



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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September 28, 2021

SENT VIA EMAIL

Margaret A. Hickey
Independent Monitor
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Via Email (MHickey@schiffhardin.com)

**Re: Comments on the Fourth 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 Fourth Monitoring Report (Fourth Report) before it is filed with the Court. In addition to the ongoing COVID-19 pandemic, the Fourth Report covers a period that includes the fatal police shootings of Adam Toledo and Anthony Alvarez following foot pursuits. These traumatic incidents have underscored the urgency of the reforms that the Chicago Police Department (CPD) has yet to implement.

OAG appreciates CPD's efforts to comply with the Consent Decree and acknowledges that the City and CPD have made progress in some areas. Yet two and a half years into the court-ordered reform process, the City and CPD still have not completed the first step towards reform: developing the policies and procedures required for preliminary compliance across every section of the Consent Decree. We agree with Superintendent Brown that to "implement lasting and transformative reforms within the Department, it is essential we do so with the goal of rebuilding and strengthening community trust."¹ But, based on the still lagging pace of Consent Decree implementation, the ultimate goal of establishing community trust in CPD remains far in the

¹ Chicago Police Department's Reform Progress Update for Independent Monitoring Period No. 4, p. 2.

distance. OAG provides below a summary of its assessment of the major accomplishments, delays, and roadblocks towards compliance with the Consent Decree.

The City and CPD's Progress This Period

The Fourth Report identifies several key steps forward taken by the City and CPD towards compliance with the Consent Decree. Highlights include:

- CPD finalized a revised policy related to respectful interactions with transgender, gender non-conforming, and intersex individuals after robust community engagement. CPD's work with relevant stakeholders to finalize this policy should serve as a model for future community engagement.
- The City and CPD made meaningful progress in the Crisis Intervention section, including marked improvement at providing adequate support for the CIT program through dedicated resources at the leadership, team, and officer level. The Office of Emergency Management and Communication also made notable progress by finalizing standard operating procedures and related training materials in this area.
- The Civilian Office of Police Accountability (COPA) made substantial progress this period, reaching some level of compliance with approximately 72% of the assessed paragraphs this period. OAG also recognizes the efforts of the COPA Community Working Group for their thoughtful review and input on COPA's various draft policies and commends COPA for meaningfully incorporating the Working Group's feedback.
- The Police Board reached full compliance with most of the paragraphs where it was assessed, and the Office of the Inspector General and the Deputy Inspector General for Public Safety reached full compliance with all of the paragraphs where they were assessed.

The Key Challenges to Full and Effective Consent Decree Implementation

In other key areas of reform, however, CPD made little progress or even moved backwards. OAG identifies below four key obstacles to the City and CPD achieving Consent Decree compliance.

1. Data Quality Problems and Antiquated Data Collection Practices

CPD and the City cannot achieve full and effective compliance with the Consent Decree until there are robust, auditable data collection systems. Without accurate data, CPD and the City cannot meaningfully evaluate whether reforms implemented under the Consent Decree are working. Despite a deadline that has long since passed, CPD currently lacks baseline knowledge of what data collection systems exist across the Department, much less whether those systems are reliably capturing accurate information.

In a troubling move backwards, CPD disabled its foot pursuit data dashboard and revealed that the data it had collected over the past two years was deeply flawed, causing it to fall out of compliance with certain requirements. CPD has yet to fully explain the scope of these data flaws

or how CPD will resolve them in the future. These data quality issues also contributed to the City and CPD's failure to adopt a foot pursuit policy by the mandated deadline, a reform that that was already long overdue.

OAG is also concerned that CPD has not conducted the required data assessment of the frequency of misdemeanor arrests and administrative notices of violation made by CPD officers of persons in specific demographic categories, such as race and gender. OAG is particularly concerned that CPD prepared a draft report over a year ago, but that "CPD administrators were unhappy with the large racial disparities present in the findings"² and have since outsourced the project. CPD's lack of transparency here is troubling; OAG urges CPD to conduct a transparent assessment, with methodology approved by the IMT, in the near future.

In other areas, CPD's systemic data problems prevent CPD from showing that it is implementing reforms in practice. For example, even though CPD's Professional Counseling Division has made progress in hiring additional clinicians and certified drug and alcohol counselors, CPD has no software to assess its members' use of these services. In one case, the lack of a technology solution to collect and report on wellness data caused CPD and the City to fall out of preliminary compliance with a requirement in the Officer Wellness section. Issues with data collection and analysis also threaten CPD's ability to make progress toward mandated requirements in the Recruitment, Hiring, and Promotion and Supervision sections.

The City and CPD must prioritize data collection and accuracy in the coming monitoring period. In particular, the City and CPD must begin the long overdue comprehensive data assessment, identify and validate data CPD currently collects, and create systems to collect data to analyze and improve Department policies and procedures required by the Consent Decree. Further inattention to CPD's data reliability problems threatens to stall or even reverse the progress made in multiple sections of the Consent Decree.

2. Lack of Integration of Community Policing Principles

CPD has yet to integrate the principles of community policing as fundamental to its larger policing and crime fighting strategies, as required by the Consent Decree. For example, OAG is concerned that the City and CPD continue to create and expand roving City-wide units, such as the community safety team, critical incident response team, and newly announced gun team, which do not sufficiently incorporate community policing principles and do not use sufficient metrics to judge their effectiveness. Community policing should be a necessary and first step in developing all crime fighting strategies, not an afterthought superficially tacked on at the end of a process. Integrating the principles of community policing into CPD's internal mechanisms for developing crime reduction strategies must start at the beginning and include better communication between the Bureau of Patrol and Office of Community Policing.

CPD also continues to lag in incorporating community input and finalizing policies governing interactions with youth. CPD has not yet finished critical policies requiring officers to interact with youth in developmentally appropriate ways and to encourage diversion and deflection of youth from the criminal legal system. CPD also has not revised its School Resource Officer

² Fourth Report, Paragraphs 79-82.

Policy to incorporate more recent stakeholder feedback and to incorporate comments from the IMT and OAG. Prioritizing community policing principles and finalizing these policies are crucial for CPD to effectively train officers about their new community policing responsibilities, and, ultimately, for CPD to transform to a culture of policing guided in all aspects by the principles of community policing and problem solving.

3. Lags in Developing Critical Policies and Incorporating Community Input

Policy development is only the first step towards many required reforms, and yet halfway through the third year under the Consent Decree, the City and CPD have not met this first level of compliance in nearly half of the paragraphs assessed in the Fourth Report. In addition to the above-mentioned delays in finalizing policies governing youth interactions, CPD and the City have still not put in place policies or procedures related to the following required reforms:

- Independent investigations of officer-involved shootings and deaths that are consistent with the legal requirements of the Police Community Relations Improvement Act;
- Prohibition against sexual misconduct by CPD members;
- Permitting the public to record police officers performing their duties in a public place;
- Respectful and lawful interactions with members of religious communities;
- Requiring effective communication and meaningful access to police services for individuals with physical, mental, or developmental disabilities;
- Providing timely and meaningful access to police services for people with limited ability to speak, read, write, or understand English; and
- Mandating use of body-worn cameras consistent with the Consent Decree and state law.

These policies deeply affect Chicago’s most vulnerable communities, and the City and CPD cannot develop these policies without listening and responding to their input. OAG shares the ongoing concerns expressed by IMT regarding CPD’s lack of community engagement during its policy development procedures. For example, despite CPD’s successful community engagement efforts in finalizing its “Interactions with Transgender, Gender-nonconforming, and Intersex Individuals (TIGN)” policy, CPD has yet to complete six other critical policies in the Impartial Policing section -- due in large part to its failure to incorporate and respond to the required community input.

Inadequate community engagement also hampers CPD’s ability to build community trust in its policies. For example, the City and CPD’s progress in adopting revised use of force policies and in-service training during this period has been marred by their lack of meaningful engagement with the Use of Force Working Group. The Use of Force Working Group ultimately expressed to the IMT that they did not believe that “the City was open to real, meaningful community engagement and input through this process.”³ And, as the IMT also observes, CPD’s rush to issue new policies governing high-profile issues like search warrants and foot pursuits – without first seeking community input or feedback at the formative stages – raises concerns about its efforts to build community trust.

³ Fourth Report, Use of Force, Paragraph 160.

In the coming monitoring period, the City and CPD must focus on policy development, listen to and incorporate community input, and commit to implementing the policies they have promised to develop or revise under the Consent Decree.

4. Delays in Reforming CPD Accountability Systems

In contrast to the improvements made by COPA, the Police Board, and the Public Safety Inspector General, CPD itself made little to no progress this period in reforming its critical accountability systems. In the final weeks of 2020, CPD had positioned itself to gain preliminary compliance with several Consent Decree requirements in the Fourth Report. However, CPD submitted draft procedures late in the reporting period and seemed to lack a strategic approach to codifying the Consent Decree's requirements. OAG is deeply concerned that CPD has reached some level of compliance with approximately 8% of the paragraphs for which it was assessed this period in the Accountability section. That dismal rate is even worse than the last reporting period. Because CPD (not COPA) investigates nearly 70 percent of complaints against CPD officers, CPD's delays in reforming its internal accountability mechanism harm public confidence in the entire process. OAG recognizes the dedicated staff in CPD's Bureau of Internal Affairs who are working toward gaining compliance with various Consent Decree requirements, but the City must commit its resources to making substantial progress in this area.

Finally, the City has ignored a critical requirement of the Accountability section. OAG shares the IMT's concern that the City has not prioritized reform of its policies and practices concerning investigations of officer-involved shootings and deaths. OAG strongly urges the City to prioritize implementing these reforms to ensure that its most complex, public investigations are transparent and consistent with best practices and state law.

Conclusion

The people of Chicago have waited far too long for genuine change in how the police treat those whom they ostensibly serve. The City and CPD must prioritize implementing Consent Decree mandated reforms as a first step towards changing Department culture and building community trust. OAG looks forward to continuing to work with the City, CPD, IMT, the Coalition, and community members to achieve more significant progress in the future.

Respectfully,

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