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Via Email

Margaret A. Hickey
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**Re: Comments on the First Independent Monitoring Report
Consent Decree, *Illinois v. Chicago*, 17-cv-6260 (N.D. Ill.)**

Dear Ms. Hickey,

The Office of the Attorney General of Illinois (OAG) appreciates the Independent Monitoring Team's comprehensive assessment of the City of Chicago's (City) and the Chicago Police Department's (CPD) compliance efforts in the first Independent Monitoring Report (Report). In broad brush, the OAG agrees with the Monitoring Team's assessment: that the City and CPD did not meet most of their consent decree deadlines and compliance obligations in the first reporting period. The consent decree gives the parties—the City and the OAG—an opportunity to comment on the Report before it is filed with the Court. The OAG offers these comments on the challenges and opportunities reflected in the Report as we move forward into the next reporting period.

As we begin this multi-year reform effort, we cannot forget why the consent decree exists. As the Police Accountability Task Force noted in 2016, "[r]acism and maltreatment at the hands of police have been consistent complaints from communities of color for decades."¹ Chicago has "a long, sad history of death, false imprisonment, physical and verbal abuse and general discontent about police actions in neighborhoods of color."² In its January 2017 report, the U.S. Department of Justice found that people of color experience far more incidents of police abuse, including

¹ RECOMMENDATIONS FOR REFORM, POLICE ACCOUNTABILITY TASK FORCE 6 (Apr. 2016), https://chicagopatf.org/wp-content/uploads/2016/04/PATF_Final_Report_4_13_16-1.pdf.

² *Id.* at 7.

unreasonable force and race-based verbal abuse, than white residents.³ And it found that CPD rarely holds officers accountable for misconduct.⁴

The OAG recognizes the City and CPD have implemented important changes in the years since the murder of Laquan McDonald, including revamping use of force policies, increasing training requirements, and improving community policing efforts. The OAG shares many of the Monitoring Team's positive sentiments about the City's and CPD's efforts towards compliance in the first reporting period. In particular, the OAG deeply appreciates the hard work done by CPD's Office of Reform Management in getting this significant effort underway. But there remain significant obstacles to timely and full compliance with the consent decree and, more importantly, to lasting police reform. To achieve reform, the Monitoring Team, in partnership with the community and the parties to the consent decree, will need to provide a clear-eyed assessment of those challenges and concrete recommendations to overcome them.

The implementation of the consent decree is a large and complex project. It requires sustained commitment from the City, CPD, the OAG, the Court and its monitor, and the many communities who have an interest in the process. We are at the very beginning of this undertaking. While there have been challenges in this first reporting period, the OAG is optimistic that the City and CPD can get back on track.

Challenges to Full and Effective Consent Decree Implementation

The OAG sees several challenges to full and effective consent decree implementation. They include deficits in: (1) ownership of the consent decree across the entire police department and responsible City agencies; (2) resource allocation; (3) transparency; (4) data reliability; and (5) community engagement. The Report identifies many of these challenges, but we take the opportunity to discuss them in further detail because overcoming these challenges will be crucial to achieving sustainable reform.

As a party to the consent decree, the OAG is committed to working collaboratively with the stakeholders of this consent decree—the City, CPD, the Monitoring Team, the Coalition, the unions representing CPD officers, and the public—to ensure lasting police reform. During the first reporting period, the OAG remained in constant communication with the Monitoring Team and the City through calls, emails, bi-weekly subject matter teleconferences, and in-person meetings regarding the City's efforts to comply with the consent decree. The OAG also participated in many trainings, site visits, and meetings, including the Monitoring Team's weeklong site visit with the City and CPD, School Resource Officer trainings, in-service trainings at the Civilian Office of

³ U.S. DEP'T OF JUSTICE CIVIL RIGHTS DIV. & U.S. ATTORNEY'S OFFICE N. DIST. OF ILL., INVESTIGATION OF THE CHICAGO POLICE DEPARTMENT 145 (Jan. 13, 2017), <https://www.justice.gov/opa/file/925846/download>.

⁴ *Id.* at 8, 46–47.

Police Accountability (COPA), and community meetings hosted by CPD throughout the City. The OAG submitted written comments on dozens of policies, procedures, plans, training materials, and other documents required by the consent decree. The parties to this consent decree have worked together to lay an important foundation for the work ahead, but there remains far more work to do.

Ownership across the Department and City Agencies

The OAG shares the Monitoring Team's sentiment that assessing compliance with the consent decree requires demonstrated commitment and involvement from the City and CPD leadership. CPD senior leadership must reinforce the message—with conviction, urgency, and frequency—that public safety and reform are mutually reinforcing and can be accomplished simultaneously.

Managing the consent decree requirements necessitates strong administrative functions, and CPD's Office of Reform Management has done a commendable job managing the numerous requirements of the consent decree, especially given the resource constraints identified below. But reform cannot be accomplished on paper or live only in CPD headquarters. It must be felt in the districts and reach the rank-and-file, and it must be a priority in the violent summer months as well as during the rest of the year.

Both the City and CPD could do more to demonstrate that reform will benefit the department, its officers, and the community. At times, the City's and CPD's leaders have seemed to approach the consent decree as an ancillary obligation or burden, rather than an opportunity to transform CPD's relationship with the community it serves. We urge the City and CPD to demonstrate through both words and action that implementing the consent decree is an urgent priority.

Misallocation of Resources

As described in the Report, the City and CPD missed 38 out of 50 deadlines (or 76%) in the first reporting period and is not in preliminary compliance with 52 out of the 67 (or 78%) consent decree requirements reviewed by the Monitoring Team. Most of these missed deadlines and failed compliance obligations stem from the City's and CPD's failure to allocate resources appropriately.

Policy creation is a critical first step in the implementation of the consent decree. The consent decree establishes a three-step process for reform. First, the City and CPD must revise existing policies and create new policies to comply with the requirements of the consent decree. Second, the City and CPD must train officers on the new and revised policies. And third, only after the City and CPD complete the first two steps can the Monitoring Team begin to assess whether the City and CPD have "operationalized" the policies by putting them in to practice.

We agree with the Monitoring Team's assessment that insufficient staffing at CPD's Research and Development (R&D) Division, which is responsible for researching and drafting policies, is a barrier to timely policy completion. The OAG acknowledges and appreciates the dedication and hard work of the current R&D staff. But there are simply not enough of them to engage in the robust policy revision and creation process that CPD agreed to in the consent decree. This is troubling in light of the dozens of overdue policies required by the consent decree. CPD's policy review process also slows policy creation because CPD subjects each policy to multi-level review before submission to the Monitoring Team, the OAG, and community stakeholders for review. This has resulted in a delay in issuing even the most straightforward new policies and policy revisions. The backlog will only get worse as more deadlines approach.

It appeared throughout the reporting period that R&D's limited staff had capacity to focus on only one policy or group of related policies at a time. For example, CPD submitted draft versions of policies related to anti-discrimination and the public's right to record police officers on July 22, 2019. The Monitoring Team and OAG provided comments and feedback within 30 days. As of this writing, however, R&D has not yet responded to the Monitoring Team or the OAG feedback due to its limited staff and focus on other policies.

In general, the City and CPD have not allocated sufficient resources to allow the individuals working on implementation of the consent decree to succeed. For example, the Office of Community Policing, which has a committed and capable staff, cannot alone undertake the significant community outreach efforts necessary to ensure broad and deep community engagement in CPD's reform efforts. CPD's Education and Training Division is also not equipped with the permanent staff necessary to simultaneously consult on policy development and promptly develop training on new policies.

Additionally, until August 2019, CPD's Force Review Unit (FRU), which is responsible for reviewing and auditing officers' uses of force, was operating at less than 50% percent capacity of its necessary personnel. The staffing shortage was compounded by the FRU's lack of proper technology and adequate physical space to complete necessary reviews. The FRU's slow start is especially concerning because the FRU is about to begin reviewing firearm-pointing incidents, which CPD officers must report under a new policy set to take effect on November 1, 2019.

Again, the OAG acknowledges the hard work and dedication of those tasked with implementing the requirements of the consent decree, but we agree with the Monitoring Team that the City and CPD must dedicate additional resources and staff for efficient implementation.

Lack of Transparency

We also agree with the Monitoring Team that the City's ability and willingness to produce information related to consent decree implementation has been a challenge. The consent decree requires the City and CPD to provide answers to inquiries from the Monitor and the OAG. Yet the overwhelming majority of requests the Monitor and the OAG submitted during the first reporting period did not yield a timely or complete response, and the City and CPD supplied most responsive documents at the end of or after the reporting period. The City and CPD recognize this challenge and have been working to respond more promptly. However, it is unclear that the City and CPD have a sufficient strategy to resolve these problems, particularly the bottlenecks in its legal review process.

The sparse responses by CPD and the City prevented the Monitoring Team and the OAG from getting a complete and unvarnished view of the current state of reform efforts. For example, the consent decree requires most misconduct investigations to be complete within 180 days, but the City and CPD have not produced information that would allow the Monitoring Team and the OAG to assess how long misconduct investigations currently take. The lack of information has been particularly troubling at COPA, which has failed to produce even basic information, such as its number of current staff. Similarly, COPA only belatedly supplied the OAG with policies it had revised to comply with the consent decree.

Another concerning challenge in the first reporting period was the City's failure to consistently engage with the OAG and the Monitoring Team in the review of policies, plans, and training materials that COPA and other non-CPD City agencies must create or revise to comply with the consent decree. The consent decree establishes a collaborative process for the Monitoring Team and the OAG to review, comment on, and, if necessary, object to draft policies, plans, and training materials prior to their implementation. It also requires a meaningful opportunity for the public to review and comment on draft policies. This process is meant to improve the City's accountability systems, promote transparency, and provide an avenue for community engagement in the reform process. We urge the City, and COPA in particular, to fully participate in this process in the coming reporting period.

Data Reliability

We appreciate the Monitoring Team's recognition of CPD's work to improve its data reliability. We also share the Monitoring Team's concerns about CPD's current data collection, data management, and data systems. The consent decree emphasizes the vital roles reliable data can play in promoting police accountability. CPD utilizes many different systems to collect data—some modern and some antiquated—and currently does little to validate the data it collects. CPD collects and maintains data through over 100 different applications. But CPD has indicated that

data accuracy, redundancies, and/or inefficiencies are often determined on an ad hoc basis. CPD does not currently perform regular evaluations of its data collection systems, including assessing how CPD uses its data systems, how its data is managed, and how its data systems are or should be structured. Engaging in this type of evaluation is critical because, in our observation, CPD does not always structure its data systems in a way that facilitates the collection of useful data.

CPD recognizes these problems and has taken steps to address them, including reorganizing its headquarters unit devoted to data and analytics. It has also contracted to obtain an independent assessment of its information systems. This is essential, and we commend CPD for taking these steps. As CPD increasingly relies on data in the performance of its work and releases more data to the Monitoring Team, the OAG, and the public, it must ensure its data is reliable, and it must be transparent about any weaknesses in its data. This will increase trust inside and outside of CPD.

Community Engagement

Finally, we share the Monitoring Team's concerns about CPD's efforts to engage the community during the first reporting period. CPD has a long way to go to build trust, particularly in communities that have disproportionately experienced abusive policing. CPD must make community policing the responsibility of every officer and part of the work of every district and unit, and it must develop strong community partnerships at all levels. These partnerships will help CPD implement problem-solving strategies tailored to the needs of particular communities. For example, CPD has only begun to tackle its sizable challenge to engage youth and to increase positive interactions between officers and young people.

As the Monitoring Team notes, the City and CPD must also provide opportunities for the public to help develop policies, and it must offer opportunities earlier in the review process for the public to comment on them. The City and CPD should also include more community members and organizations in the development and delivery of training. We also echo many of the Monitoring Team's observations about CPD outreach. In particular, we agree that CPD needs to do more to increase community representation at CPD-sponsored meetings and events. We also heard concerns from the public about the lack of sufficient notice for CPD's School Resource Officer meetings, as well as concerns about the representation at those meetings. And we heard, and agree, that CPD could have offered other ways for the community to engage in the consent decree implementation process outside of meetings. At the same time, we are encouraged by the work of the Office of Community Policing to engage the public in district-level planning to reduce crime and solve problems. We look forward to engaging on these issues in the months and years ahead.

Additional Comments about the Report

We offer a few final thoughts about the Report. Although the OAG agrees with the Monitoring Team's overall assessment of compliance, in some cases we may have a somewhat different view of the steps necessary for the City or CPD to achieve compliance than the Monitoring Team articulated in its Report. For each policy, plan, and training material the City or CPD submitted, the OAG independently reviewed, commented on, and, as necessary, recommended approaches for achieving compliance; the OAG will continue to do so throughout the implementation of the consent decree.

We have also reviewed material related to compliance with other paragraphs of the consent decree. For some requirements, we do not have a sufficiently clear understanding of the methodology the Monitoring Team has used or will use to measure compliance or enough information to make an independent assessment. Moving forward, the parties and the public would benefit from the Monitoring Team more clearly articulating its methodology in advance of any review. In particular, the Monitoring Team should develop a methodology for evaluating CPD's community engagement efforts. The OAG will work with the Monitoring Team and the City to that end as we move into the second reporting period.

Conclusion

While it is still early in the consent decree implementation process, we also understand that for many Chicagoans, reform is long overdue. Chicago has an unprecedented opportunity to implement comprehensive and lasting police reform and build public trust. We are encouraged in many respects by the City's and CPD's early compliance efforts, but we are also acutely aware that this is the beginning of a very long journey and there is no time to waste. We look forward to working collaboratively with the stakeholders of this consent decree during the next reporting period to overcome the challenges we have identified and to make continued progress on achieving sustainable reform.

For the State of Illinois,

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Respectfully,



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