



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

July 16, 2021

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

Re: Independent Monitoring Team’s Special Report, *The City of Chicago’s and The Chicago Police Department’s Response to Protests and Unrest in Year Two of the Consent Decree (May 2020 – November 2020) (the “Special Report”)*

Dear Ms. Hickey:

The Special Report details numerous disturbing incidents of misconduct, disrespectful behavior, and excessive force by Chicago Police Department (“CPD”) officers in response to protests and civil unrest in Chicago from May to November 2020. Details of these incidents, compiled by the Independent Monitoring Team (“IMT”) based on hundreds of hours of video footage, interviews, and community testimony, plainly reveal the consequences of the City’s and CPD’s delayed implementation of the Consent Decree.¹ Moreover, the Special Report finds that the City’s and CPD’s ability to hold officers accountable for these incidents has fallen far short of the Consent Decree’s requirements, due to insufficient documentation, widespread misconduct, and understaffed and opaque systems of accountability. As a result, any attempt to fully document problems or hold officers accountable will be inherently incomplete because of CPD’s failure to consistently follow body-worn camera and reporting requirements during these critical events.²

¹ In the most recent reporting period, “the City and the CPD did not meet most of the deadlines and compliance obligations.” Independent Monitoring Report 3 (Amended), *State of Illinois v. City of Chicago*, 17-cv-6260, ECF No. 942 (Apr. 8, 2021), at 10.

² Special Report at 34.

Statements from community members about CPD’s response to racial justice protests in 2020, provided during the listening sessions hosted by Judge Dow, demonstrate the harmful impact CPD’s response had on these mostly peaceful protesters. These incidents further eroded CPD’s ability to build trust with the community it serves, one of the core commitments of the Consent Decree.

I estimate the officer beat me for 15 to 30 seconds. I can't say for sure because I was focused on blocking the young woman who was covering her head as an officer reached around me to beat her. I also focused on the uniqueness of my screams. This was the first time I heard myself make a sound I could only describe as a combination of shock, fear, and gurgling pain.³

~ Community Member

The CPD kicked people and medics, hit them with batons and destroyed medical supplies. CPD officers hit me, shoved me and called me a p** for pointing out the people who they were assaulting were injured.... After that act, the CPD only became more aggressive. They kettled protesters . . . They ran into kettled crowds while screaming and banging the sides of their batons. It was textbook psychological warfare.**⁴ ~ Community Member

OAG acknowledges and appreciates the IMT’s efforts and attention to the sensitive nature of the events underlying the Special Report. OAG offers the following comments regarding the Special Report’s findings and recommendations.

Findings: Systemic Failures in CPD’s Response to Demonstrations

1. ***Lack of Accountability.*** As the Special Report and the February 2021 report from the City of Chicago Office of Inspector General (“OIG Report”) make clear, the City’s and CPD’s failure to reform accountability systems as required by the Consent Decree had widespread consequences during the 2020 protests. Patterns of disturbing and pervasive officer misconduct include the findings that:⁵

- Officers obscured their nameplates and badges during demonstrations;⁶

³ Community Listening Session Day 2 (Aug. 20, 2020) Transcript at 125:15-22, [*hereinafter* “Transcript Day 2”].

⁴ *Id.* at 143:24-144:3, 144:11-14. Kettling “involves officers surrounding protesters to corral them before making arrests.” Wyattte Grantham-Phillips, Tyler J. Davis, Nick Coltrain, “What is Kettling? Here’s a look into the usage and history of the controversial police tactic,” USA TODAY, June 25, 2020, available at <https://www.usatoday.com/story/news/nation/2020/06/24/kettling-controversial-police-tactic-black-lives-matter-protests/3248681001/>.

⁵ *See e.g.*, Community Listening Session Day 1 (Aug. 19, 2020), Transcript at 25:11-15 [*hereinafter* “Transcript Day 1”], describing police pulling medics away from bleeding protesters; *see also Report on Chicago’s Response to George Floyd Protests and Unrest*, OFFICE OF THE INSPECTOR GENERAL FOR THE CITY OF CHICAGO (February 18, 2021), at 37 [*hereinafter* “OIG Report”], noting “Protesters reported seeing and experiencing apparently indiscriminate uses of force by CPD members. They described seeing CPD members tackle, punch, and use batons to strike peaceful protesters in the head and neck.”

⁶ Special Report at 8, 193-94, 209; OIG Report at 123-26. One community member described seeing “an officer taunting protesters with his badge number and name covered, repeatedly calling protesters expletives and using foul language.” *See e.g.*, Transcript Day 1 at 24:2-10.

- Officers failed to document, or insufficiently documented, uses of force;⁷
- CPD’s mass arrest procedures precluded effective discipline and accountability;⁸ and
- CPD failed to track the distribution of OC spray canisters to officers.⁹

These actions significantly impaired efforts to achieve meaningful accountability. As a result, the Special Report notes few examples of officer discipline, including only one instance related to an officer refusing to wear a body-worn camera¹⁰ and one instance where an officer was stripped of his police powers.¹¹

As outlined in the Special Report, these failures in CPD’s documentation and accountability systems violate numerous provisions of the Consent Decree.¹²

2. ***Unnecessary Uses of Force and Failure to Use De-escalation.*** The Special Report and community member statements illustrate widespread improper uses of force by officers, as well as dangerous officer escalation tactics that violate the Consent Decree, including:

- Advancing on docile crowds with batons in hand;¹³
- Punching protesters;¹⁴
- Swinging batons to strike protesters in the head;¹⁵
- Indiscriminately using OC spray (pepper spray), including on children;¹⁶
- Using protesters’ bikes as weapons;¹⁷
- Kettling crowds and then hitting people who could not escape;¹⁸ and
- Injuring people and not providing or requesting the medical aid needed to treat their injuries.¹⁹

⁷ Special Report at 205-06.

⁸ OIG Report at 118.

⁹ Special Report at 145-46.

¹⁰ *Id.* at 94.

¹¹ *Id.* at 211.

¹² For example, the Consent Decree requires that the City, CPD, and Civilian Office of Police Accountability (“COPA”) maintain an electronic case management system that allows for tracking and analyzing allegations of retaliation against individuals engaged in First Amendment activity, ¶ 509(f); requires that nearly all uses of force are documented, justified, and reviewed by a supervisor, ¶¶ 218-235; and requires CPD to mandate that officers provide their name and star number to any member of the public upon request, ¶ 433.

¹³ Special Report at 133.

¹⁴ *Id.* at p. 98. *See also* Transcript Day 1 at 42:7-12.

¹⁵ Special Report at 98. *See also* Transcript Day 1 at 38:11-12; *see e.g.*, Transcript Day 2 at 155:24-156:2. *See also* OIG Report at 37, noting “Protesters reported seeing and experiencing apparently indiscriminate uses of force by CPD members. They described seeing CPD members tackle, punch, and use batons to strike peaceful protesters in the head and neck.”

¹⁶ Transcript Day 1 at 42:8-9; Transcript Day 2 at 110:1-2.

¹⁷ Special Report at 98, a video showing an officer in a “bike tug-of-war with a protest and then appear[ing] to throw the bike at the person [the officer] was tugging with.” *See also id.* at 89, “Officers grabbed people’s bikes away from them.” *See also* Transcript Day 1 at 24:2-8; Transcript Day 2 at 103:1-4.

¹⁸ “Kettling” refers to a tactic whereby officers surround a group and contain it in a small area with little or no opportunity to leave. Special Report at 12, 132-33; Transcript Day 1 at 42:3-6. *Id.* at 45:1-3.

¹⁹ Special Report at 198.

These actions are contrary to the Consent Decree's requirements governing use of force by officers,²⁰ which specifically prohibit officers from using force to retaliate against protesters engaging in protected First Amendment activity,²¹ and require CPD to use de-escalation techniques and allow individuals to voluntarily comply with orders so as to prevent or reduce the need to use force at all.²²

3. ***Biased and Disrespectful Policing.*** Unbiased and respectful policing are at the core of the Consent Decree, which requires CPD officers to “interact with all members of the public in an unbiased, fair, and respectful manner” and “refrain from using language or taking action intended to taunt or denigrate an individual, including using racist or derogatory language.”²³ Yet instances of officers using inappropriate, disrespectful, and derogatory language towards community members, frequently coupled with force, permeate the Special Report, including:

- Officers handcuffing, restraining and detaining, aggressively pushing, swearing at, and refusing a request for water from an apparently pregnant woman;²⁴
- Officers swearing at reporters and treating them disrespectfully;²⁵
- Officers regularly swearing at and speaking disrespectfully to protesters, including:
 - An officer telling a protester “Shut the f*** up, a**hole.”²⁶
 - An officer telling an arrestee “... I threw your a** to the ground, and you cried. You one p***** a** b*****. Big a** b*****.”²⁷
 - An officer saying to a protester “... Dealing with savages ain’t a part of my job.”²⁸
 - An officer saying to a protester “Get back before I beat the f*** out of you.”²⁹

As one protester testified, “... the officers on the scene laughed at us [w]hen we begged them to leave people alone ... It felt like they view Chicagoans who are fighting for justice as enemies, and they treat us that way.”³⁰ These widely documented interactions indicate that the mindset and attitude that many police adopted during the protests were deeply harmful to CPD's ability to effectively and respectfully protect the City and its communities.

²⁰ See, Consent Decree ¶¶ 153, 164.

²¹ *Id.* ¶ 163.

²² *Id.* ¶ 162. See also *id.* ¶¶ 207-09, requiring officers to issue verbal commands and warnings to the subject “prior to, during, and after the discharge of an OC device” and “allow a subject a reasonable amount of time to comply with a warning prior to using or continuing to use an OC device.”

²³ See, e.g., *id.* ¶¶ 51-2, 54.

²⁴ Special Report at 73.

²⁵ *Id.* at 97.

²⁶ *Id.* at 74.

²⁷ *Id.* at 79.

²⁸ *Id.* at 104.

²⁹ Transcript Day 2 at 117:23-24.

³⁰ See *id.* at 137:19-1:38:14.

Recommendations

1. ***Accountability & Discipline.*** OAG concurs with IMT’s recommendation that the City and CPD must take action now to hold officers accountable for failures to comply with policies, such as those requiring use of body-worn cameras, mandating respectful behavior, and governing uses of force.³¹ Accountability is a central requirement of the Consent Decree and is essential to ensuring legitimacy and community confidence.³² Unfortunately, the City’s and CPD’s failures to properly document and report uses of force and other required data have further hampered their ability to conduct the thorough and timely investigations required by the Consent Decree.³³ To address this moving forward, CPD must take corrective action to enforce officers’ compliance with policies regarding body-worn cameras and display of badges and nameplates, and implement robust training to emphasize that officers who fail to comply with these policies will face progressive discipline.³⁴ As the Special Report notes, community members and the Coalition have also raised concerns that CPD’s existing standards for relieving police powers are insufficient to ensure accountability.³⁵ OAG looks forward to further discussion with the IMT, the City, and the Coalition regarding CPD’s accountability systems.

2. ***Policy Development.*** As CPD has acknowledged, the 2020 protests revealed gaps in a number of CPD policies and procedures.³⁶ OAG appreciates the revisions that CPD has made to date and agrees with the IMT that further policy revisions are necessary on topics including use of force, mass arrests, First Amendment-related procedures, respectful and unbiased policing practices, and accountability. The City and CPD must continue to prioritize policy development under the Consent Decree; as noted in the Special Report, past efforts by the City and CPD to circumvent the typical Consent Decree revision process have resulted in new problems and delays.³⁷ Finally, CPD must solicit and incorporate meaningful community input, such as the recommendations of the Use of Force Working Group, into these policy revisions.³⁸

3. ***Training and Data.*** Once these revised policies and procedures are finalized, CPD and the City must also ensure that officers receive adequate training, including for future large-scale demonstrations, and that the data collected is tracked and analyzed as required by the Consent Decree. For example, CPD must ensure that trainings cover appropriate crowd-

³¹ Special Report at 202-03.

³² See, e.g., Consent Decree ¶ 419.

³³ Special Report p. 205-10. The City has not met any level of compliance for 53 of the 72 accountability related Consent Decree Paragraphs. Independent Monitoring Report 3 at 533.

³⁴ See, e.g., Consent Decree ¶ 238(i) (officers who knowingly fail to comply with the body-worn camera policy may be subject to progressive discipline and training), ¶ 433 (requiring officers to provide identifying information such as star numbers to any member of the public), ¶ 576 (requiring CPD to randomly audit body-worn camera recordings of civilian interactions to assess officers’ compliance with policy and to “take corrective action to address identified instances where CPD officers have not complied with CPD policy as permitted by law, and will identify any trends that warrant changes to policy, training, tactics, equipment, or Department practice”), and ¶ 587(o) (requiring CPD’s automated electronic data system to include “all violations” of CPD’s body-worn camera policies).

³⁵ Special Report at 211-12.

³⁶ *Id.* at 148.

³⁷ *Id.* at 174.

³⁸ *Id.* at 160, footnote 319.

control techniques and discourage kettling.³⁹ Kettling violates the de-escalation techniques required by the Consent Decree, because crowds kettled by officers cannot physically comply with dispersal orders. CPD should train officers on updated use of force and de-escalation policies as soon as possible.

4. ***Community Engagement and Information Gathering.*** In order to rebuild community trust, CPD must prioritize Paragraph 46 of the Consent Decree, which requires CPD to “solicit, consider, and respond to input, feedback, and recommendations from the community in each district about its policing efforts and strategies.” The Special Report suggests that some of these engagement practices, such as meetings with community groups or social media monitoring, also offer information-gathering opportunities for CPD.⁴⁰ Nonetheless, the purpose of Paragraph 46 is to require CPD to gather feedback about its own policing efforts, not to surveil or gather intelligence about community groups. As the Special Report notes, the IMT and OAG have not received any materials from CPD regarding its social media engagement and information-gathering teams.⁴¹ OAG is concerned, however, about emerging reports suggesting that CPD employed its 2020 Summer Operations Center to surveil community groups on social media and collect intelligence about political demonstrations – allegedly leading to the City issuing a cease and desist order against the Chicago Freedom School for feeding and helping protesters.⁴² Any surveillance action by CPD requires exceedingly close scrutiny to protect constitutional rights and comply with Consent Decree requirements, and should not be mistaken for required community engagement.

5. ***Mobile Field Force Training.*** OAG agrees with the IMT’s concern regarding roving teams: “[w]ithout clear policies, standard operating procedures, or goals—including those for the City’s future responses to protests or unrest—we continue to have concerns regarding the challenges that these types of teams present and Chicago’s troubling history with roving teams.”⁴³ The Special Report recommends that CPD explore the creation of Mobile Field Force Teams to respond to future mass demonstrations – but only if such teams are properly trained, certified, equipped and transparent to the public.⁴⁴ Given the IMT’s and OAG’s ongoing concerns regarding the implementation of CPD’s Critical Incident Response Team and Community Safety Teams,⁴⁵ OAG will closely monitor any CPD efforts to create or expand new citywide teams.

³⁹ In addition to the readily surmisable concerns associated with a tactic aimed at trapping individuals, experts also argue that kettling can increase tensions and likely result in more use of force. Grantham-Phillips, “What is Kettling? Here’s a look into the usage and history of the controversial police tactic.”

⁴⁰ Special Report at 113.

⁴¹ *Id.* at 125. CPD and the City has blocked the release of CPD records related to its social media monitoring programs. Madeline Buckley, Gregory Pratt, “ACLU files suit against CPD seeking records on beefed-up social media monitoring following protests and looting last year,” CHICAGO TRIBUNE (July 15, 2021), available at <https://www.chicagotribune.com/news/breaking/ct-aclu-lawsuit-cpd-social-media-20210715-okvvhabuazhqhaz5phakssloza-story.html>.

⁴² Jim Daley, “Surveilling Dissent,” SOUTH SIDE WEEKLY (July 7, 2021), available at <https://southsideweekly.com/surveilling-dissent/>.

⁴³ Special Report at 135.

⁴⁴ *Id.* at 135-37.

⁴⁵ *Id.*

OAG acknowledges the efforts made to date by the City and CPD to address issues raised in the Special Report, and urges the City and CPD to engage the community as it works towards not only compliance with the Consent Decree, but also building trust with Chicago residents. OAG looks forward to continuing discussions with the City, the IMT, and the Coalition regarding these matters.

Respectfully,

KWAME RAOUL
Attorney General of the State of Illinois

By: /s/ Rebekah Newman
Rebekah Newman
Assistant Attorney General
100 West Randolph Street, 11th Floor
Chicago, Illinois 60601
Phone: (312) 814-6141
E-mail: Rebekah.Newman@illinois.gov

/s/ Mary J. Grieb
Mary J. Grieb
Deputy Bureau Chief, Civil Rights Bureau
Office of the Illinois Attorney General
100 W. Randolph St., 11th Floor
Chicago, Illinois 60601
(312) 814-3877
Email: Mary.Grieb@illinois.gov

cc: Tyeesha Dixon, Allan Slagel, Counsel for the City of Chicago (via email)