with similar training

and experience. Likewise, Officer Goodson's actions were consistent with accepted standards of policing.

Specifically, Colonel Brandford will testify that Officer Goodson's actions regarding the undertaking to obtain medical treatment and/or attention for Mr. Gray were reasonable and consistent with his training and experience. Colonel Brandford's opinions are based upon his review of the entire investigation file in the matter of the death of Freddie Gray, Mr. Gray's presentation at Druid Hill Avenue and Dolphin Street and North Avenue and Pennsylvania Avenue, and his years of experience with the Baltimore City Police Department.

Moreover, Colonel Brandford is expected to testify that Officer Goodson acted reasonably and consistently with his training and experience, relative to the transportation of Mr. Gray. Colonel Brandford will testify that Officer Goodson's actions relative to the seat belt issue were reasonable, under the totality of the facts and circumstances of this case. His opinion is based on his review of the entire investigative file in the matter of the death of Mr. Gray, and his years of experience with the Baltimore City Police Department.

Colonel Brandford is further expected to testify that it is likely that the injury to Mr. Gray took place between 1600 West North Avenue and the Western District at or after the time that Donta Allen heard Mr. Gray "banging" around the van and/or "trying to knock himself out or something." Accordingly, no action on the part of Officer Goodson caused injury or death to Mr. Gray as Mr. Gray was likely not injured at or near

the time that Officer Goodson was alleged to have interacted with Mr. Gray or learned of his condition. His opinion is based upon his review of the entire Baltimore Police Department investigative file in the matter of the death of Mr. Gray, and all relevant documents and materials considered in the course of the investigation. His opinion is further supported by his experience as the Major of Homicide, the Colonel in charge of the Criminal Investigations Division, and the head of the joint task force assigned to investigate the death of Mr. Gray.

Colonel Brandford may be called upon to rebut or refute certain opinions rendered by the State's experts. Moreover, Colonel Brandford's opinions may be supplemented or modified in light of evidence generated during the State's case in chief.

G. John "Jack" Ryan, J.D.
c/o Public Agency Training Council/Legal & Liability Risk Management
Institute
5235 Decatur Boulevard
Indianapolis, Indiana 46241

Mr. Ryan served for over twenty years with the Providence, Rhode Island police department, including five years as the Director of Training and three years as the Director of Administration. Since retiring from the Providence police force, Mr. Ryan has worked as a consultant, trainer, and auditor in the field of police practice and procedure, and has also served as co-director of the Legal Liability and Risk Management Institute. He holds bachelor's and master's degrees, as well as his juris doctor. Additionally, Mr. Ryan has taught at the college level and published extensively on

police practice and procedure. A copy of Mr. Ryan's curriculum vitae is attached hereto as **Exhibit 4**.

Mr. Ryan's opinions will be based on his education, training, and experience, as well as his review of the discovery produced in this case, including written and recorded statements, other audio and video recordings, reports, photographs, maps, diagrams, Mr. Gray's presentation during stops at Druid Hill Avenue and Dolphin Street, and at North Avenue and Pennsylvania Avenue, and relevant Baltimore City Police Department General Orders and Policies, as well as generally accepted policies, procedures, practices, training, and custom throughout the United States.

If called to testify, Mr. Ryan is expected to testify regarding police training, policies, general orders, practices, custom, safety, transportation, and law enforcement generally. Mr. Ryan is expected to testify that the actions of Officer Goodson were at all times reasonable and consistent with the actions of a reasonable officer with similar training and experience. Mr. Ryan is expected to testify that Officer Goodson's actions in obtaining medical attention and/or treatment for Mr. Gray, were reasonable and consistent with Officer Goodson's training and experience, as well as with the general orders and policies in place at the time of Mr. Gray's arrest. In particular, Mr. Ryan is expected to testify regarding an officer's training in evaluating an arrestee's need for medical care, whether requested or not. Mr. Ryan is further expected to testify as to the relationship between an arrestee's request or need for medical care, and police booking procedures.

Mr. Ryan is further expected to testify that Officer Goodson acted reasonably and consistently with his training, as well as with the general orders and policies in place at the time, relative to the transportation of Mr. Gray. Mr. Ryan is expected to testify that Officer Goodson's actions relative to the use of a seat belt were reasonable, under the totality of the facts and circumstances of this case. Mr. Ryan is expected to testify that officers are instructed to exercise discretion in following any general order or policy, including any applicable to seat belting, especially when officer safety is a concern. Moreover, Mr. Ryan is expected to testify that Policy 1114 was not disseminated in accordance with generally accepted policing practices and with the Baltimore City Police Department's own General Order relative to the proper dissemination of General Orders.

Mr. Ryan is also expected to testify that General Orders are not intended to create criminal liability, are administrative in nature, and are never intended to supersede officer and public safety. Mr. Ryan is expected to discuss other jurisdictions' policies regarding seat belting, including the fact that other jurisdictions do not even have seat belts in their vans. Mr. Ryan is expected to opine that discretion is always built into a police officer's job, as he must constantly assess safety concerns for the public, the arrestee, and the officer himself.

Mr. Ryan is prepared to comment on and directly address the theories, opinions, and testimony advanced by any expert called by the State at trial concerning Mr. Goodson's actions.

H. Charles G. Russell
Accident Analysis & Reconstruction, Inc.

**7 Meadow Spring Drive
Bel Air, Maryland 21015**

Mr. Russell has been a law enforcement officer for over twenty-five years, and has over twenty years of experience in the field of accident investigation. He holds a bachelor of science degree in criminal justice and a master of arts degree in Legal and Ethical Studies from the University of Baltimore. He has completed extensive training in accident investigation and reconstruction, and also regularly teaches and lectures on accident reconstruction issues across the United States and Canada, as well as Australia and New Zealand. In 2002, Mr. Russell co-founded Accident Analysis & Reconstruction, Inc. He is recognized as a premier consultant on accident reconstruction and analysis. A copy of Mr. Russell's curriculum vitae is attached hereto as **Exhibit 5**.

Mr. Russell's opinions will be based on his education, training, and experience, as well as his review of records and materials produced in this case, including written and recorded statements, other audio and video recordings, reports, biomechanical analysis, photographs, maps, and diagrams. In addition, Mr. Russell has inspected the van Officer Goodson was driving on the date in question, and independently verified calculations of the speed of the van and the distance traveled. Mr. Russell may amend or expand upon his opinions in response to further information made available to him through discovery or at trial.

If called to testify, Mr. Russell may testify regarding the manner in which Mr. Gray's injury could have occurred inside the van. Mr. Russell may also testify that purported safety measures, such as a seatbelt, would have been ineffective.

Mr. Russell is expected to testify that, without some action or actions on Mr. Gray's part, his injury could not have resulted from being transported in the back of the van. Mr. Russell is expected to testify that there is no evidence of abrupt or sudden accelerations, decelerations, or stops of the van. Mr. Russell is expected to opine that Mr. Gray could not have sustained his injury while in a prone position on the floor of the van with his head facing forward, as officers positioned him while the van was stopped at North Mount Street and Baker Street.

Mr. Russell is also expected to testify that Mr. Gray could not have sustained his injury while in a seated position on the bench in the van, as officers positioned him originally upon his arrest, and again at the corner of Dolphin Street and Druid Hill Park Avenue, unless Mr. Gray himself took some action such as banging his own head against the outer wall of the van, the metal divider separating the driver's cab, or the door at the rear. Furthermore, Mr. Russell is expected to testify that placing a seat belt on Mr. Gray in the seated position could have had no effect on Mr. Gray's injury. In particular, Mr. Russell is expected to testify that an arrestee, with wrists and ankles restrained, could easily unfasten a seat belt fixed on his lap. Additionally, even if the seat belt remained fastened over an arrestee's lap, an arrestee could still bang his head violently against the wall, divider, or door of the van.

Mr. Russell may further testify that an arrestee (whether he was initially seat belted and removed the seat belt, or was not belted) could stand inside the van in a hunched position. Mr. Russell may testify that, had Mr. Gray chosen to rise to a hunched

position on his feet, even braking under normal traffic circumstances could have caused him to fall and sustain injury.

Mr. Russell is prepared to comment on and directly address the theories, opinions, and testimony advanced by any expert called by the State at trial concerning the manner in which Mr. Gray could have been injured while in the police van.

I. Joel Winer, M.D.
Wellspan Neurosurgery
228 Saint Charles Way, Suite 300
York, Pennsylvania 17402

Dr. Winer is board certified in neurological surgery. He is a Fellow of the American College of Surgeons. He is also certified in Basic Life Support, Advanced Cardiac Life Support and Advanced Trauma Life Support. In addition to completing an internship in surgery and a residency in neurosurgery, Dr. Winer also completed a post-graduate fellowship in neurology and in epilepsy surgery and the use of electrocorticography in neurosurgical resections. Dr. Winer practices neurosurgery at Wellspan Neurosurgery and at Wellspan York Hospital, a Level 1 Trauma Center. A copy of Dr. Winer's curriculum vitae is attached hereto as **Exhibit 6**.

If called to testify, Dr. Winer is expected to testify regarding the causation, extent, and nature of Mr. Gray's injury. Dr. Winer may testify regarding Mr. Gray's relevant medical conditions, if any, and their causes, if knowable. Dr. Winer may testify regarding the care, treatment, evaluation, and diagnosis of Mr. Gray's injury.

To date, Dr. Winer has been provided the following records and materials produced in this case:

- State's Initial Discovery Disclosure (6.26.15);
- State's Supplemental Discovery Disclosure (7.16.15);
- State's Supplemental Discovery Disclosure (7.24.15);
- State's Supplemental Discovery Disclosure (8.6.15);
- State's Supplemental Discovery Disclosure (8.19.15)
- State's Supplemental Discovery Disclosure (8.31.15);
- State's Supplemental Discovery Disclosure (9.9.15);
- State's Supplemental Discovery Disclosure (9.11.15);
- State's Supplemental Discovery Disclosure (9.18.15);
- State's Supplemental Discovery Disclosure (9.22.15);
- State's Supplemental Discovery Disclosure (9.23.15);
- State's Supplemental Discovery Disclosure (9.25.15);
- State's Supplemental Discovery Disclosure (9.30.15);
- State's Supplemental Discovery Disclosure (11.06.15);
- State's Supplemental Discovery Disclosure (11.17.15);
- Disclosures for Dr. Soriano;
- Disclosures for Dr. McGowan; and
- Imaging studies.

Dr. Winer is prepared to comment on and directly address the theories, opinions, and testimony advanced by Carol Allan, M.D., Morris Marc Soriano, M.D., and any other medical expert called by the State at trial, concerning Mr. Gray's injury. Dr. Winer may also testify regarding the validity of any literature identified by the State (or its experts) as relevant and supportive of the State's theory as to how Mr. Gray's injury occurred. Dr. Winer may testify regarding any literature he reviewed (or may review) in arriving at his

opinions. Dr. Winer will also testify regarding any other subject matter that is necessary, after he is advised of testimony and evidence offered by the State during its case in chief.

Specifically, Dr. Winer may testify as follows:

The imaging studies revealed that Mr. Gray presented to Shock Trauma with a catastrophic and irreversible spinal injury. Specifically,

- C4-C5 fracture dislocation with jumped/locked right facet joint, left facet superior and inferior articular process fractures and intervertebral disc disruption with adjacent endplate fractures. There was a high grade spinal canal compromise and left vertebral artery occlusion. (4/12 CT).
- Anterior dislocation of C4 over C5 with jumped facet joints, rupture of the anterior and posterior ligaments, the ligamentum flavum and the interspinous ligaments at this level. There was almost complete transection of the spinal cord at the C4/C5 disc level, left sided more prominent than right. There was evidence of a central hemorrhage at this level, as well as diffuse cord edema extending from C2 through C7. There was also a hemorrhage in the central portion of the spinal cord at C3-C6 level, and extensive edema in the posterior soft tissue. (4/12 MRI)
- Complete occlusion of the left vertebral artery from its origin to the level of C4 with distal reconstitution. Anterior subluxation of C4 on C5 due to right C4-C5 facet dislocation and left C4 articular pillar and C5 lamina and facet fractures with laminopedicular separation. (4/13 CT angiogram)

Mr. Gray's anterior dislocation/subluxation injury typically is referred to as a severe hyperflexion with rotation injury. An associated hematoma, skull fracture or any other type of intracranial or superficial injury is not required for this injury. The symptoms associated with this injury are paraplegia and quadraparesis, loss of truncal tone, loss of bowel and bladder functions, and extreme difficulty breathing and speaking. These symptoms would be instantaneous. Upon sustaining this injury, Mr. Gray would not have been able to hold his body in a sitting or kneeling position. He would not have control of his core muscles. His body would be hypotonic (floppy) and would not be able to maintain any position, even if leaning up against a bench or a wall. Within minutes of sustaining this spinal cord injury, Mr. Gray would have suffered an anoxic brain injury.

Mr. Gray would have been able to generate a sufficient amount of force by banging his head against the interior of the police wagon in order to sustain his fatal injury. Mr. Gray also may have sustained the injury by falling backwards from a hunched position and striking his head. In other words, these are force equivalents for purposes of how this injury occurred. If Mr. Gray sustained this injury while seated or kneeling, more likely so than not, he would have ended up on the floor due to the inability for him to maintain that prior position. There is no medical evidence that allows a reasonably prudent physician to rule out one of these scenarios in order to come to a conclusion as to how the injury occurred.

There is no medical evidence that Mr. Gray sustained a seizure while being transported in the police wagon. Upon sustaining his spinal cord injury, it was medically impossible for Mr. Gray's limbs or body to move in any way, much less with sufficient force to cause a banging noise as described by Donte Allen.

Based on the materials produced in this case, there is no evidence that Mr. Gray sustained his fatal injury prior to the departure from the stop on 1600 West North Avenue. The evidence in this case demonstrates the opposite, namely that Mr. Gray could not have sustained his fatal injury prior to the departure from 1600 West North Avenue. To a reasonable degree of medical probability, the injury occurred between the departure from 1600 West North Avenue and the arrival of the police wagon at the Western District. This injury occurs suddenly, as opposed to over time. Upon sustaining this injury, further placement in a seatbelt would be contraindicated. There is no evidence that placing Mr. Gray in a seatbelt would have prevented this injury. There is no evidence of abrupt or sudden accelerations, decelerations or stops of the wagon during the transport of Mr. Gray between 1600 West North Avenue and the arrival of the police wagon at the Western District.

It has been suggested that Mr. Gray sustained his injury prior to the 4th stop (namely, at Druid Hill and Dolphin). Even if this were true, which it is not, any delay in medical treatment after this stop did not impact Mr. Gray's chance of survival. Upon sustaining this catastrophic injury, Mr. Gray's chance of survival was less than 20%. Even had Mr. Gray been taken directly to a hospital (or had medics been called) at the stop at Druid Hill and Dolphin Streets, Mr. Gray would not have survived this injury.

Dr. Winer may testify regarding the observations and treatment of the medical personnel involved in the care and treatment of Mr. Gray. Dr. Winer's expert opinions will be based on his education, training, and experience, as well as his review of records and materials produced in this case. Dr. Winer may amend or expand upon his opinions in response to further information made available to him through discovery or at trial.

J. Jonathan L Arden, M.D.
Arden Forensics, PC
1390 Chain Bridge Road, #105
McLean, Virginia 22101

Dr. Arden is board certified in anatomic and forensic pathology. He is a member of the National Association of Medical Examiners, having previously served on the Board of Directors and Executive Committee. Dr. Arden has previously lectured and instructed on deaths in police custody. A copy of Dr. Arden's curriculum vitae is attached hereto as **Exhibit 7**.

If called to testify, Dr. Arden is expected to testify regarding the timing of Mr. Gray's injury, the manner of Mr. Gray's death, as well as the cause of death. Dr. Arden may testify regarding Mr. Gray's relevant medical conditions, if any, and their causes, if knowable.

To date, Dr. Arden has been provided the following records and materials produced in this case:

- State's Initial Discovery Disclosure (6.26.15);
- State's Supplemental Discovery Disclosure (7.16.15);
- State's Supplemental Discovery Disclosure (7.24. 15);
- State's Supplemental Discovery Disclosure (8.6. 15);

- State's Supplemental Discovery Disclosure (8.19.15);
- State's Supplemental Discovery Disclosure (8.31.15);
- State's Supplemental Discovery Disclosure (9.9.15);
- State's Supplemental Discovery Disclosure (9.11.15);
- State's Supplemental Discovery Disclosure (9.18.15);
- State's Supplemental Discovery Disclosure (9.22.15);
- State's Supplemental Discovery Disclosure (9.23.15);
- State's Supplemental Discovery Disclosure (9.25.15);
- State's Supplemental Discovery Disclosure (9.30.15);
- State's Supplemental Discovery Disclosure (11.06.15);
- State's Supplemental Discovery Disclosure (11.17.15);
- Disclosures of Dr. Soriano;
- Disclosures of Dr. McGowan; and
- Imaging Studies.

Dr. Arden is prepared to comment on and directly address the theories, opinions, and testimony advanced by Carol Allan, M.D., and any other medical expert called by the State at trial, concerning Mr. Gray's injury, and the manner and cause of his death. Dr. Arden may also testify regarding the validity of any literature identified by the State (or its experts) as relevant and supportive of the State's theory as to the manner and cause of Mr. Gray's death. Dr. Arden may testify regarding any literature he reviewed (or may review) in arriving at his opinions. Dr. Arden will also testify regarding any other subject matter that is necessary, after he is advised of testimony and evidence offered by the State during its case in chief.

If called to testify, Dr. Arden may testify to the following:

The evidence produced in this case demonstrates that at the time of his arrest, Mr. Gray indicated he had asthma and requested his inhaler. No inhaler was found on Mr. Gray's person. [The autopsy examination did not conclude nor demonstrate that Mr. Gray had asthma.] The statements in the case indicate that after being placed in handcuffs, Mr. Gray was assisted to the police wagon, exhibiting both verbal and physical resistance. Mr. Gray was seen on video entering the right hand compartment of the wagon, bearing weight on his legs and actively speaking. According to the statements, he was reportedly placed on the metal bench running from front to back along the outside wall of the wagon (according to the autopsy report, the bench measures approximately 13" wide and 8' long allowing for 19" between the metal wall dividing the wagon into two discrete compartments and the bench edge). After the inner and outer doors were closed, it was reported that Mr. Gray could be heard yelling and banging, causing the wagon to rock. The wagon then departed the scene.

The wagon then stopped at North Mount and Baker to fill out a Booking Receipt ("toe tag") and to place Mr. Gray in flex cuffs and metal leg shackles. Once outside, the witnesses stated that Mr. Gray continued to yell, scream, flail around and be uncooperative. This continued as the officers attempted to place Mr. Gray back into the wagon. He attempted to kick the officers. The evidence indicates that he was eventually loaded into the back right side of the wagon, head first, face down on the floor. Once the doors of the wagon were closed, witnesses observed that the wagon begun shaking and Mr. Gray was heard yelling, screaming, banging his head and kicking the doors. At Mosher Street and North Fremont Avenue, an officer (presumably Officer Goodson) is observed in a video stopping the wagon and walking to back of wagon. The radio tapes indicate that Officer Goodson requested assistance.

Officer Goodson then stopped at Dolphin Street and Druid Hill and met Officer Porter. According to the statements, they opened the wagon. Mr. Gray was observed to be face down on the floor on his stomach, facing the front. Officer Porter talked with Mr. Gray who said, "help." Officer Porter asked him why he needed help. While on his stomach, Mr. Gray said he could not breathe (although Officer Porter also noted that he did not appear to be having any difficulty breathing) and wanted help up. Officer Porter helped Mr. Gray up off the floor and placed him on the bench in a sitting position. It was observed that Mr. Gray was able to maintain that position. Officer Porter again inquired what was wrong but did not get a response. Officer Porter asked if Mr. Gray wanted medical attention and

was told yes. At this point, according to Officer Porter, Mr. Gray had calmed down and appeared to be experiencing an "adrenaline dump." Shortly thereafter, a "10-16" was broadcasted over the radio, as well as a request for a police wagon. Officers Porter and Goodson proceeded to 1600 North Avenue.

Both officers proceeded to 1600 North Avenue. When the back doors of the wagon were opened, Mr. Gray was observed to be on his knees. One observer noted that Mr. Gray was facing the bench, with his knees at an angle, and his head and neck upright. Mr. Gray was also observed kneeling with his back to the door, leaning to the right onto the bench. Both accounts indicate that Mr. Gray was kneeling and maintaining his position. At certain times, Mr. Gray responded to his name. Mr. Gray was noted to be lethargic and tired. He was breathing and did not have any visible injuries. At this stop, a new prisoner, Donta Allen, was put in the other side (left) of the wagon. After departing from North Avenue, the evidence indicates that Mr. Allen heard Mr. Gray bang against the side of the wagon 4-5 times with what he believed was his head. He heard him moan. He described the ride to the station as smooth. The wagon was not being driven erratically or making abrupt stops and starts.

The wagon proceeded to the Western District. After removing Mr. Allen from the wagon and placing him in a holding cell, Officer Novak opened the other side of the wagon. Mr. Gray was found by Officer Novak lying on his left side with his head towards the back doors. According to the testimony, he was not breathing or responsive. Officer Novak turned Mr. Gray over and performed a sternal rub. Upon receiving no response, Mr. Gray was placed in a seated "recovery position" and the medics were called. The medics arrived, assessed Mr. Gray and performed approximately 20-30 minutes of CPR with ACLS protocol.

Mr. Gray was transported to Shock Trauma. The medical records indicate that he had quadriplegia. Mr. Gray underwent CTs and a MRI. He was found to have fractures to C4-C5 to the left side, as well as C4-C5 unstable subluxation/dislocation with jumped/locked right facet joint. He also was noted to have, among other things, extensive edema from the brainstem to the distal cervical spinal cord and a left vertebral artery injury. Mr. Gray's spinal cord was nearly transected. Upon arrival to Shock Trauma, Mr. Gray tested positive for Cannabinoid and Opiates.

After unsuccessful attempts of manual reduction, Mr. Gray underwent surgery (discectomy, fusion, arthrodesis and laminectomy) on

April 14, 2015. The operative findings included C4-C5 locked facet right side and left side fracture of the articulating processes of C4 and C5. There was evidence of CSF leakage, and significant soft tissue injury.

Mr. Gray continued in a comatose state with diffuse cerebral dysfunction. On April 19, 2015, Mr. Gray experienced an episode of severe hypertension and tachycardia, followed by hypotension and bradycardia and ultimately, pulseless electrical activity. Despite resuscitative efforts, Mr. Gray was pronounced dead on April 19, 2015 at 5:59 am.

The OCME was notified at approximately 8:18 am on April 19th. An autopsy was performed on April 20th. Ten days after performing the autopsy examination, Assistant Medical Examiner Carol H. Allan, M.D. determined that Mr. Gray's manner of death was a homicide and his cause of death was a neck injury.

Dr. Allan's manner of death conclusion is not supported by the evidence produced in this case.

Dr. Allan opined that Mr. Gray sustained his fatal injury prior to the stop at Druid Hill and Dolphin Streets ("Stop 4"). However, the very facts upon which Dr. Allan relied do not support this conclusion. Following the necessarily forceful impact required to cause his diagnosed injury, Mr. Gray would not have been able to have the conversation with Officer Porter that Dr. Allan described as occurring at Stop 4. He would not have been able to provide the minimal responses Dr. Allan described at 1600 North Pennsylvania Avenue ("Stop 5"). Further, a fracture at C4-C5 would have impaired the diaphragm making it extremely difficult to talk, much less breathe efficiently. Again, the conversations as described by Dr. Allan do not support the conclusion that the injury occurred prior to Stop 4. Finally, Dr. Allan noted that Mr. Gray was placed on the bench of the police wagon at Stop 4 and was found kneeling at Stop 5 and was found either kneeling or lying down with his head towards the back of the wagon at the Western District ("Stop 6"). If Mr. Gray's neck injury occurred prior to Stop 4 as opined by Dr. Allan, he would have been unable to move to those positions, much less sustain those observed positions at Stops 4 and 5. He would not have been able to sit. He would not have been able to hold his head or back erect. Significantly, if Mr. Gray had sustained this injury prior to Stop 4 (or Stop 5) and he had a seizure as Dr. Allan suggests, he would not have had the ability to move his limbs. He would not be able to create the banging or noise heard by Mr. Allen between Stops 5 and 6. Plus, there is no medical

evidence that Mr. Gray experienced a seizure during the wagon transport. Based on the evidence produced in this case, the force related to the banging of Mr. Gray's head could be equal to (and likely greater than) the force related to him falling over backwards. There is evidence of banging in this case, yet there is no evidence of a fall. There is no evidence to suggest sudden or abrupt stops, accelerations or decelerations in the operation of the wagon.

To a reasonable degree of medical probability, the injury occurred between Stop 5 and Stop 6.

Dr. Allan determined that the manner of Mr. Gray's death was a homicide. She summarized her opinion as follows: "Due to the failure to follow established safety procedures through acts of omissions, the manner of death is best certified as a homicide." The "established safety procedures" that were not followed are not articulated in her report, although they appear to be the "required" use of "safety equipment" and obtaining "prompt medical attention." Dr. Allan distinguished Mr. Gray's death from an accident because she determined that his injury and resultant death was not an unforeseen event. Dr. Allan provides no support for her statement that the catastrophic injury suffered by Mr. Gray and his resultant death was a foreseeable event. Dr. Allan provides no support for her assumption that it was foreseeable that Mr. Gray would sustain any injury, much less a catastrophic and ultimately fatal one. She provides no medical support for her opinion that, at any of the stops prior to the Western District, Mr. Gray presented with an injury or condition that required "prompt medical attention," much less presented with an injury that in the absence of prompt medical attention may prove fatal. Dr. Allan's opinion is flawed, contradicted by the evidence she relied on, and contrary to the accepted standards in the industry. Additionally, Dr. Allan's reliance on and/or interpretation of specific statutes, rules or local internal regulations in arriving at the manner of death is inappropriate and not a practice that is generally accepted in the industry.

Based on the evidence currently available, the appropriate manner of Mr. Gray's death is either "undetermined" or "accident." If there are multiple explanations surrounding the death or if there is insufficient information to determine how the death occurred, the appropriate classification is "undetermined."

Dr. Arden's expert opinions will be based on his education, training, and experience, as well as his review of records and materials produced in this case. Dr. Arden may amend or expand upon his opinions in response to further information made available to him through discovery or at trial.

Officer Goodson also reserves the right to call the following expert witnesses:

K. Matthew D. Ammerman, M.D.
Washington Neurosurgical Associates, PC
5215 Loughboro Road, NW, Suite #510
Washington, D.C. 20016

Dr. Ammerman is board certified in neurosurgery. He is an Assistant Clinical Professor of Neurological Surgery at George Washington University and Adjunct Assistant Clinical Professor of Neurological Surgery at Johns Hopkins University. A copy of Dr. Ammerman's curriculum vitae is attached at **Exhibit 8**.

If called to testify, Dr. Ammerman is expected to testify regarding the causation, extent, and nature of Mr. Gray's injury. Dr. Ammerman may testify regarding Mr. Gray's relevant medical conditions, if any, and their causes, if knowable. Dr. Ammerman may testify regarding the care, treatment, evaluation, and diagnosis of Mr. Gray's injury.

To date, Dr. Ammerman has been provided the following records and materials produced in this case:

- State's Initial Discovery Disclosure (6.26.2015)
- State's Supplemental Discovery Disclosure (7.16.2015)
- State's Supplemental Discovery Disclosure (7.24.2015)
- State's Supplemental Discovery Disclosure (8.6.2015)
- State's Supplemental Discovery Disclosure (8.19.2015)

- State's Supplemental Discovery Disclosure (8.31.2015)
- State's Supplemental Discovery Disclosure (9.9.2015)
- State's Supplemental Discovery Disclosure (9.11.2015)
- State's Supplemental Discovery Disclosure (9.18.2015)
- State's Supplemental Discovery Disclosure (9.22.2015)
- State's Supplemental Discovery Disclosure (9.23.2015)
- State's Supplemental Discovery Disclosure (9.25.2015)
- State's Supplemental Discovery Disclosure (9.30.2015)
- Imaging studies.

Dr. Ammerman is prepared to comment on and directly address the theories, opinions, and testimony advanced by Carol Allan, M.D., Morris Marc Soriano, M.D., and any other medical expert called by the State at trial, concerning Mr. Gray's injury. Dr. Ammerman may also testify regarding the validity of any literature identified by the State (or its experts) as relevant and supportive of the State's theory as to how Mr. Gray's injury occurred. Dr. Ammerman may testify regarding any literature he reviewed (or may review) in arriving at his opinions. Dr. Ammerman will also testify regarding any other subject matter that is necessary, after he is advised of testimony and evidence offered by the State during its case in chief.

Specifically, Dr. Ammerman may testify as follows:

The imaging studies revealed that Mr. Gray presented to Shock Trauma with the below diagnoses:

- C4-05 fracture dislocation with jumped/locked right facet joint, left facet superior and inferior articular process fractures and intervertebral disc disruption with adjacent endplate fractures. There was a high grade spinal canal compromise and left vertebral artery occlusion. (4/12 CT)

- Anterior dislocation of C4 over C5 with jumped facet joints, rupture of the anterior and posterior ligaments, the ligamentum flavum and the interspinous ligaments at this level. There was almost complete transection of the spinal cord at the C4/C5 disc level, left sided more prominent than right. There was evidence of a central hemorrhage at this level, as well as diffuse cord edema extending from C2 through C7. There was also a hemorrhage in the central portion of the spinal cord at C3-C6 level, and extensive edema in the posterior soft tissue. (4/12 MRI)
- Complete occlusion of the left vertebral artery from its origin to the level of C4 with distal reconstitution. Anterior subluxation of C4 on C5 due to right C4-05 facet dislocation and left C4 articular pillar and C5 lamina and facet fractures with laminopedicular separation. (4/13 CT angiogram)

Mr. Gray's anterior dislocation/subluxation injury typically is referred to as a severe hyperflexion with rotation injury and requires a high degree of force. An associated hematoma, skull fracture or any other type of intracranial or superficial injury is not required. The symptoms associated with this injury are limp at the waist, inability to control limbs and neck, loss of bowel and bladder functions, and the inability to breathe. These symptoms would be instantaneous. Upon sustaining this injury, Mr. Gray would not have been able to talk. He would not be able to hold his body in a sitting or kneeling position. Within minutes, Mr. Gray suffered an anoxic brain injury.

Depending on the amount of force and positioning of his head, Mr. Gray may have been able to generate a sufficient amount of force by banging his head against the interior of the police wagon. It also is equally plausible that Mr. Gray may have sustained the injury by falling backwards from a hunched position and striking his head. There is no medical evidence that Mr. Gray sustained a seizure while being transported in the police wagon. Even if Mr. Gray had experienced a seizure during transport, due to the severe injury to his spinal cord, Mr. Gray's limbs would not move.

Based on the materials produced in this case, there is no evidence that Mr. Gray sustained his fatal injury prior to the departure from the stop on 1600 West North Avenue. More likely so than not, the injury occurred between the departure from 1600 West North Avenue and the arrival of the police wagon at the Western District. This injury occurs suddenly, as opposed to over time. Upon sustaining this injury, further placement in a seatbelt would be contraindicated.

Further, a delay in medical treatment did not impact Mr. Gray's chance of survival. Upon sustaining this injury, Mr. Gray's chance of survival was less than 50%.

Dr. Ammerman's expert opinions will be based on his education, training, and experience, as well as his review of records and materials produced in this case. Dr. Ammerman may amend or expand upon his opinions in response to further information made available to him through discovery or at trial.

L. Vincent J.M. DiMaio, M.D.
10 Carriage Hills
San Antonio, Texas 78257

Dr. DiMaio is board certified in anatomical pathology, clinical pathology and forensic pathology. He is the current Editor-In-Chief for the American Journal of Forensic Medicine and Pathology. He is also a Commissioner for the National Commission on Forensic Science. A copy of Dr. DiMaio's curriculum vitae is attached at **Exhibit 9**.

If called to testify, Dr. DiMaio is expected to testify regarding the timing of Mr. Gray's injury, the manner of Mr. Gray's death, as well as the cause of death. Dr. DiMaio may testify regarding Mr. Gray's relevant medical conditions, if any, and their causes, if knowable.

To date, Dr. DiMaio has been provided the following records and materials produced in this case:

- State's Initial Discovery Disclosure (6.26.2015)
- State's Supplemental Discovery Disclosure (7.16.2015)
- State's Supplemental Discovery Disclosure (7.24.2015)
- State's Supplemental Discovery Disclosure (8.6.2015)
- State's Supplemental Discovery Disclosure (8.19.2015)
- State's Supplemental Discovery Disclosure (8.31.2015)
- State's Supplemental Discovery Disclosure (9.9.2015)
- State's Supplemental Discovery Disclosure (9.11.2015)
- State's Supplemental Discovery Disclosure (9.18.2015)
- State's Supplemental Discovery Disclosure (9.22.2015)
- State's Supplemental Discovery Disclosure (9.23.2015)
- State's Supplemental Discovery Disclosure (9.25.2015)
- State's Supplemental Discovery Disclosure (9.30.2015)
- Inspection of Police Wagon.

Dr. DiMaio is prepared to comment on and directly address the theories, opinions, and testimony advanced by Carol Allan, M.D., and any other medical expert called by the State at trial, concerning Mr. Gray's injury, and the manner and cause of his death. Dr.

DiMaio may also testify regarding the validity of any literature identified by the State (or its experts) as relevant and supportive of the State's theory as to the manner and cause of Mr. Gray's death. Dr. DiMaio may testify regarding any literature he reviewed (or may review) in arriving at his opinions. Dr. DiMaio will also testify regarding any other subject matter that is necessary, after he is advised of testimony and evidence offered by the State during its case in chief.

If called to testify, Dr. DiMaio may testify to the following:

1. Background Facts

Scene/First Stop: At the time of his arrest, Mr. Gray indicated he had asthma and requested his inhaler. No inhaler was found on Mr. Gray's person. After being placed in handcuffs, Mr. Gray was assisted to the police van, exhibiting both verbal and some physical resistance. Mr. Gray was seen on video entering the right hand compartment of the van, bearing weight on his legs and actively speaking. He was reportedly placed on the metal bench running from front to back along the outside wall of the van (the bench measures approximately 13" wide and 8' long allowing for 19" between the metal wall dividing the van into two discrete compartments and the bench edge). After the inner and outer doors were closed, it was reported that Mr. Gray could be heard yelling and banging, causing the van to rock.

Second Stop: The van stopped at North Mount and Baker to fill out Booking Receipt ("toe tag") and to place Mr. Gray in flex cuffs and metal leg shackles. Once outside, Mr. Gray continued to yell, scream, flail around and be uncooperative. This continued as the officers attempted to place Mr. Gray back into the van. He attempted to kick the officers. He is eventually loaded into the back right side of the van, head first, face down. Once the doors of the wagon were closed, the wagon began shaking and Mr. Gray was heard yelling, screaming, banging his head and kicking the doors.

Third Stop: Mosher Street and North Fremont Avenue. Officer Goodson stopped the van and walked to the back of van. Officer Goodson called for assistance.

Fourth Stop: Officer Goodson stopped at Dolphin Street and Druid Hill and met Officer Porter. They opened the van. Mr. Gray was face down on his stomach, facing the front. Officer Porter talked with Mr. Gray who said, "help." Officer Porter asked him why he needed help. While on his stomach, Mr. Gray said he could not breathe and wanted help up. Officer Porter helped Mr. Gray up off the floor and placed him on the bench in a sitting position and Mr. Gray maintained that position. Officer Porter again inquired what was wrong but did not get a response. Officer Porter asked if Mr. Gray wanted medical attention and was told yes. At this point, Mr. Gray had calmed down and appeared to be experiencing an "adrenaline dump." Because of Officer Porter's offer of medical assistance and Mr. Gray's acceptance of same, Officer Porter relayed to Officer Goodson that Mr. Gray needed to be taken to the hospital. Very shortly thereafter, a "10-16" was broadcasted over the radio, as well as a request for a police van. Officers Porter and Goodson proceeded to 1600 North Avenue in response to the "10-16".

Fifth Stop: **1600 North Avenue.** When the back doors of the van were opened, Mr. Gray was observed to be on his knees. One observer noted that Mr. Gray was facing the bench, with his knees at an angle, and his head and neck upright. Mr. Gray was also observed kneeling with his back to the door, leaning to the right onto the bench. Both accounts indicate that Mr. Gray was kneeling and maintaining his position. At certain times, Mr. Gray responded to his name. He also indicated that he wanted to be seen by a medic. Mr. Gray was noted to be lethargic and tired. He was breathing and did not have any visible injuries. At this stop, a new prisoner, Donta Allen, was put in the other side (left side) of the van. After departing from North Avenue, Mr. Allen, heard Mr. Gray bang against the side of the van 4-5 times with what he believed was his head. He heard him moan. He described the ride to the station as smooth. The wagon was not being driven erratically or making abrupt stops and starts.

Sixth Stop:

The van arrived at the police station. After removing Mr. Allen from the van and placing him in a holding cell, Officer Novak opened the other side of the van. Mr. Gray was found by Officer Novak lying on his left side with his head towards the back doors. He was not breathing or responsive. Officer Novak turned Mr. Gray over and performed a sternal rub. Upon receiving no response, Mr. Gray was placed in a seated "recovery position" and the medics were called. The medics arrived and performed approximately 20-30 minutes of CPR with ACLS protocol.

UMMC:

Mr. Gray was transported to Shock Trauma and arrived in cardiac arrest. He also had quadriplegia. Mr. Gray underwent CTs and a MRI. He was found to have fractures to C4-05 to the left side, as well as C4-05 unstable subluxation/dislocation with jumped/locked right facet joint. He also was noted to have, among other things, extensive edema from the brainstem to the distal cervical spinal cord and a left vertebral artery injury. Mr. Gray's spinal cord was nearly transected. Upon arrival to Shock Trauma, Mr. Gray tested positive for Cannabinoid and Opiates.

After unsuccessful attempts of manual reduction, Mr. Gray underwent surgery (discectomy, fusion, arthrodesis and laminectomy) on April 14, 2015. The operative findings included C4-05 locked facet right side and left side fracture of the articulating processes of C4 and C5. There was evidence of CSF leakage, and significant soft tissue injury.

Mr. Gray continued in a comatose state with diffuse cerebral dysfunction. On April 19, 2015, Mr. Gray experienced an episode of severe hypertension and tachycardia, followed by hypotension and bradycardia and ultimately, pulseless electrical activity. Despite resuscitative efforts, Mr. Gray was pronounced dead on April 19, 2015 at 5:59 am.

OCME:

The OCME was notified at approximately 8:18 am on April 19th. An autopsy was performed on April 20th. Ten days after performing the autopsy, Assistant Medical Examiner Carol H. Allan, M.D. determined that Mr. Gray's manner of death was a homicide and his cause of death was a neck injury.

2. Pertinent information taken from autopsy examination

The body was that of an unclad, severely anasarcaous, well-developed, well-nourished African American male. The body weighed approximately 202 pounds, was approximately 5'9" in length, and appeared compatible with the reported age of 25 years.

A sutured, granulating surgical incision was on the anterior right side of the lower neck associated with post-surgical changes in the right strap muscles and the presence of orthopedic hardware on the anterior aspect of the cervical vertebral column (status posterior anterior fixation of C4/C5 vertebral column).

A vertically-oriented sutured, granulating surgical incision was on the back of the neck associated with post-surgical changes and edema (status post open reduction of C4-05 locked facet joints, C3 to C6 laminectomies and internal fixation).

A granulating, inverted "V"-shaped abraded laceration, with the open side directed in an inferior direction and measuring 1 x 1/2" on the anterior and posterior legs, was on the right temporal scalp and had a 1/4" circular laceration in the apex of the angle that penetrated the full thickness of the scalp. This patterned injury was associated with a underlying 1-1/2 x 1/4" subscalp hemorrhage.

A 1x1/4 inch healing abrasion was on the left temporal scalp associated with a 2x2 inch subscalp hemorrhage, 1/4 and 3/8 inch healing abrasions were on the lateral aspect of the left cheekbone. No fractures were present. A 1-1/2 x 1 inch hematoma was present in the left lateral occipital scalp overlying the occipital prominence.

On reflection of the parieto-occipital scalp, a 1-1/2 x 1" hematoma was identified on the left lateral occipital scalp, overlying the occipital prominence at the base of the skull. No fractures of the skull or evidence of extra-axial hemorrhage was identified. Examination of the brain revealed edema and more prominent secondary hypoxic-ischemic changes of the parietal and occipital lobes and the medulla of the brainstem, with frank necrosis at the cervico-medullary junction.

A 2 x 3/4" healing abrasion was on the top of the medial left shoulder. A 3 x <1/16" superficial linear abrasion was on the lateral left side of the upper back. Reflection of the skin of the posterior torso revealed water, superficial fascial hemorrhage in scapular region of the left side of the back (5x2") and the inferior costal region of the right side of the back (4x3"). No deep soft tissue hemorrhage was identified in examination of the anterior, lateral or posterior aspects of the torso or of the buttocks. No fractures of the ribs, thoraco-lumbar vertebral column or pelvis or injuries to the internal organs of the torso, abdomen or pelvis were identified.

A 1-1/2 x 3/8" healing, superficial abrasion was on the inferior aspect of the right knee and a 1/4" abrasion was on the lateral aspect of the right knee. 1/4" and 1/8" healing, superficial abrasions were on the medial and lateral aspects of the left knee, respectively. Two, 1/2 x 1/16" slightly curvilinear, vertically-oriented, parallel abrasions were on the lateral aspect of the right ankle and were associated with a 1 x 3/4" area of faint subcutaneous hemorrhage. A 1-1/2 x 3/4" area of similar, faint subcutaneous hemorrhage was identified on reflection of the skin of the lateral left ankle. Reflection of the skin of

the lower extremities revealed severe edema but was otherwise negative for superficial or deep soft tissue hemorrhage. No fractures of the long bones of the lower extremities were palpable or identified on radiographic examination.

Serous fluid collections were recovered the chest (150 ml. right and left) and abdominal (800 ml.) cavities and the pericardial sac (30 ml.). All body organs were present in the usual anatomical position. There was no internal evidence of blunt force or penetrating injury to the thoraco-abdominal region.

3. Discussion of Mr. Gray's injuries

C4- SPINAL INJURY:

The **fourth cervical vertebra (C4)** is the level where nerves run to the diaphragm, the main muscle that allows us to breathe. It separates the chest from the abdomen, and when it contracts, air is sucked into the lungs like a bellows. There would be no contraction, no sucking, no breathing. People who survive spinal cord injuries above this level need ventilators or machines to breathe.

If the spinal cord is severely injured and this injury is **at or above the fifth cervical vertebra (C5)**, then breathing may be affected.

If the cord is severely injured or transected (cut or torn in half), there is sudden loss of nerve supply to the entire body, including the heart and blood vessels. The victim may suffer a sudden and profound drop in blood pressure (BP). This is called "spinal shock."

A C4 spinal cord injury generally results in the following:

- Need for ventilator assistance to be able to breathe;
- Inability/Weak speech—may need mouth stick and computer to communicate;
- Quadriplegia—paralysis of arms, hands, trunk and legs.

4. Dr. Allan's opinion

Dr. Allan concluded that review of the chronology of the events from the when Mr. Gray was taken into custody in the context of a severe and unstable cervical spine fracture/dislocation that would be immediately symptomatic, is most consistent with Mr. Gray sustaining the injury in the police van sometime after the 2nd stop where ankle restraints were placed and before the 4th stop when the driver called for assistance. At this 4th stop, Dr. Allan concluded that Mr. Gray was displaying symptoms of a high spinal cord injury: difficulties in breathing and movement. According to Dr. Allan, the type of fracture/dislocation documented in imaging studies on admission is a high energy injury most often caused by abrupt deceleration of a rotated head on a hyperflexed neck, such as seen in shallow water diving incidents. While Dr. Allan could not excluded the possibility that this injury could occur while lying on the floor and sliding back and forth with the movement of the van, the likelihood of sufficient acceleration/deceleration to generate the energy needed is less likely in this position. Further, Dr. Allan found that the most significant impact to the head and the impact consistent with the neck injury is on the left lower back area of the head, is not consistent with injury in this prone position. Although Mr. Gray was placed belly down on the floor of the van at the 2nd stop, he would have been able to get to his feet using the bench side and the opposite wall. Dr. Allan noted that, as the clearance between the interior floor and roof was approximately 4

feet (Mr. Gray measured 5'9" in length), he would have been hunched over with his neck in a flexed position if he had risen off the floor. Dr. Allan stated that Mr. Gray was restrained with his wrists behind his back and at the ankles, was not belted with the safety belts that were present in the van, and due to an obstructed view of the roadway would have had trouble anticipating the van's motion; therefore, he was at risk for an unsupported fall during acceleration or deceleration of the van. Dr. Allan found that an unexpected turning motion, acceleration or deceleration of the van would have precipitated him into the side walls, the door or the front of the van depending on his position, resulting in the left posterior impact to his head with injury to the spinal cord in his flexed neck. In Dr. Allan's estimation, if the motion/acceleration/deceleration of the van was abrupt enough, given the confined space in the vehicle, it is possible that his neck injury occurred with him in a partially reclining position or as he was changing his position on the floor of the van. As Dr. Allan considered the fracture/dislocation very unstable, it was unclear to her whether the spinal cord lesion was complete, as documented in admission imaging studies, or in the spectrum of spinal concussion or contusion at the time of the fracture/dislocation in the van with evolution of the spinal cord injury during the movement of Mr. Gray to the bench, the subsequent stops and the motion of the van. Injury at this level of the spinal cord would have caused loss of function of the limbs and have direct effects on the mechanics of respiration through partial to near total paralysis of the diaphragm, the full function of which depends on the nerves associated with the part of the spinal cord that was damaged. Therefore, Dr.

Allan's conclusion is that the time the injury most likely occurred was after the 2nd, but before the 4th, stop of the van, and possibly before the 3rd stop when a video showed the driver stopping, getting out, and looking in the back of the van. Dr. Allan stated that the reported kicking heard after the 4th stop would not have been possible; however, a seizure resulting from decreased oxygen supply to the brain may have caused the banging noise reportedly heard from Mr. Gray's compartment.

Based on the sequence of events and the described progressive alteration of mental and physical status, Dr. Allan concluded that Mr. Gray's neck injury occurred while in custody, in and during transport in the police van. Dr. Allan stated that safety equipment was available but not used. Therefore, Dr. Allan found that it was not an unforeseen event (a medico-legal definition of an accident) that a vulnerable individual was injured during operation of the vehicle, and that without prompt medical attention, the injury would prove fatal. Dr. Allan determined that, due to the failure of following established safety procedures through acts of omission, the manner of death is best certified as **Homicide**. Finally, Dr. Allan noted that prolonged hospitalization precluded relevant postmortem toxicological testing.

5. Analysis of Dr. Allan's opinions

Dr. Allan's conclusions are not supported by the evidence produced in this case.

A. Timing of the injury

Dr. Allan opined that Mr. Gray sustained his fatal injury prior to Stop 4 at Druid Hill and Dolphin Streets. However, the very facts upon which Dr. Allan relied do

not support this conclusion. Following the necessarily forceful impact required to cause his diagnosed injury, Mr. Gray would not have been able to have the conversation with Officer Porter that Dr. Allan described as occurring at Stop 4. He would not have been able to provide the minimal responses Dr. Allan described at Stop 5. Further, a fracture at C4-05 would have paralyzed the diaphragm making it virtually impossible to talk, much less breathe. Again, the conversations as described by Dr. Allan do not support the conclusion that the injury occurred prior to Stop 4. Finally, Dr. Allan noted that Mr. Gray was placed on the bench of the police wagon at Stop 4 and was found kneeling at Stop 5 and was found either kneeling or lying down with his head towards the back of the van at Stop 6. If Mr. Gray's neck injury occurred prior to Stop 4, he would have been unable to move to those positions, much less sustain those observed positions. He would not have been able to sit. He would not have been able to hold his head or back erect. Significantly, if Mr. Gray had sustained this injury prior to Stop 4 (or Stop 5) and he had a seizure as Dr. Allan suggests, he would not have had the ability to move his limbs. He would not be able to create the banging or noise heard by Mr. Allen. Plus, there is no medical evidence that Mr. Gray experienced a seizure during the van transport.

Based on the evidence produced in this case, and to a reasonable degree of medical probability, the injury occurred between Stop 5 and Stop 6.

B. Manner of Death

Dr. Allan determined that the manner of Mr. Gray's death was a homicide. She summarized her opinion as follows: "Due to the failure to follow established safety

procedures through acts of omissions, the manner of death is best certified as a homicide." The "established safety procedures" that were not followed are not articulated in her report, although they appear to be the "required" use of "safety equipment" and obtaining "prompt medical attention." Dr. Allan distinguished Mr. Gray's death from an accident because she determined that his injury and resultant death was not an unforeseen event. Dr. Allan's opinion is flawed in many respects.

1. The risk of injury as a result of being an unbelted passenger in the back of a van of this type is small. Additionally, an individual who is handcuffed with leg shackles and lying on the floor is in a safer position than a person sitting on a bench from which he/she could fall.

2. The police officers clearly had no intent to injure or kill, and it is appropriate to consider intent (although not required) when considering the classification of homicide. The National Association of Medical Examiners ("NAME") defines "manner of death" as follows:

A simple system for classifying deaths based in large part on the presence or absence of intent to harm, and the presence or absence of violence, the purpose of which is to guide vital statistics nosologists to the correct external causation code in the International Classification of Diseases. The choices are natural, accident, homicide, suicide, undetermined, and in some registration districts for vital statistics, unclassified.

From the perspective of a medical examiner, homicide is generally viewed as a death that results from a volitional act committed by another person to cause fear, harm or death. Intent is a common element in determining whether a death is a homicide, but

is not required for classification. However, the term homicide does not indicate or imply *criminal* intent as used in the legal sense.

Intent is also important when considering the "reasonable person" idea because the "reasonable person" needs to "believe" that the risk is real. In this case, it is likely that the police did not believe the risk was significant based upon their observations. Even if they were wrong (and they may not be), that means that it is an accident, not a homicide.

The principle that "any" negligence is equivalent to homicide is clearly wrong, else there would be no accidents at all -- since almost all accidents involve inappropriate acts of commission or omission by another person. Further, it is inappropriate to rely on or interpret specific statutes, rules or regulations in arriving at the manner of death in a specific case. As recognized by "NAME," "this principle minimizes the need for the certifier to rely upon reported, often circumstantial third party of hearsay information and evaluate these data it [*sic*] in the context of applicable criminal law, a function better suited to others in the criminal justice system."

3. The idea that a particular risk ratio threshold is necessary to move from accident to homicide is absurd. It is not just a matter of some arbitrary line to cross.

4. It is understood that risk taking behavior poses challenges when determining manner of death. Mr. Gray's violent behavior within the van would be classified as risk taking behavior.

5. Based on the evidence currently available, the appropriate manner of Mr. Gray's death is "accident." The term "accident" generally applies when an injury causes death and there is little or no evidence that the injury occurred with the intent to harm or cause death. The concept of legal foreseeability is inappropriate in the definition of "accident."

Dr. DiMaio's expert opinions will be based on his education, training, and experience, as well as his review of records and materials produced in this case. Dr. DiMaio may amend or expand upon his opinions in response to further information made available to him through discovery or at trial.

III. CHARACTER WITNESSES PURSUANT TO RULE 4-263(e)(3)

Nathaniel Adams
Oral Chambers
Paulette Hicks
Ernie Graham
Cameron Johnson
Detective Syreeta Teel
Officer William Porter

Officer Goodson reserves the right to elicit character evidence and testimony from any of the State's witnesses.

IV. ALIBI WITNESSES PURSUANT TO RULE 4-263(e)(4)

The defense does not intend to call upon any alibi witnesses at the trial of the above-captioned case.

STATE'S ATTORNEY
Marilyn J. Mosby



OFFICE of the STATE'S ATTORNEY for BALTIMORE CITY
120 East Baltimore Street Baltimore, Maryland 21202

DIRECT DIAL
443-984-6000

September 18, 2015

Matthew B. Fraling, III
Sean Malone
Harris Jones & Malone, LLC
2423 Maryland Avenue, Suite 100
Baltimore, MD 21218

Re: State v. CAESAR GOODSON
Case No.: 115141032

Dear Counsel,

In accordance with Maryland Rule 4-263, please be advised that the State has consulted with and intends to call as an expert witness Dr. Michael D. Lyman, whose address is *Columbia College of Missouri*, 1001 Rogers St., Columbia, MO 65203, and whose curriculum vitae is enclosed herein. It is anticipated that Dr. Lyman will testify concerning policing practices and procedures. Specifically, Dr. Lyman may testify regarding the functions of police within society, including, among others, responsibilities of police officers to preserve human life, the duty of police to maintain the safety of individuals within their custody, and the responsibilities of police during the transportation of an arrestee. He may also testify about whether and to what extent Mr. Gray's treatment by police while in their custody was consistent or inconsistent with the duties and responsibilities of police officers. Dr. Lyman may also testify concerning the general credentials of a police officer to render a medical diagnosis. Dr. Lyman may also testify concerning the nature and purposes of police General Orders.

Respectfully,

Signature appears on original
Janice L. Bledsoe (#68776)
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September 18, 2015

Andrew Jay Graham
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Re: State v. CAESAR GOODSON
Case No.: 115141032

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RE: State v. Goodson, et al

Dear Defense Counsel:

Supplementing the discovery provided concerning Dr. Michael Lyman on September 18, 2015, it is anticipated that Dr. Lyman will testify to the following:

Police Department General Orders are important because they provide police officers with mandated procedures for important field decisions. These General Orders are particularly crucial when addressing field operations that impact the safety of the public. When members of the public have a potential to get hurt, or when constitutional protections are at issue, police officers are in more need of guidance than ever.

Mr. Gray should have been seatbelted when placed in the back of the transport van; when removed and returned to the transport van; and when evaluated during stops at

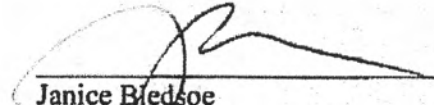
Fremont Avenue and Mosher Street, Druid Hill Avenue and Dolphin Street, and North Avenue and Pennsylvania Avenue, consistent with the responsibility of police officers for the health and safety of people in police custody, particularly someone who is handcuffed and/or in leg shackles and cannot protect himself, and also consistent with both Baltimore City Police Order K-14 and Policy 1114. Had Mr. Gray been properly seatbelted, given that he was handcuffed and later restricted by leg shackles, Mr. Gray would have remained incapacitated and unable to move amongst the cabin during transit. Because Mr. Gray was handcuffed with hands behind him, he was incapable of placing a seatbelt upon himself.

All officers made aware by any means of Mr. Gray's request for medical attention had a duty to assure professional medical attention was obtained. All officers who had knowledge of the deterioration of Mr. Gray's condition had a duty to announce this information to other officers. To the extent that superior officers were present, all subordinate officers had a duty to inform superior officers of Mr. Gray's condition, as well as of Mr. Gray's request for medical attention. All superior officers had a duty to assure Mr. Gray's request for medical attention was satisfied either by taking direct action him or herself or by commanding other officers and assuring compliance. The act by a subordinate of informing a superior officer of Mr. Gray's deteriorating condition, as well as informing a superior officer of his request for medical attention, did not relieve any officer of his or her duty to provide or obtain professional medical attention for Mr. Gray. All officers were unqualified and not properly trained to make medical determinations upon Mr. Gray's request for medical attention. However, all officers who had knowledge of Mr. Gray's request for medical attention and/or had knowledge of his deteriorating condition had a duty to render appropriate aid to Mr. Gray pursuant to their training as a member of the Baltimore City Police Department and to request medical treatment for Mr. Gray.

The grounds for Dr. Lyman's opinions are his training, experience and expertise, and his review of (1) General Order K-14 and Policy 1114, (2) video and transcribed statements provided by Defendant White, (3) video and transcribed statements provided by Defendant Rice, (4) video and transcribed statements provided by Defendant Nero, (5) video and transcribed statements provided by Defendant Miller, (6) video and transcribed statements provided by Defendant Porter, (7) video of statements provided by Defendant Goodson (8) transcript of Grand Jury testimony provided by Officer Gladhill (9) transcript of Grand Jury testimony provided by Officer Novak, (10) transcript of Grand Jury testimony provided by Officer Wood, (11) transcript of statements provided by Angelique Herbert, (12) transcript of statements provided by Brandon Ross, (13) transcript of statements provided by Daquante Walker, (14) transcript of statements provided by Donta Allen, (15) the video taken by Kevin Moore, (16) the video taken by Daquante Walker, (17) the video taken by Brandon Ross, (18) recorded KGA communications from 4/12/15, (19) CCTV footage recovered from 727 W. North Avenue - North Carey Street on 4/12/15 beginning at 9:00 a.m., (20) CCTV footage recovered from 728 W. North Avenue - Pennsylvania Avenue on 4/12/15 beginning at 9:00 a.m. (21) photos of the wagon taken by BPD Crime Lab, (22) note of statement by William

Porter on 4/15/15, (23) recovered video of wagon stop from Fremont Avenue and Mosher Street, all said items having been previously furnished to the Defendants in discovery.

Very truly yours,



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NEWS | U.S.
Mistrial declared for trial of William Porter in Freddie Gray case

Melanie Cole
 Fri, December 18, 2015

Article Comments

 Mistrial declared for trial of William Porter in Freddie Gray case

Davis spoke with 11 News on Thursday about police-

community relations, police following guidelines and testimony during the trial of Officer William Porter, the *first* of six Baltimore police officers to stand trial in the death of Freddie Gray.

"A **hung jury** is a defeat for the prosecution, especially when they needed Porter to make some of these other cases", Toobin said.

Steve Levin, a **Baltimore** defense attorney and former federal prosecutor who followed the case, said the result was unfortunate for both sides. Gray is one of several high profile examples of black men who have died in the hands of law enforcement, but his case is the *first* to go to trial.

"In the case of any disturbance in the city, we are prepared to respond. Prosecution of police officers is never easy, but when you look at some of the facts in this case, you've got to understand nothing here is a slam dunk", Harris said. We are not at all upset with them, neither should the public be upset.

Police have been positioned around the city to prevent riots like those that erupted following Gray's death. But the **mistrial** could complicate that strategy, and depending on how the other trials are scheduled, he may not be available to testify.

"People had negative views of police", Porter said.

The case hinged not on what Porter did, but what prosecutors said he didn't do.

"We will not, we can not be defined by the unrest of the spring", Rawlings-Blake said.

Attorney Billy Murphy, who obtained a \$6.4 million settlement for Gray's family from the city before Porter's trial, called the **mistrial** "a temporary bump on the road to justice".

Retired police major Neil Franklin said, "in my mind and also in the prosecutor's mind, that is the most important case".

 MISTRIAL Policeman William Porter

MISTRIAL Policeman William Porter

"And there's *no one* who claims that's a win for the prosecution", Van Susteren said.

The judge will meet with the prosecutors and defense attorneys tomorrow to set a date for a re-trial.

Minutes after the **mistrial** was announced, officers stationed outside of the courthouse grabbed a teenage activist by his neck and took him down, reports CBS News correspondent Kris Van Cleave. The jurors said they were at an impasse on every charge.

It was not clear how the **mistrial** would affect the other officers.

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Guardiola has asked me about England - Karanka

Sponsorec



Prosecutors said he should have called a medic for Gray sooner than one was eventually called and also should have ensured that Gray was wearing a seat belt.

Porter had faced about 25 years in prison if convicted on all counts.

All sworn personnel in the city department were assigned to 12-hour shifts through this week, and the commissioner said police would be monitoring social media for any signs of unruly protesters. A group of Americans sat through someone saying cops shackled a man, left him on the floor, let him bang around in a metal death box, and then maybe - just maybe - told someone else that they should get Gray help, and went "ok cool sounds like a great guy let's go home now".

The officer's lawyer argued that Porter may not have been aware of department policy mandating that detainees be seat-belted, which was put into place shortly before Gray's arrest.

Porter, charged with manslaughter, assault, misconduct and reckless endangerment, was not involved in the arrest.



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Former FBI Agent: Retry Officer To 'Destroy' Freddie Gray Prosecutor Marilyn

Posted on Saturday, December 19, 2015 by Jake Bell



UPDATE| Hung jury in Freddie Gray trial of officer

Arthur B. Johnson Jr. protests outside of the courthouse in response to a **hung jury** and mistrial for Officer William Porter, one of six **Baltimore** city police officers charged in connection to the death of Freddie Gray, Wedn...

Deadlocks do not immediately cause **mistrials**, but if the jury cannot reach a unanimous verdict after continued deliberation, a

mistrial could eventually be declared.

Retired police major Neil Franklin said, "in my mind and also in the prosecutor's mind, that is the most important case".

The streets of **Baltimore** were calm overnight Wednesday as activists urged peace and healing after the announcement of a **mistrial** in the trial of police officer William Porter.



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The officer's attorneys had argued that Porter may have been unaware of department policy mandating that detainees be seat-belted, which was put into place shortly before Gray's arrest. Porter's lawyers have previously called for the trial to be moved **Select** city limits, but they have been denied those requests. The trials of the other five officers charged in Gray's arrest and death were scheduled consecutively, with the next one set for early January. Those meetings could affect trials for the other five officers charged. Porter was charged with manslaughter, second-degree assault, misconduct in office and reckless endangerment.

The Freddie Gray trials have an added historical significance in the context of America's ongoing debate over police use of force.

"This **mis**trial has increased the burden on the state to prove beyond a reasonable doubt for the next case", Neverdon continued.

Maryland judiciary spokeswoman Terri Charles says lawyers confer again with the judge in the coming days, and that to her knowledge, prosecutors have not yet decided whether to retry Porter.

"It is my understanding the adult has been released and the juvenile probably has too", the **Baltimore** Sheriff's Department says.

Prosecutors said such testimony reflects a "culture of silence" in which police protect their own, but that argument could have backfired.

"I don't think that [expletive] was right. We are here to serve as peacekeepers, quite frankly", **Baltimore** police commissioner Kevin Davis said.

Mayor Stephanie Rawlings-Blake told MSNBC's Andrea Mitchell she appreciated the jury's efforts and was grateful that the "vast majority" of residents respected their decision. The **hung jury** in the Porter case, however, has made the upcoming court cases trickier.

"There are officers that I work with that are wonderful", she said, but "if something were to happen to that young lady, where am I in this?" His trial concluded, and for three days (Monday through Wednesday), jurors could not reach a decision as to Porter's guilt in the manslaughter case. Porter and other witnesses testified that it was the responsibility of the wagon driver, **Caesar Goodson**, to buckle Gray into the seat belt.

"The issues in this case were confusing", he said, "and the evidence against this particular officer was unique, and it was different than the other defendants".

Most **hung juries** are retried, with 70% of going on to eventually result in a conviction, Murphy said. "It's just a **bump on the road to justice**, and you know, the road to justice has lot of bumps".

Mr. **Gray** died April 19 from injuries, including a broken neck, he sustained while in the back of a police van with wrists and ankles shackled.

He said the family is "not at all upset and neither should the public be upset".

"They're in a stronger position to have the opportunity for a second trial".

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