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P R E S E N T

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HONORABLE NANCY KOPP, Treasurer;

SHEILA C. MCDONALD, Secretary, Board of
Public Works;

D'ANDREA WALKER, Deputy Secretary,
Department of General Services;

T. ELOISE FOSTER, Secretary, Department
of Budget and Management;

DARRELL MOBLEY, Acting Secretary, Department
of Transportation;

EMILY WILSON, Director, Land Acquisition and
Planning, Department of Natural Resources;

ZENITA WICKHAM HURLEY, Special Secretary,
Governor's Office of Minority Affairs;

MARY JO CHILDS, Procurement Advisor, Board
of Public Works; and,

MARION BOSCHERT, Recording Secretary, Board
of Public Works.

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P R O C E E D I N G S

GOVERNOR O'MALLEY: Sorry to hold you all up. Today is May 1, 2013, Board of Public Works. Any opening comments or thoughts as we get going here? Mr. Comptroller?

COMPTROLLER FRANCHOT: Thank you, Governor. And good morning, Treasurer Kopp.

TREASURER KOPP: Good morning.

COMPTROLLER FRANCHOT: Understandably the three of us often keep a close eye on what's happening in Washington. Frankly we are often watching what isn't happening in Washington. But I'm particularly pleased this week to see movement in the Congress on the Marketplace Fairness Act.

GOVERNOR O'MALLEY: Hear, hear.

TREASURER KOPP: Yeah.

COMPTROLLER FRANCHOT: And for those that are unfamiliar this legislation would provide states with the ability to collect sales tax from online retailers the same way we currently collect from brick and mortar establishments. As Comptroller obviously I'm particularly interested in this. And Governor O'Malley I know has been a tremendous proponent of

this as well, and the Treasurer. I'd like to commend Senator Cardin, who has been a leader on this issue, along with Senator Mikulski.

This bill would have a significant positive impact for our local Maryland businesses. And what's good for Maryland small businesses is good for Maryland consumers. These businesses, as you know, operate at a complete disadvantage to these out of state behemoth companies, like Amazon. And it's only fair that local businesses be able to compete with the same set of rules as Amazon.

These are the folks who sponsor our little league teams, Maryland businesses, volunteer in our schools and churches, adopt our public highways. Has anyone ever seen Amazon written on the back of a Pop Warner football jersey? Or listed as a sponsor on a high school athletic scoreboard? Providing a level playing field to compete is the least we can do for everything that these folks mean to our communities and our State, our small businesses.

Some have focused on the revenue we project that this congressional action would bring into State coffers. My office has estimated a similar bill would

generate approximately \$173 million a year in new revenue for the State. But for me it isn't about the revenue. It's about fairness, plain and simple.

The State budget obviously concerns us but I'm much more concerned with how it would impact Main Street budgets for small businesses across Maryland. That's why I feel so strongly that federal action on this issue is long overdue. I'd point out that this legislation would not add new or increases taxes. Rather it would equip the State with the ability to fairly and equitably collect the sales and use tax we already have on the books.

With broad bipartisan support I understand final Senate passage is expected early next week. It is my sincere hope that the House of Representatives will follow suit sooner rather than later. Maryland small businesses have waited long enough. It's time to bring fairness to the marketplace. It's time to get this done.

Thank you, Governor, for your leadership and advocacy also.

GOVERNOR O'MALLEY: Thank you, Mr. Comptroller. And for yours as well. Madam Treasurer?

TREASURER KOPP: No, I, I agree completely.

I think it's, you will recall we started looking at this it has to be 15 years ago in the National Conference of State Legislatures. And we couldn't get Congress to pay attention then. Finally the merchants, the bricks and mortars folk got behind it. And the tax experts across the country at the State level, like the Comptroller. And it's just long, long past due.

It looks like it's going to pass the Senate. I have hopes for the House of Representatives. But they are less, seem at times to be a less enlightened body.

COMPTROLLER FRANCHOT: We're saying nice things, though. Please pass it.

GOVERNOR O'MALLEY: Okay. Anything? Madam Treasurer, any thoughts?

TREASURER KOPP: No. Except what a beautiful morning it is out.

GOVERNOR O'MALLEY: It really is.

TREASURER KOPP: I like being able to see out the windows. That's nice.

GOVERNOR O'MALLEY: Okay. Let's go to the Secretary's Agenda.

SECRETARY MCDONALD: Good morning, Governor, Madam Treasurer, Mr. Comptroller. We have 16 items on the Secretary's Agenda. We have four reports of emergency procurement. We're prepared for any questions.

GOVERNOR O'MALLEY: Are there any questions on the Secretary's Agenda?

COMPTROLLER FRANCHOT: Oh, where is that? So I had a quick question on an Appendix item.

SECRETARY MCDONALD: On the helicopters?

COMPTROLLER FRANCHOT: Yes.

SECRETARY MCDONALD: Okay. We have Appendix 1 and Appendix 2 are emergency reports of a main gear box overhaul and an engine overhaul for a Dauphin Helicopter. And Mr. Christopher Lovejoy is here from the State Police, I believe. Could you identify yourself for the record?

MR. LOVEJOY: Yes, ma'am. Good afternoon, Governor, or good morning, Governor, panel. My name is Christopher Lovejoy. I'm the Deputy Director of the Maryland State Police Aviation Command. I've been

in the job for about two years and I'm here to answer any questions you have about that, sir.

COMPTROLLER FRANCHOT: Yes. I'm interested obviously in the new helicopters coming on.

MR. LOVEJOY: Yes, sir.

COMPTROLLER FRANCHOT: And you've got a request here for money to do maintenance on the old ones.

MR. LOVEJOY: Yes, sir.

COMPTROLLER FRANCHOT: And I can understand the concept there, that we want to be able to sell these --

MR. LOVEJOY: Yes, sir.

COMPTROLLER FRANCHOT: -- and get maximum return. But what is the plan? How many, how big an overlap and how many months are we going to --

MR. LOVEJOY: Sir, right now we've, just yesterday we took delivery of number seven, sir. We've actually taken, we have 11 Dauphins, three difference variants. We have two N-1s, two N-2, and seven N-3 Dauphin Helicopters. We've actually taken two of the Dauphin Helicopters offline and set them off to the side. We're not going to do any more

maintenance on them. We made the strategic decision not to waste any more money, or spend any more money I should say, on those helicopters as we get ready to sell them.

Our plan is as we transition a section to the 139, the first section will be Trooper 3 out of Frederick, will begin in June. And our plan is to start June 3 and to be done transition on or about July 8. Once we do that that helicopter, Dauphin Helicopter, will be freed up and it will be set off to the side if we're able to and get ready for sale.

We're working with DGS right now to come up with an MOU for the sale of helicopters, sir. We're anticipating upwards of 18 to 24 months for the complete transition of all seven sections. And like I said, every time we transition a section that will free up another Dauphin Helicopter that we won't have to do maintenance on.

COMPTROLLER FRANCHOT: But you're not planning to put all of the obsolete --

MR. LOVEJOY: The Dauphins, sir?

COMPTROLLER FRANCHOT: -- Dauphins on the market at the same time, I take it?

MR. LOVEJOY: Sir, we're working with DGS to go ahead and figure out exactly how to sell them. We've had actually quite a bit of interest in selling them, sir. We don't know if it's better to sell them en masse or to sell them in lots. Our plan right now, the two N-1s are the oldest aircraft. They are N93MD and N57MD. Those will be the first two helicopters sold. And then the two N-2s, which is N61MD and N65MD, they will be the second two to sell. But we're working with DGS to find out the best way to sell those helicopters and all the parts.

COMPTROLLER FRANCHOT: And as you proceed, if you could just keep my staff in the loop?

MR. LOVEJOY: Yes, sir.

COMPTROLLER FRANCHOT: Because obviously it's a big ticket item and --

MR. LOVEJOY: Yes, sir.

COMPTROLLER FRANCHOT: Thank you very much.

TREASURER KOPP: I would trust you would keep us all in the loop.

MR. LOVEJOY: Yes, ma'am.

COMPTROLLER FRANCHOT: I apologize, yes.

And as to what exactly the plan and the schedule is as it develops.

MR. LOVEJOY: -- right.

COMPTROLLER FRANCHOT: Because you've got a lot of moving pieces with these --

MR. LOVEJOY: Yes, sir. Our plan right now, like I said, Trooper 3, we should be operational on or about July 8. And then from there we're going to go to Trooper 4 in Salisbury. We hope by end of August we'll have that section up and running. And then we're determining if we're going to go to Trooper 7 or Trooper 5. And we're hoping by October or November we should have three sections up and running. But it's an event driven, we've gotten a lot of curve balls thrown at us by the FAA. And we're, the one thing we want to do is do it right and safely, sir.

COMPTROLLER FRANCHOT: Excellent. Thank you. Thanks, Governor.

GOVERNOR O'MALLEY: Thank you. Okay, anything else on the Secretary's Agenda? Okay. Hearing nothing, the Comptroller moves approval,

seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. We go on now to Department of Natural Resources Real Property.

MS. WILSON: Good morning, Governor, Mr. Comptroller, Madam Treasurer. Emily Wilson with the Maryland Department of Natural Resources. We have five items on the Agenda today. I'd be happy to try to answer any questions.

GOVERNOR O'MALLEY: What are the items?
Madam Treasurer?

TREASURER KOPP: No, it just occurs to me. I should have probably said at the beginning I just returned from a meeting in California with many, many subjects. But one of them was the preparation for climate change and impacts on infrastructure.

MS. WILSON: Mm-hmm.

TREASURER KOPP: And you'll be glad to know that Maryland got some significant kudos --

MS. WILSON: Great.

GOVERNOR O'MALLEY: Hm.

TREASURER KOPP: For being aware and on top and trying to plan for the future in many areas of infrastructure. I just want to thank you all for --

MS. WILSON: Thank you. Thanks for saying that. I'll pass that along.

TREASURER KOPP: Yeah.

GOVERNOR O'MALLEY: Tell me about the Zekiah --

MS. WILSON: Sure. Zekiah, as you know, it's one of the top five freshwater watersheds in the country. So it's extremely important to preserve --

GOVERNOR O'MALLEY: It's the Mattawoman?

MS. WILSON: The Zekiah, mm-hmm.

GOVERNOR O'MALLEY: Mm-hmm.

MS. WILSON: And so this would be a 136-acre Rural Legacy easement in that ecologically significant watershed.

GOVERNOR O'MALLEY: That's where John Wilkes Booth hid out, wasn't it? The Zekiah Swamp?

MS. WILSON: It was somewhere around there, I believe.

GOVERNOR O'MALLEY: Can somebody do a Google search? A history check? Okay. All right. Any other questions on these?

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR O'MALLEY: The Islands of the Potomac?

MS. WILSON: Mm-hmm.

GOVERNOR O'MALLEY: In Washington County? They weren't protected before?

MS. WILSON: Well we have actually about 25 islands right now that we have as part of what we refer to as the Islands of the Potomac Wildlife Management Area. So this is a 40-acre, completely forested island that will become part of that. And it's immediately adjacent, as you see, to the C&O Canal National Park.

GOVERNOR O'MALLEY: And it was privately owned before?

MS. WILSON: Mm-hmm.

GOVERNOR O'MALLEY: Mm, interesting. Okay. All right. The Treasurer moves approval, seconded by the Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it.

MS. WILSON: Thank you.

GOVERNOR O'MALLEY: We move on now to the Department of Budget and Management.

MS. FOSTER: Governor, Madam Treasurer, Mr. Comptroller, good morning. There are ten items of the Department of Budget and Management's Agenda for today and I'll be happy to answer any questions you may have.

GOVERNOR O'MALLEY: Any questions?

TREASURER KOPP: Could I, this is just a technical thing I think. But Supplement B, Item 7, the contract for College Savings Plan financial advisors? Just in the description it says, this is an extension and it was renegotiated to lower the fee, to lower our cost, which I think is absolutely terrific. It's anticipated to save the State about \$35,000 during this period. I think it's actually not the State.

MS. FOSTER: Oh, but the program.

TREASURER KOPP: It's the Trust or the program. And just for the history in the record --

MS. FOSTER: We'll make that correction.

GOVERNOR O'MALLEY: The correction is moved and seconded. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: So the correction is made. Anything else on the Department of Budget and Management Agenda? Mr. Comptroller?

COMPTROLLER FRANCHOT: Item 9?

MS. FOSTER: Item 9 is the settlement of claims in the case of *Michael Smith v. William Filbert*. Secretary Maynard is here along with the Attorney General Mike Doyle.

COMPTROLLER FRANCHOT: Thank you.

GOVERNOR O'MALLEY: Mr. Secretary?

GENERAL MAYNARD: Yes, sir?

GOVERNOR O'MALLEY: Thank you for your good work in rooting out corruption in our prison system, which I know is ongoing and predated your service as in some ways does this case. So thank you.

GENERAL MAYNARD: Thank you, Governor, Mr. Comptroller --

GOVERNOR O'MALLEY: You want to tell us about this one?

GENERAL MAYNARD: -- Madam Treasurer. If I could give Mr. Comptroller a historic background --

COMPTROLLER FRANCHOT: Sure.

GENERAL MAYNARD: -- of sort of how we got to this particular case. As you may know, in 2006 on a national level Maryland was considered one of the more violent prisons systems in the country. You had two correctional officers killed in one year. That had not happened in the United States in over 30 years. And shortly after I came in 2007 one was severely stabbed in the House of Corrections.

This settlement stems from a case of an alleged contraband scheme between a corrupt officer and an inmate during 2006. We are still battling against this historical corruption in our system but today we are uprooting this corruption in unprecedented ways. Our department was the driving force behind the formation of the Maryland Prison Gang Task Force, partnering with federal, State, and local

law enforcement to go after corruption within our system. The recent indictments are a direct result of efforts being made by our department over the last three years and the formation of that task force.

With the Governor's support we closed the House of Corrections in 2007 and began an effort to battle illegal gang activity, which today has helped make ours one of the safer systems in the country. In 2007 we led a statewide gang and intelligence sharing initiative and in 2008 we formalized a central gang unit. Out of this we formalized the process of sharing gang information with local, State, and federal authorities.

Since 2009 we've employed a full time gang intelligence analyst to track gang activity. We established the Automatic Gang Intelligence Database and validated almost 7,400 gang members since that time. Those are not new gang members, they were there, we just didn't know about it in the past. But we have validated them as being gang members.

Because of these efforts our institutions are safer, much safer, than ever before. Our focus on gangs inside our prisons along with a focus on

contraband interdiction has drastically reduced the number of serious assaults on both staff and inmates since 2007, the year this particular incident took place. Serious assaults on inmates, like the one suffered by Michael Smith, have been driven down almost 50 percent. Serious inmate on staff assaults have been driven down well over 65 percent.

Stemming from this incident we learned a lot about the formerly ineffective communications among different institutions, which resulted in protective custody not being provided to Inmate Michael Smith. Since then we have made massive improvements. We have completely reorganized our department into one that is regionally based and which integrates the three former divisions, breaking through our old vertically siloed custody and supervision operations. This has fixed historic operational deficiencies and broken down the communication barriers of the past. Today our correctional institutions are sharing information better than ever before.

This operational shift is leveraged by a \$15 million investment into a first of its kind web-based offender case management system. Once fully

implemented this OCMS will eliminate communication failures of the past. We are already using that OCMS for booking, detention, and community supervision. The corrections pilot in all of the institutions is being tested today.

We have hired additional investigative staff which has given us the investigative teeth we need to go after corrupt staff both administratively and criminally. Since 2010 we have been able to root out and get rid of scores of, in fact 89 correctional officers, for inmate fraternization or smuggling contraband. Like Duwane Crew, some of these officers resigned in lieu of termination. Others were terminated.

During the 2013 Session we also successfully pushed for the passage of a bill giving subpoena powers to my office as opposed to the Division of Corrections Commissioner. We also conducted an exhaustive review and evaluation of the protection custody and the administration segregation policy. And as a result we have added additional protective custody beds, about 120 in fact.

In the area of technology, through a multifaceted approach, including cell phone forensics, cell phone sniffing dogs, we have become a leader in cell phone interdiction. By capturing more contraband cell phones we have also increased the ability for gangs to circumvent intelligence. We have invested more than \$1 million into entrance security technology. Additionally, we have successfully passed the testing phase of a \$2 million pilot of an electronic cellular detection and suppression system at the Maryland Transition Center in Downtown Baltimore. This system has shown in excess of a 98 percent success rate of handling those illegal calls. In fiscal year 2012 we captured 1,300 cell phones, a 77 percent increase over 2007. Almost 20 percent of those interdictions were before coming into the institution, before they got into the hands of inmates.

The bottom line, we have created a safer system than what was here when Governor O'Malley took over. We will continue to do so. With me, Mr. Comptroller, Governor, Madam Treasurer, is Mike Stouffer, the Deputy Secretary of Operations. He has

been here for many years, was here in 2006. Also Mike Doyle and Lisa Arnquist of the Attorney General's Office. And they can answer your questions.

COMPTROLLER FRANCHOT: Thank you, Mr. Secretary.

GENERAL MAYNARD: Yes, sir.

COMPTROLLER FRANCHOT: Thank you for that history. And but just getting back to the case that's in front of us, it certainly seems that the facts are almost stranger than fiction in what's been presented to us. And I have a couple of serious concerns about, frankly about asking the taxpayers of the State of Maryland as opposed to the named defendants themselves to foot the bill for this settlement. Let me just see if I have the facts straight on this one.

A defendant by the name of Michael Smith, who I guess also goes by the name of Michael Reed, is doing time in the Baltimore City Detention Center while he awaits trial on a firearm possession charge. He cuts a deal, apparently, with the Bloods prison gang and a guard by the name of Duwane Crew. I'm not sure if I'm pronouncing that right, Mr. Secretary?

MR. DOYLE: Duwane.

COMPTROLLER FRANCHOT: Duwuane. Duwuane Crew. He cuts a deal with the Bloods and the prison guard to smuggle heroin, cigarettes, and cell phones into the jail. This goes on for several months, according to Mr. Smith, and then he ends the arrangement. That inspires, to put the word, Officer Crew, to put the word out to the inmate population that Mr. Smith was a snitch. According to my background information, it also leads Officer Crew to, "speak with and then pass something to another inmate, Brian Medline." Which allows Medline, "to escape from his three-point security restraint device." I take it that's when your hands are cuffed to your feet? Using a handcuff key, and then in a van to assault Smith, the person that you are asking us to approve money for. The language in the background materials is somewhat elliptical so for the record the allegation is that Officer Crew handed the inmate, Brian Medline, the key to escape his restraints and beat his fellow inmate to the point where Mr. Smith was found unresponsive in his cell later that day. Is that correct?

MR. DOYLE: Yes. Well, let me say this on the allegation of whether Office Crew handed the cuff key to Medline. There is certainly evidence to support that that is what occurred. Was there an official determination that that was what occurred? No. But --

COMPTROLLER FRANCHOT: Got you.

MR. DOYLE: -- the evidence certainly would support that factual scenario.

COMPTROLLER FRANCHOT: Okay. My background notes, that Officer Crew admitted in the course of the follow up investigation to being affiliated or a member of the Bloods. So we have a situation where a corrections officer admits to having an active affiliation with a prison gang, as well as evidence that he was engaged in conspiracies to deal drugs inside of a State corrections facility, and to physically assault select inmates who were in his care. And I guess my question is, are the only response, and this might be for the Secretary, I know this preceded you, I think. But the only response on behalf of the State is to ask this Officer Crew to resign? As if he was just an employee who was caught

padding his timesheets or padding mileage requests?

Why wasn't he terminated, arrested, and charged with crimes against the State of Maryland?

MR. DOYLE: Well the, once the investigation was completed the materials were forwarded to the State's Attorney's Office for possible prosecution. Medline of course was prosecuted and then convicted on the assault. Officer Crew was not prosecuted. That was obviously a determination made by the Office of the State's Attorney. Of course, no personnel action at that point could or needed to be taken against Officer Crew because he had resigned during the course of the investigation into the assault on Mr. Smith.

COMPTROLLER FRANCHOT: Okay. Could we just pause and maybe ask the Secretary if he could bring us up to date on how do you explain the process that is used by the State Department of Public Safety and Correctional Services to screen applicants for correctional officer positions? I mean, these are people who are authorized to carry deadly weapons and use lethal force if necessary. They routinely have access to drugs, weapons, and other illegal prison contraband. They are entrusted with behaving

ethically, following proper procedures when such items fall into their possession. They are literally, as far as I can tell, granted absolute power over the lives of people who frankly, while many of them are kind of, have committed awful crimes, they are still entitled to fundamental legal and human rights protections. And in this sensitive position we have a person like Mr. Crew who can only be described as, well I search for the right word. But how does a person of this caliber make it through the State of Maryland's personnel process? Which presumably includes reference and criminal background checks, as well as a review of their employment history? I mean, someone that, I'll say it, you don't want to say it on the record, but in a van provided a key to a thug. The thug unlocks himself, goes back and beats the daylights out of another prisoner. Apparently there was another corrections officer in the van. So there are two people in a van. And later on this prisoner who was beaten up has to go and spend time in the hospital. How does that, how do we possibly have people like that working for us?

GENERAL MAYNARD: Mr. Comptroller, the only thing I can say is currently we follow State personnel policy. We do background investigations to check on criminal record. We do reference checks. And people pass tests when they apply for employment. And if they pass the tests, then we hire them.

COMPTROLLER FRANCHOT: Got you. Okay. If I could just also ask, there is a discrepancy between Mr. Smith, the plaintiff, his version of events, and that of Assistant Attorney General Hughes, I think. According to Mr. Smith he was denied medical treatment at the Baltimore City Detention Center's infirmary by Warden Filbert after he was beaten up in the van. According to the letter submitted by Mr. Hughes, the Assistant AG, he chose not to seek medical care. Now this gentleman was beaten so badly that he was later found unresponsive in his cell and spent a number of days in the hospital and the infirmary. But we are supposed to believe that he was offered medical treatment and simply chose not to accept it?

MR. DOYLE: Well in essence, that is correct. When he was brought in to the infirmary, he was seen by a nurse who attempted to treat him. He

indicated that he wasn't satisfied with being seen by a nurse and wanted to see a doctor. So there, and those are, that's his admission. Now subsequently, yes, he was found in his cell and was taken to the hospital and received additional treatment there. So that's in essence his claim of medical, denial of medical care.

COMPTROLLER FRANCHOT: Okay. Let's just stay on Warden Filbert for a minute, I mentioned him. According to Ms. Hughes' letter the good warden was informed in a November 22, 2006 memo, which would have predated that initial assault on Mr. Smith by nearly four months, that Officer Crew was a gang member. Yet there's no evidence that he did anything substantive with this information, didn't suspend him for pending, pending the outcome of the investigation, didn't remove him from the general inmate population, this is Officer Crew, by transferring him to administrative duty. He didn't transfer him to another facility. Nothing. The only thing I see by way of a response was some investigation into the matter. For the record, what is the official outcome of that investigation?

MR. DOYLE: Well, again, the allegations, there were allegations, apparently as the result of information received from a confidential informant, that Officer Crew was involved with gang activity. The information was forwarded to the internal investigative unit. It's not clear to what extent thereafter there was an investigation of the officers named. Several of the officers named were investigated for other matters. With respect to Officer Crew, all we can tell you at this point is that subsequently after the March 15t incident, the matter of course was immediately investigated. And that is when it was confirmed that through his own admission that Officer Crew was a gang member and thereafter immediately resigned.

COMPTROLLER FRANCHOT: Was there ever an investigation of Warden Filbert? And where is he today?

MR. DOYLE: Warden Filbert is with the department as I believe an Assistant Commissioner?

GENERAL MAYNARD: He's the Director --

MR. DOYLE: Director?

GENERAL MAYNARD: -- southern region.

COMPTROLLER FRANCHOT: Okay. Well that memo strikes me as a pretty big deal. It predated you, Mr. Secretary, obviously the Governor, but we're talking about an allegation that a State of Maryland corrections officer, who again has access to deadly weapons, is authorized to utilized deadly force, has access to drugs and other illegal contraband, wields enormous authority over people with limited recourse, is a gang member. Who was, have you seen that memo? And who was copied on it? And I find it kind of hard to believe that people weren't, higher up weren't cc'd on such a consequential document. And what exactly did they do with it?

MR. DOYLE: Was it -- I've, certainly I've seen the memo. Yes. Definitely I've seen that memo. I don't know to whom that memo was forwarded other than --

COMPTROLLER FRANCHOT: Let me ask Secretary Maynard. Did you get a copy of that memorandum? Well maybe someone could, I'm sure it's confidential, but someone could provide it to any of us on the Board that's interested. Because obviously it's, well I just think it's a big deal. You know, why wouldn't

the Secretary have been given that the first day he showed up on the job?

MR. DOYLE: Well --

COMPTROLLER FRANCHOT: I guess. I don't know. I'm, I'm just the Comptroller. But I mean, this was November of 2006. And a memo listing, I take it, Mr. Crew but other people as possible gang members?

MR. DOYLE: That is correct.

COMPTROLLER FRANCHOT: Okay. Okay. So we have Mr. Smith. He's beaten and battered in the Baltimore jail. He gets moved out to Hagerstown a couple of weeks after the attack. He tells the administrative staff in Hagerstown that he's been attacked in Baltimore and that a hit by the Bloods is still out on him. Despite this, the public servants in the Hagerstown jail still throw him into the general population where, surprise, he's attacked the very next day. So my question is when an inmate provides administrative staff with information of this nature, aren't they obligated to call the previous facility and check with the folks there? I mean,

where in the personnel handbook does it say we ignore what the man says and throw him to the wolves?

MR. DOYLE: Well, I wouldn't put it in those terms. Obviously we are concerned about the facts of this case as well.

GOVERNOR O'MALLEY: Do you want to be heard?

MR. STOUFFER: Yes.

GOVERNOR O'MALLEY: Do you want to answer that?

MR. STOUFFER: My name is Mike Stouffer, Deputy Secretary of Operations. I've been employed with the department since 1980 so I was around when this occurred. In 2006, when this did happen, I was Assistant Commission in the Western Region, which was Western Maryland where you are talking about right now.

COMPTROLLER FRANCHOT: Mm-hmm.

MR. STOUFFER: MCIH, which is the prison. In this particular case, when the individual left from BCDC --

COMPTROLLER FRANCHOT: Mm-hmm.

MR. STOUFFER: -- Smith, he was transferred to MRDCC where case management investigated the

situation. Their recommendation was, and he was a minimum security inmate, they determined he was minimum security, the recommendation in his base file entered into OBCIS was that he be transferred to MCIH and be on administrative segregation. That was the recommendation. He was transferred to MCIH and he arrived there and at that point in time they put him in the population. For what reason, that was not clear to me at this point in time. I was looking into this this weekend and I didn't see that.

TREASURER KOPP: Who makes that decision?

MR. STOUFFER: That decision is made at the transfer by a team, a classification team at MRDCC. And that being at that point a Division of Corrections facility, it's always the same. There is at least three people part of that team. Typically a case management supervisor, the case manager themselves, sometimes the officer, sometimes a treatment person like a psychologist or that sort of thing.

So at MCIH somehow he got into the population. And at this point I can't tell you how that occurred. However, the very next day he was assaulted. He asked to see a lieutenant from the

Western Maryland Program Development Center, where he was housed. On the way in to see the lieutenant they noticed he had a bump on the back of his neck. And the lieutenant there talked to him about that and found out that, you know, he had been assaulted. So he went on admin seg at that time.

Subsequent to that another team, a case management team, was pulled together. As a matter of fact, they saw him twice at that point in time. Well, two separate days. In the case, again, there was a team, this time a psychologist was there and they talked with the inmate. At that point in time they decided to transfer him to Brockbridge Correctional Facility. And what they said in the documentation was he would be population inmate as he arrived at Brockbridge Correctional Facility. That was the documentation by which he was transferred to Brockbridge Correctional Facility.

At Brockbridge Correctional Facility, he was received there on a Saturday. And based on what was written in the transfer notice and his base file he was allowed in the population, and again he was assaulted there.

COMPTROLLER FRANCHOT: Yeah, that's exactly my point. That has got to be one of the most heartless, that third move to Brockbridge Facility, which I think is over near Jessup?

MR. STOUFFER: Yes.

COMPTROLLER FRANCHOT: I mean, that's got to be one of the stupidest, most heartless things, knowing what this prisoner was subject to. To take him off of administrative segregation, put him back in the general population. According to the briefing materials it was because he refused to name names as to the people that were assaulting him.

MR. STOUFFER: Yes. The --

COMPTROLLER FRANCHOT: One of which he identified was the prison guard at the old facility, so I can see why he might have been a little hesitant that in talking to some of these officers, who exactly am I talking to here? Are any of you affiliated with the Bloods, which is the group that has put the hit out on me? And so here I am naming names and snitching, and what is that going to bring me? And the idea that that would somehow justify putting him

back in the general population for a third assault.

So --

GOVERNOR O'MALLEY: What was the, may I ask, what was the, what did you determine was the gap when he was transferred from the second facility to the third facility? Were you able to determine whether they were told that this guy has already been beaten a couple of times?

MR. STOUFFER: That information is in the base file, and the base file transfers with the inmate that goes to the next facility.

GOVERNOR O'MALLEY: The base file is what?
A paper file?

MR. STOUFFER: That's a paper file --

GOVERNOR O'MALLEY: A paper file?

MR. STOUFFER: -- that goes with the inmate.
In addition to that there is information placed in OBCIS in regards to the inmates who transfer. I don't know --

GOVERNOR O'MALLEY: And OBCIS was our old, what our old legacy --

MR. STOUFFER: Yes, and that's a system that we continue to use. But the information, it has a place for it to be entered there.

GOVERNOR O'MALLEY: And what was the gap? Why didn't they put him in more protective or segregated --

MR. STOUFFER: The gap was the decision process at the board, at the case management board, which I said before is made up of several people. In this particular case it was a supervisor, a case manager, a psychologist, and a correctional officer.

GOVERNOR O'MALLEY: And they made a decision that he didn't need to be segregated?

MR. STOUFFER: They made the choice based on the information that was there.

GOVERNOR O'MALLEY: Mm-hmm.

MR. STOUFFER: And I don't know what was discussed there as that information is not available at this point in the base file. The details of the discussion wasn't there. Although they did note that the inmate said he didn't want to go on admin seg down there, and he said he couldn't name his assailants. So there's a couple of things that could have pushed

it that way. The totality of the information, and particularly in hindsight, you know, he should have been on that type of status when he went to Brockbridge Correctional Facility.

GOVERNOR O'MALLEY: Mm-hmm.

MR. STOUFFER: Then that is also --

TREASURER KOPP: Or did you just say he said he did not want to be --

MR. STOUFFER: That was what was indicated in the documentation that I read.

GOVERNOR O'MALLEY: Was that he indicated that he did not want to be --

MR. STOUFFER: That's what I read --

GOVERNOR O'MALLEY: -- segregated at that point?

MR. STOUFFER: Yeah.

GOVERNOR O'MALLEY: When he went to Brockbridge?

MR. STOUFFER: That's what was in the information --

COMPTROLLER FRANCHOT: Did he say he wanted to get the hell beaten out of him again?

MR. STOUFFER: I don't recall that in there, sir.

COMPTROLLER FRANCHOT: Yeah.

GOVERNOR O'MALLEY: And the, and when does the new case management, I know we've made a big investment and with the intent of better and more timely information sharing. When does that new case management come into use?

GENERAL MAYNARD: Governor, that's, we're doing the final roll out now, testing all of the corrections modules, which is movement of inmates, housing, property, discipline, all of those elements. That will be concluded hopefully by the end of this month. And once that's completed then the system will be fully functional.

GOVERNOR O'MALLEY: And that will have an internal intelligence --

GENERAL MAYNARD: Yes.

GOVERNOR O'MALLEY: -- capacity as well?

GENERAL MAYNARD: Yes, sir. And I think --

GOVERNOR O'MALLEY: And facilitate our fight against gangs and --

GENERAL MAYNARD: Yes, sir. And I think, Mr. Comptroller, the answer to the question today, it's a national practice. Individuals who request protective custody, are granted protective custody, they need to indicate who it is they are fearful of. That's the practice that we use. That's the practice that's used nationally. Because a lot of people want to go to protective custody for other reasons. But that's the practice --

TREASURER KOPP: But Mr. Secretary, I mean I can understand that. But with a record of being assaulted in two, I mean --

GENERAL MAYNARD: Well I'm not, Madam Treasurer, I'm not familiar with that particular case and why the decision was made. But it could have been he said, "I don't want to go in protection." We have the authority, obviously, and today we exercise authority when the offender says, "I don't want to go on protection," and we have reason to believe that they are facing danger we put them on protective custody against their will. We can do that. That apparently was not done then, and I'm not sure exactly what took place in the conversation that --

TREASURER KOPP: Can I just ask, just so, I'm a little confused now. According to what I have it says that he did ask, that he alleges that he asked for it. And you are saying the written record shows that he did not?

MR. STOUFFER: That's what the board documented that was talked about there, at MCIH, when that board met on those two occasions, that's the information that I read that was dealt with there. But even at that, those two things are elements within the totality of the circumstances that they looked at.

COMPTROLLER FRANCHOT: Okay well --

GOVERNOR O'MALLEY: Anything else?

COMPTROLLER FRANCHOT: -- the reason I'm walking through the fact pattern is because obviously it, even though it occurred six years ago under a different leadership, obviously there was internal rot within the Department of Public Safety and it was never satisfactorily addressed. And the underlying issue that made something like this possible has never really gone away. And obviously the Governor and others are alarmed at the dereliction of duty, corruption, and downright criminal conduct in the

story that the country has been reading about and hearing for the past week. And we're making national news for the wrong reasons. And it's unfair to the correctional service officers, frankly, because many of them perform honorable, dangerous, thankless duty everyday. I'm aware of that. It's been tarnished by these actions. And I can't help but wonder whether the dysfunction that we read about recently is still in existence at the other facilities around the State.

And I guess my concern on behalf of the taxpayers is that as these cases begin to emerge from the woodwork of other prisoners claiming that they were in Smith's situation and they want large amounts of compensation for that, that while you are trying to figure out how to exactly fix the situation my concern is that the taxpayers are going to be faced with a lot of suits like this, where we are going to be asking the taxpayers to pay for this mess. And I guess my outstanding questions for the AG are if the Medline, the prisoner that assaulted Smith the first time in the van, with the, apparently with the key, he was unlocked by the, by Officer Crew, if Medline the prisoner was prosecuted, why wasn't Crew?

MR. DOYLE: I don't, I don't know the answer to the question. Because our office isn't connected with the prosecution of criminal activity. We are dealing with the question of the department's and department personnel's potential liability. And with respect to this case, with these facts and these circumstances we believe that this settlement is certainly in the best interest of the State. And so -

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COMPTROLLER FRANCHOT: Good. And just for the record, after the first beating in the van Smith did ask for a doctor. He was offered a nurse and refused that because he wanted to see a doctor. And that's justification for saying that he turned down medical care?

MR. DOYLE: Well he, once, once --

COMPTROLLER FRANCHOT: He wanted a doctor, right?

MR. DOYLE: He was being offered medical care and indicated he, if it weren't going to be provided by a doctor he didn't want it. I think that's a safe and fair characterization of the situation. And under those circumstances, the, you

know, the decision was made to return him to his cell. When he, when it was later learned that he needed medical care it was then provided to him.

COMPTROLLER FRANCHOT: Okay. And then just a final point, you, the Attorney General determines that all the State employees with the exception of Crew, who you have specifically said you are not representing, all of them acted within the scope of their employment without malice or gross negligence. That is why you are recommending that we sign on the settlement. That seems pretty amazing, given Warden Filbert, and the fact that he knew Crew was an active gang member. According to the plaintiff the Warden was the person who said, "No, you can't get a doctor." Apparently the folks in Hagerstown who threw the, threw Smith to the wolves after they were told he was being targeted, and then the people at Brockbridge who did exactly the same thing despite the fact that they should have been well aware that there were repeated threats and beatings to this gentleman. So saying that these people acted within the scope of their employment strikes me as a really, almost an insult to the workers that do act within the scope of their

employment. It's either grossly incompetent or worse. I would respectfully encourage the AG to be careful about its language. Because it really doesn't fit with the record.

MR. DOYLE: Well if I may respond to your points, Mr. Comptroller? The Warden did not say, "You are not getting a doctor." The Warden deferred to the judgment of the medical personnel in the infirmary, and I think appropriately so. With regard to your statement that Warden Filbert knew that Mr. Crew was a gang member, what he had received were allegations from personnel based on confidential informant information. I don't think that can be characterized as knowledge, other than knowledge that the matter needs to be investigated. Warden Filbert did direct Lieutenant Morales to forward that information to the internal investigative unit. Concededly thereafter we don't have information that there was a systemic investigation of Officer Crew and the other individuals. But I don't think it's fair to characterize it as Warden Filbert knew that he was a gang member.

And with regard to the conduct of the other individuals, we have indicated in the papers why we believe there are concerns about this case and why we recommend settlement. We do not believe that any of the other individuals acted with malice or gross negligence. Therefore we think settlement is appropriate on their behalf. Certainly given the facts and circumstances of this case the amount of the settlement we think is very reasonable and we would urge its approval. Thank you.

GOVERNOR O'MALLEY: Anything else? Anything else on the other DBM, Department of Budget and Management items on the Agenda? Do you want to do this one separately?

COMPTROLLER FRANCHOT: Sure.

GOVERNOR O'MALLEY: Okay. What item was this?

MS. FOSTER: Item 9.

GOVERNOR O'MALLEY: Item 9. Let's take Item 9 first. The Governor moves approval --

TREASURER KOPP: Yeah.

GOVERNOR O'MALLEY: Second --

TREASURER KOPP: I must say this is very troubling and I think there are some unanswered questions so I hope we will learn more about the process. But this settlement is in the interest of the taxpayers I think is --

GOVERNOR O'MALLEY: Seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

COMPTROLLER FRANCHOT: No.

GOVERNOR O'MALLEY: The Comptroller moves no. The balance of the DBM Agenda, any questions?

COMPTROLLER FRANCHOT: No.

GOVERNOR O'MALLEY: The Comptroller moves approval of the balance of the Department of Budget and Management Agenda items, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it. Okay. What is the next matter?

SECRETARY MCDONALD: University, Mr. --

GOVERNOR O'MALLEY: Let, I mean, this is probably as good a time to do this as any. I mean, I do want to put some things on, I mean we've been talking about the challenges in our prisons and with Secretary Maynard here I just wanted to put these thoughts on the record.

As a State we have zero tolerance for corruption. Corruption and gangs are problems in correctional institutions across America and sadly it's also a problem in our State, which is why at the outset of this administration we began combating it in real, affirmative, and visible ways. Most visible was 52 days into the life of this administration we closed the House of Corrections. And we also set up in 2008 a gang task force.

In 2011 we created a stand alone task force called the Maryland Joint Prison Task Force. It's a partnership between federal, State, and local law enforcement personnel focused on combating gangs and rooting out corruption in Maryland correctional institutions. We formed that task force with the express purpose of bringing about indictments like the ones that were handed down last week. Rod Rosenstein,

the U.S. Attorney in Baltimore, who brought the indictments and announced them says, and I quote from the newspaper account, "Everybody on the task force anticipated it would result in the prosecution of a significant number of correctional officers. The task force represents an unprecedented level of cross-jurisdictional information sharing and coordination that has been brought forward," thank you, Secretary Maynard, "for the first time even though these are certainly not new issues."

The task force, last year the Department of Public Safety and Correctional Services urged the task force to focus its attention specifically on the Baltimore City Detention Center, which the State runs. The investigation that ensued was a coordinated effort between federal law enforcement officials and officials at the Department of Public Safety and Correctional Services. Rick McFeely, Executive Assistant Director of the FBI, and the person who I do believe was the sack at the time that this task force was initiated, said in a newspaper report today by Michael Dresser of the *Baltimore Sun*, I believe, that the federal investigation into gang activity at the

jail didn't gain traction until Maynard, by which he meant Secretary Maynard, appealed for federal help and offered his department's full cooperation. U.S. Attorney Rosenstein said that Maryland Public Safety officials, "actively sought and supported the investigation," and, "were proactive throughout."

Secretary Maynard has addressed some other points in his testimony opening this. So rather than, so as not to be redundant I'll just simply conclude by saying that we have a lot of work that we still need to do. But there is a lot of progress that has been made, including the capture of 77 percent more cell phones than we ever captured before; including the soon to be deployed new technology that will allow us to redirect cell phones in any prison in Maryland to as to take away this tool; the 65 reduction in inmate on staff assaults that have been achieved because of better choices that we have made in the management of our prisons; and the 47 percent reduction on inmate on inmate assaults.

So the work continues. And that work continues in collaboration and coordination with our federal partners and a very, very important beachhead

has been established in what I do believe will turn out to be one of the most significant prosecutions of not only correctional officers but of the gangs like BGF. And I'm looking forward to working in continuous cooperation with our federal partners as we expand this beachhead. And Secretary Maynard, you have my full backing to do everything and anything in your power legally with our partners to pursue all of these matters to the fullest. And do not relent. And do not let up for any reason whatsoever. Do what needs to be done and do it as quickly and as thoroughly as you can.

GENERAL MAYNARD: Yes, sir.

GOVERNOR O'MALLEY: Thank you. All right, the part, the University System of Maryland.

MR. STIRLING: Good morning, Governor, Mr. Comptroller, Madam Treasurer, Jim Stirling from the University System. We have seven items on today's Agenda and I'd be happy to address any questions you have.

GOVERNOR O'MALLEY: Any questions, University System of Maryland? Hearing none -- I'm sorry? No, the Treasurer moves approval, seconded by

the Comptroller. All in favor signal by saying,
"Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it.

Department of Information Technology.

MR. SCHLANGER: Good morning, Governor,
Madam Treasurer, Mr. Comptroller. Elliot Schlanger,
Department of Information Technology. This morning we
have one item on our Agenda. I'll answer any
questions that you may have.

GOVERNOR O'MALLEY: Any questions,
Department of Information Technology? Hearing none,
the Treasurer moves approval, seconded by the
Comptroller. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it.

Department of Transportation.

MR. MOBLEY: Good morning, Governor, Madam
Treasurer, Mr. Comptroller. For the record, Acting

Secretary Darrell Mobley representing MDOT. MDOT is presenting three items. I'll be happy to answer any questions that you may have.

GOVERNOR O'MALLEY: Any questions, Department of Transportation? The Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it.
Department of General Services?

MS. WALKER: Good morning, Governor, Madam Treasurer, Mr. Comptroller. I'm D'Andrea Walker, Deputy Secretary for DGS. We have 13 items on the Agenda. We are withdrawing Item 13. I can answer any questions that you may have.

GOVERNOR O'MALLEY: Any questions? Hearing none --

COMPTROLLER FRANCHOT: Move approval.

GOVERNOR O'MALLEY: -- the Comptroller moves approval, seconded by the Treasurer. All in favor signal by saying, "Aye."

THE BOARD: Aye.

GOVERNOR O'MALLEY: All opposed?

(No response.)

GOVERNOR O'MALLEY: The ayes have it and
that concludes our Agenda. Thank you very much.

(Whereupon, at 11:32 a.m., the meeting
was concluded.)