



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

March 18, 2021

SENT VIA EMAIL

Margaret A. Hickey
Independent Monitor
Schiff Hardin LLP
233 S. Wacker Drive, Suite 7100
Chicago, IL 60606
Via Email (MHickey@schiffhardin.com)

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

Dear Ms. Hickey:

The Consent Decree gives the Office of the Illinois Attorney General (OAG) an opportunity to comment on the Third Monitoring Report (Third Report) before it is filed with the Court. The Third Report covers an extraordinary time period in the history of Chicago—one marked by the COVID-19 pandemic and a nationwide outcry for racial justice sparked by police misconduct. Both of these experiences confirm that the Chicago Police Department (CPD) is not close to where it needs to be on the long path to reform.

Prior to the onset of the COVID-19 pandemic, the City and CPD were significantly behind schedule in implementing their Consent Decree obligations. The pandemic compounded these pre-existing delays. Despite a 64-day extension for certain Consent Decree deadlines covering the duration of Governor J.B. Pritzker’s “stay at home” orders, CPD has not kept pace with required reforms. OAG acknowledges the COVID-19 pandemic posed unanticipated challenges, but it is essential that CPD redouble its compliance efforts to make up for time lost both before and during the pandemic.

CPD’s response to the protests over George Floyd’s death also epitomized entrenched problems in its practices and culture. Whether through visibly refusing to comply with public

health precautions like wearing masks, obscuring badge numbers and nameplates, or using excessive force, a significant number of CPD officers (though not all) took actions that were openly hostile to the culture of accountability required by the Consent Decree. This must change. For the third year of the Consent Decree, which began on March 1, 2021, OAG urges the City and CPD to take concrete steps to change culture, prioritize de-escalation, hold officers and supervisors accountable, accept community feedback, and begin to build community trust in CPD.

Below are OAG's comments on the City's compliance efforts in the Third Monitoring Period. First, OAG summarizes the City's major compliance efforts in each area of the Consent Decree. Second, OAG outlines three key obstacles that the City and CPD must overcome to achieve Consent Decree compliance.

Summary of the City's Compliance Efforts¹

Areas with Continuing Challenges

(1) Impartial Policing; (2) Accountability and Transparency; and (3) Data Collection, Analysis, and Management

Although the Consent Decree went into effect two years ago, CPD has yet to develop or improve policies regarding officer interaction with some of Chicago's most vulnerable communities. These critical policies are fundamental to the **Impartial Policing** section. As the U.S Department of Justice reported in 2017, CPD has a pattern and practice of using force against, and failing to provide constitutional police services to, members of constitutionally protected classes.² Although OAG acknowledges CPD's efforts to seek community feedback via virtual focus groups, CPD failed to collect input from all of the most targeted communities, and had not incorporated much of the input it received into its policies and trainings. CPD failed to complete nearly all of the required Impartial Policing policies this reporting period, including on such important issues as prohibition against sexual misconduct and interactions with persons with disabilities. In the coming monitoring period, OAG urges CPD to focus its attention on catching up in these important areas and to proactively seek and incorporate diverse community input.

The City and CPD continue to remain out of compliance regarding most **Accountability and Transparency** requirements. The Third Report accurately assesses and characterizes CPD's efforts in this section. The slow pace of these efforts is concerning in light of the issues with accountability identified in the recent report by the City's Inspector General, such as evidence of CPD officers obscuring their identifying information and not complying with body-worn camera policies when responding to protests this summer.³ Nonetheless, although CPD has met some level

¹ The Consent Decree is divided into 10 subject matter areas: (1) Community Policing; (2) Impartial Policing; (3) Crisis Intervention; (4) Use of Force; (5) Recruitment, Hiring, and Promotion; (6) Training; (7) Supervision; (8) Officer Wellness and Support; (9) Accountability and Transparency; and (10) Data Collection, Analysis, and Management.

² Department of Justice Civil Rights Division and United States Attorney's Office Northern District of Illinois, *Investigation of Chicago Police Department* (Jan. 13, 2017) at 18, available at <http://chicagopoliceconsentdecree.org/wp-content/uploads/2018/01/DOJ-INVESTIGATION-OF-CHICAGO-POLICE-DEPTREPORT.pdf>.

³ See generally City of Chicago Office of the Inspector General, *Report on Chicago's Response to George Floyd Protests and Unrest* (Feb. 2021), available at <https://igchicago.org/wp-content/uploads/2021/02/OIG-Report-on-Chicagos-Response-to-George-Floyd-Protests-and-Unrest.pdf>.

of compliance with only 9% of the paragraphs for which it was assessed (or 5 out of 57 paragraphs), OAG would be remiss not to commend the leadership and staff of CPD's Bureau of Internal Affairs (BIA) for their dedication, quality work product, and commitment to the guiding principles of the Accountability and Transparency section of the Consent Decree. BIA proactively and collaboratively engaged with OAG and IMT during bi-weekly meetings and was receptive to recommendations and feedback. As the IMT noted in the Third Report, CPD is very close to being in preliminary compliance with several Accountability and Transparency requirements.

The Civilian Office of Police Accountability (COPA) struggled this reporting period to reach preliminary compliance with most of its obligations. In the Third Report, COPA was found in some level of compliance with only 20% of the paragraphs for which it was assessed (or 8 out of 40 paragraphs). That said, COPA's recent changes to its organizational chart and reorganization of staff have helped and will benefit COPA's operations and efforts to comply with the Consent Decree moving forward. OAG encourages COPA to adopt a more collaborative approach to receiving recommendations and feedback from OAG; COPA's seeming reluctance to proactively engage with OAG on Consent Decree requirements serves only to delay its compliance. OAG looks forward to working with COPA to reach preliminary compliance with more Consent Decree requirements in the next reporting period.

Finally, as noted in previous reporting periods, the City and CPD continue to fall behind on the **Data Collection, Analysis, and Management** requirements of the Consent Decree. While there has been progress made toward meeting requirements in this section in a few key areas (e.g., the public-facing use of force dashboard and increased staffing in the Force Review Division), overall, the City and CPD have placed this overarching work on the backburner. Data collection and analysis is critical to informing reform efforts across CPD, but CPD did not communicate with IMT and OAG regarding overall progress on this section during the reporting period. The City and CPD must prioritize the Data section during the upcoming periods to ensure that CPD catches up on the numerous missed deadlines.

Areas with Mixed Progress

(1) Community Policing; (2) Use of Force; and (3) Supervision

CPD's primary focus for **Community Policing** was to draft and publish directives and Standard Operating Procedures (SOPs) that codify many of the requirements of the Consent Decree, enabling CPD to reach preliminary compliance for the first time for multiple paragraphs. This marks significant progress and will allow CPD to move forward with rigorous training and implementation of these policies to ensure that officers' and supervisors' conduct adheres to the principles of community policing. CPD also successfully instituted a public awareness campaign. That said, CPD did not complete or provide a plan for reviewing or revising its policies relating to youth and children. This failure has immediate and ongoing consequences; there are numerous allegations of officers traumatizing and pointing guns at children during "wrong raids" at homes in Chicago.⁴ CPD's community working group on School Resource Officers also raised serious concerns, including a lack of student engagement. CPD also has failed to take steps to ensure that

⁴ See, e.g., Samah Assad, Dave Savini, *Another Family Files Lawsuit After Chicago Police Raid Wrong Home, Point Guns at 4-Year-Old*, CBS2 NEWS, Jun. 11, 2020, <https://chicago.cbslocal.com/2020/06/11/anotherfamily-files-lawsuit-after-chicago-police-raid-wrong-home-point-guns-at-4-year-old/>.

its crime reduction strategies are consistent with the principles of community policing. For example, OAG is concerned that CPD launched two citywide teams focused on combatting violent crime this summer, the Community Safety Team (CST) and the Critical Incident Response Team (CIRT), without sufficient regard for community policing principles. In the next monitoring period, OAG urges CPD to address these issues and develop effective in-service community policing trainings so that the philosophy of community policing extends to all parts of CPD, and is not relegated exclusively to the programs run by the Office of Community Policing.

CPD made some progress in the **Use of Force** section, but continued to resist reform and community feedback. In the spring, CPD published a revised Use of Force policy suite for its officers and for public comment. The Force Review Division (FRD) finalized most of its SOPs, increased its staffing levels, and began to catch up with its backlog of reviews. In an important move towards transparency, the FRD also began publishing its quarterly reports on CPD's website.⁵ But, in the summer and fall, CPD failed to give meaningful consideration to the dozens of policy recommendations offered by its community working group on use of force, despite touting the group's formation publicly. Pressure from the Coalition, community groups, the media, IMT, and OAG compelled CPD to reconsider its position, but this reconsideration came too late for CPD to reach meaningful compliance in this reporting period and caused community members to doubt CPD's expressed commitment to reform. Additionally, CPD must use all of its data tracking, including FRD data and the Use of Force Dashboard, to identify and fix unit-wide, district-wide, or department-wide problems. OAG looks forward to seeing continued collaboration between CPD and the Use of Force Working Group and CPD's increased use of data to identify trends, improve supervision, and increase accountability. Finally, CPD's lack of use of force documentation and excessive force against protestors during the summer of 2020 is deeply troubling. CPD must use the failures identified in the recent report by the City's Inspector General and IMT's upcoming special report to inform its policies and practices on use of force and accountability.

CPD also showed mixed progress in the **Supervision** section. CPD has worked hard to roll out a new staffing and supervision pilot program in one district, but has yet to collect sufficient data to allow IMT and OAG to meaningfully assess progress or compliance. OAG is also concerned that CPD does not have overall staffing or supervisor numbers to implement this model citywide. Additionally, CPD hired an outside consultant to evaluate its performance evaluation system. While OAG commends this step, the length and scope of this pilot project will delay CPD's implementation of better performance evaluations in the rest of CPD's districts. Finally, while CPD continued to make efforts to update its general Supervisory Responsibilities policy, it will need to develop a clear process for tracking, recording, and measuring its progress for the Consent Decree's long-term supervision requirements.

Areas with Progress:

- (1) Crisis Intervention; (2) Recruitment, Hiring, and Promotion; (3) Training; and
(4) Officer Wellness and Support*

CPD continues to invest significant time in developing policies incorporating requirements of the **Crisis Intervention** section of the Consent Decree. CPD has also developed SOPs, directives, and trainings to enact policy changes. In the coming monitoring period, CPD should continue

⁵ See <https://home.chicagopolice.org/reform/reports-and-resources/>.

to work with the Chicago Commission for Mental Health Equity and the public to receive and incorporate feedback on new directives, policies, trainings, and SOPs. CPD should also finalize and adopt SOPs after incorporating relevant feedback. Going forward, CPD must allow adequate time for public comment on new SOPs and directives, and provide sufficient data to assess outcomes. Further, CPD must provide sufficient evidence and explanation of how it incorporated underlying data, feedback, and research into various directives, plans, policies, and SOPs.

CPD has also made progress in the **Recruitment, Hiring, and Promotion** section of the Consent Decree. For example, CPD finalized its Captain and Commander job descriptions and is working to increase the transparency of its selection methods and processes. OAG encourages CPD to build officer trust in its processes by paying particular attention to transparency surrounding not just policies, but practices in the promotions processes. Additionally, CPD worked closely with the City's Inspector General to inform officers of its role in overseeing hiring and promotions and rolled out its training to more than 90% of its officers. OAG looks forward to hearing how CPD is evaluating its efforts to recruit and hire from a broad cross section of Chicago and how CPD will increase its outreach in diverse Chicago communities.

The mitigation efforts surrounding COVID-19 particularly affected CPD's progress towards compliance in the **Training** section of the Consent Decree. At times, CPD had to halt training altogether and was slow to ramp up again as the Education and Training Division navigated capacity limits in rooms, limitations and safety precautions for in-person training, and how to give remote training or modified in-person scenarios. While CPD still has a long road to meet Consent Decree requirements in this section, CPD has worked to meet the demands of the moment, despite unprecedented challenges. That said, CPD has not yet implemented all of these changes in the classroom. Further, CPD must improve its methods of tracking supervisory training requirements and whether trainings are tailored to each supervisory rank. CPD also has significant work to do in incorporating impartial policing principles, de-escalation strategies, and community and expert feedback into its training programs. OAG looks forward to seeing progress towards compliance in the Training section.

The Professional Counseling Division (PCD) is comprised of dedicated, experienced, and competent staff. PCD has made significant strides since the effective date of the Consent Decree. However, and as the IMT highlights in the Third Report, additional compliance with many provisions of the **Officer Wellness and Support** section of the Consent Decree requires that CPD procure technological software that will enable PCD to schedule, track, report on, and analyze its activities. In addition, while it is clear that PCD staff are dedicated to the spirit of the Consent Decree, CPD must make a more concerted effort to educate and train PCD staff on the Officer Wellness and Support requirements of the Consent Decree and documenting its compliance efforts.

Challenges to Full and Effective Consent Decree Implementation

Community Trust

Building community trust lies at the heart of the Consent Decree, but throughout the Third Monitoring period, as in the prior two monitoring periods, CPD failed to build relationships with or accept feedback from the people it serves. CPD did not listen to its own community working

groups in revising its policies regarding use of force⁶ and school resource officers. CPD's response to a national movement protesting police brutality resulted in 526 complaints to COPA and BIA about excessive force and other unlawful police practices.⁷ In the summer, CPD started the Community Safety Team and Critical Incident Response Team without adherence to the community policing principles that the Consent Decree requires. Unsurprisingly, IMT's community survey revealed that Chicagoans had drastically different opinions about CPD depending on their race, ethnicity, and age.⁸ Compliance with the Consent Decree requires both the commitment to implement the required policies, trainings, and practices step-by-step and the vision to change culture and embrace reform.

Long-Delayed Development of Critical Policies

In terms of policy development required by the Consent Decree, the City and CPD remain far behind. OAG appreciates that CPD's Research and Development Division, the Office of Community Policing, and the Bureau of Internal Affairs have worked hard to revise or develop some required policies, but OAG is particularly concerned that the following critical policies and plans remain incomplete:

- Permitting members of the public to record police officers performing their duties in a public place;
- Interactions with members of religious communities;
- Interactions with transgender, intersex, and gender nonconforming individuals;
- Effective communication and meaningful access to police services for individuals with physical, mental, or developmental disabilities;
- Prohibition against sexual misconduct by CPD members;
- Interactions with people with limited ability to speak, read, write, or understand English;
- Requirements for comprehensively investigating hate crimes;
- Officer-involved shootings and deaths;
- Policies relating to youth and children; and
- Department-wide crime reduction strategies.

In the coming year, the City and CPD must focus on policy development, listen to and incorporate community input from people with lived experiences with CPD, and commit to implementing the policies they promised to develop or revise under the Consent Decree.

⁶ Patrick Smith, *CPD Largely Ignores Community Recommendations on When Officers Can Shoot, Taze or Use Other Force*, WBEZ, Oct 14, 2020, available at <https://www.wbez.org/stories/cpd-largely-ignores-community-recommendations-on-when-officers-can-shoot-taze-or-use-other-force/ae115240-8fbf-4da0-8ced-7dd23f4e07f8>.

⁷ Civilian Office of Police Accountability, *Protest Related Complaints May 29, 2020 – December 31, 2020*, available at <http://www.chicagocopa.org/wp-content/uploads/2021/01/Protest-Related-Complaints-Report-5-29-to-12-31.pdf>.

⁸ See Chicago Police Department Consent Decree Independent Monitoring Team, *Community Survey Report (November 2019-February 2020): A Special Report by the Independent Monitoring Team*, (Aug. 26, 2020), available at https://cpdmonitoringteam.com/wp-content/uploads/2020/08/2020_08_26-Community-Survey-Filed.pdf.

Lack of Robust, Uniform Data Collection Practices

Finally, CPD must collect more data in a more efficient way, not only to allow IMT to assess compliance with the Consent Decree, but also for CPD's own improvement in developing crime-reduction strategies, identifying trends and concerns in use of force incidents, providing fair and accurate performance assessments, and measuring the effectiveness of accountability and supervisory mechanisms. The CPD and the City did not have a sufficient scale of data collection for requirements of the Consent Decree across several sections, e.g., use of force documentation, the timeframe in which arrestees are given phone calls, and data regarding when officers timely respond to crisis intervention team incidents. CPD must collect more and better data and make its numerous data systems function together.

Conclusion

The Consent Decree requires not just a tremendous amount of work from the City and CPD. It also requires the City and CPD to embrace difficult change and work to build community trust. The OAG looks forward to working collaboratively with the City, CPD, the IMT, the Coalition, and other community stakeholders of this Consent Decree during the next monitoring period to overcome the challenges the OAG has identified and to increase progress on achieving sustainable reform.

Respectfully,

KWAME RAOUL
Attorney General of the State of Illinois

By: s/Mary J. Grieb
Mary J. Grieb
Deputy Bureau Chief, Civil Rights Bureau
Office of the Illinois Attorney General
100 W. Randolph St., 11th Flr.
Chicago, Illinois 60601
Phone: 312-814-3877
Email: MGrieb@atg.state.il.us

cc: Tyeesha Dixon and Allan Slagel, Counsel for the City of Chicago; Dana O'Malley, General Counsel for the Chicago Police Department (via email)