

A Good First Step

A Policy Statement from the Chicago Council of Lawyers

The Chicago Council of Lawyers welcomes the announcement by the U.S. Department of Justice that it is undertaking an investigation into a pattern and practice of misuse of force, including deadly force, by the Chicago Police Department (“CPD”). As recent events have confirmed, a comprehensive review of the systems used to monitor and address police brutality in this City is long overdue.

The men and women of the CPD have difficult and dangerous jobs. To keep the peace, we authorize them to use force when appropriate, and deadly force when they or others face deadly threats. To protect against abuses of that authority by the police, we have set up systems to investigate and adjudicate complaints when police are charged with misusing that authority. Unfortunately, events have demonstrated that those systems are not working properly. We need a better system to watch over our police.

The Chicago Council of Lawyers has long worked with other groups to monitor the performance of the police complaint review apparatus, including a coalition of groups headed by Harold Winston of the Public Defender’s office. When it became apparent in the last decade that the Office of Professional Standards lacked sufficient independence, the Council was among the many groups that supported the adoption of the city ordinance that created the Independent Police Review Authority (“IPRA”), an agency set up to be independent of the Police Department, investigate complaints of police misconduct, and make recommendations for appropriate discipline in cases of misconduct by officers. Since IPRA was formed in 2007, the Council has sponsored annual forums on the police discipline process, including the filing of complaints with IPRA; investigation of those complaints by IPRA and CPD’s Bureau of Internal Affairs (BIA); recommendations of discipline by those two agencies to the Superintendent of Police; and hearings by the Chicago Police Board in cases where serious discipline has been recommended.

After several years of monitoring the performance of IPRA and the Police Board, and reviewing the Police Department’s handling of recent shooting cases and IPRA’s and the Police Board’s statistics, we have concluded that these existing entities are not doing their job. Serious changes are needed.

The problem begins with inadequate or inappropriate training of police officers. We applaud the Department of Justice’s decision to perform a comprehensive investigation and analysis of the CPD’s training and disciplinary system. Officers need to be better trained on how to deescalate rather than inflame confrontations, the constitutional limits on the use of deadly force, and the need to report honestly on their actions and those of their fellow officers. Many of the current Chicago police officers have demonstrated that they already understand these things and conduct themselves accordingly. However, the CPD has failed to identify and address those officers who don’t conduct themselves appropriately.

That failure is due to several factors. One is the frequent obstruction of justice by a few police officers and the Code of Silence observed by more officers. Another is IPRA’s

investigations of police officers who shoot weapons, which have found almost all of the officer shootings completely justified, and its investigations of complaints of misconduct by police officers. A third is the requirement that the Chicago Police Board approve the Police Superintendent's decision to terminate an officer. (It rarely approves.) A fourth factor is that the City fails to identify, train, discipline or terminate the very few officers who are named in the most complaints of misconduct. Fifth and finally, the BIA does not report on its web site or in any other public forum the results of its investigations of complaints of police misconduct.

1. Obstruction of Justice and the Code of Silence

The aftermath of the shooting of Laquan McDonald illustrates how police obstruction of justice and the Code of Silence impact accountability and reform within the CPD. Police Officer Van Dyke claimed that Laquan McDonald was aggressively swinging a knife and approaching him when he shot McDonald. The dashboard camera video of the shooting shows no such thing. Instead, Mr. McDonald appears to be walking diagonally away from several officers, when Officer Van Dyke, who had just arrived on the scene, opens fires on McDonald, shooting him 16 times in 14 seconds and firing many of those shots when McDonald was lying motionless on the ground.

Since the release of the video, it has been reported that:

- * Five other officers wrote reports with statements contradicted by the video.
- * That video, and several others released later, all have faulty audio components.
- * Police officers discouraged witnesses on the scene from making statements.
- * After the shooting, police officers entered the nearby Burger King, got access to its surveillance video, and when they left, the video had an 86-minute gap that included when McDonald was shot.

2. IPRA

IPRA is required by law to investigate all police shootings. Since its creation in 2007, IPRA has investigated 409 police shootings, but found that only two shootings by on-duty police officers were unjustified. IPRA also investigates several categories of complaints of misconduct, including allegations of the use of excessive force. (The BIA investigates the rest.) In 2014, IPRA concluded that in 54% of the cases where it had completed its investigation of a complaint of police misconduct, there was insufficient evidence either to prove or disprove the complaint. IPRA concluded that 14% of those cases should have a sustained finding (meaning that the complaint was found to be valid); 30% should have an unsustained finding; and 2% should have an exonerated finding (meaning that the incident occurred, but the actions of the officer were lawful and proper). Based on its years of experience in reviewing IPRA and BIA, the Council believes that these statistics are the product of a faulty process, not the result of mostly meritless complaints.

3. The Chicago Police Board

The Chicago Police Board holds hearings in cases where serious discipline has been recommended. Few police officers are fired. For instance, in 2014, the Chicago Police Superintendent sought to fire 22 officers in proceedings before the Police Board. The Board fired only six. Five other officers resigned.

4. Officers Named in Many Complaints of Misconduct

There is a small group of police officers within the CPD who are responsible for a substantial portion of the complaints of misconduct. Officer Van Dyke, for example, had been named in 17 complaints. Some officers have been named in many more. But the City does not have an adequate system for identifying problem officers early on and then providing them with further training, or disciplining or discharging them.

5. The Bureau of Internal Affairs

Although IPRA is required by law to report on the results of its investigations, the Police Department's Bureau of Internal Affairs is not so required. It is a black hole compared to IPRA.

Conclusion

The CPD, IPRA and the Chicago Police Board have failed to protect the people of Chicago from rogue police officers, perhaps because of their close, daily interaction with members of the CPD. Those agencies cannot be counted upon to act fairly and objectively. We need an additional "watchman" to monitor their behavior and provide assurance to ordinary citizens that they are doing their job properly. A growing number of community groups are calling for the City Council to establish an independent auditor's office with the resources and power to blow the whistle if or when IPRA fails to perform properly in investigating or disciplining abusive police officers. While such a proposal needs further fleshing out and refinement, the Council agrees that it is a concept with real potential to create genuine accountability and reform. The Council offers its assistance in exploring this idea further, and will work with both the City Council and members of the community in crafting a solution that will ensure strong, effective reform.

The people of Chicago, as well as the many officers of the CPD who perform their duties without abusing their substantial authority, deserve a more trustworthy system for preventing, investigating and adjudicating police misconduct complaints. It is past time that they got one.

Respectfully submitted,

The Chicago Council of Lawyers

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