

## THE NEED FOR INDEPENDENT CIVILIAN REVIEW OF THE CHICAGO POLICE DEPARTMENT

There is no longer any question that Commander Jon Burge and officers under him tortured African-American suspects in order to coerce confessions during the period 1973 to 1991. These abuses have been established by the City, by the federal judiciary, and most recently, by the Report of the Special State's Attorney. Mayor Daley has described them as "a shameful episode in our history."

Against this background, and in light of more recent, post-Burge police scandals, the critically important question is whether the systemic conditions that allowed Burge and his men to commit these human rights abuses for almost two decades have been corrected or do officers with criminal tendencies continue to operate with impunity in Chicago?

Mayor Daley and Superintendent Cline have repeatedly assured us that the necessary reforms have been made. The Chicago Police Department's own statistics, however, tell a very different story.

The source of these figures is *Bond v. Utreras*, a recently settled federal civil rights suit brought by Diane Bond, a resident of the Stateway Gardens public housing development who alleges that she was repeatedly subjected to horrific abuse several years ago by a crew of tactical officers known on the street as the "skullcap crew." Bond charged that the crew had engaged over a number of years in a pattern of racial abuse of public housing residents on the South Side—a pattern that went unaddressed by the CPD.

The statistics disclosed by the CPD in *Bond* demonstrate that its system for investigating police abuse is utterly ineffective in protecting the residents of Chicago from abusive officers:

- During 2002-2004, citizens filed 10,149 complaints alleging police abuses in the categories of excessive force, illegal arrest, illegal searches, racial abuse and sexual abuse. Only 124 of these complaints were sustained—slightly more than one percent.
- To put this in perspective, a U. S. Department of Justice report determined that the national sustained rate for excessive force complaints filed with "large municipal police departments" in 2002 was 8 percent. By contrast, the CPD's sustained rate during 2004, the most recent year for which it has released figures, was less than half of one percent (0.48%). In other words, excessive force—brutality—complaints are 94 percent less likely to be sustained by the CPD than they are by other large municipal police departments across the country.
- Only 19 of the 10,149 complaints resulted in meaningful discipline (a suspension of 7 days or more)—a rate of less than 2 per 1,000 complaints.

- Contrary to the City's assertions that accountability has improved in recent years, the percentage of sustained complaints steadily *declined* during the period 1999-2004. The sustained rate for all civilian abuse complaints decreased from 3.7% in 1999 to 0.6% in 2004—a decline of 84%. The sustained rate for excessive force complaints decreased from 4.8% to 0.5%—a decline of 90%.
- The odds that a CPD officer who abuses a citizen will receive meaningful discipline are in reality even less—far less—than 2 in 1,000. Citizens who believe they have been victims of police abuse often do not file formal complaints. Among the reasons are fear of reprisals and distrust of the investigatory process. A national survey conducted by the U. S. Department of Justice found that only 10% of those who believed they suffered excessive force in an encounter with the police reported the incident to the agency employing the officer. If we use that baseline, an incident in Chicago in which a citizen believes the police used excessive force will result in meaningful discipline in 2 in 10,000 cases.
- Police abuse is a highly patterned, concentrated phenomenon. A relatively small percentage of the force is responsible for most of the citizen complaints. During the period May 2001 - May 2006, 10,387 officers had 0 to 3 complaints. Another 2,451 officers had 4 to 10 complaints. 662 officers had more than 10 complaints. These 662 "repeaters" were named in 10,733 complaints.
- Only 22 or 0.2% of the complaints against the "repeaters" resulted in meaningful discipline.
- 75% of the "repeaters" have never been subjected to discipline of any kind.
- The CPD has two programs that it describes as its "early warning system." It is a measure of the inadequacy of this system that only 89 (13.4%) of the 662 "repeaters" have been identified by these programs. More than 86% of the "repeaters" have not been identified as needing intervention.
- There are officers who amassed 50 or more complaints within the past five years who have never been disciplined or even identified by the CPD's "early warning" programs.

These figures reveal a system that allows officers with criminal tendencies to operate with impunity and denies meaningful recourse to those they abuse. The outcomes reported above are not aberrations. The system is *designed* to produce these results.

CPD investigations are exercises in not connecting the dots. They violate every canon of professional investigatory technique. Investigators look for rationales not to go forward—to make findings of "not sustained"—rather than vigorously pursuing avenues open to them. In more than 85% of cases, the accused officers are not even interviewed beyond filling out a brief form, often months after the alleged abuse, which virtually invites them to coordinate their stories and cover for each other. In the rare instance in which a face-to-face interview actually occurs, investigators do not employ standard

police interviewing techniques. Although they have the discretion to do so, investigators do not perform pattern analyses with respect to individual officers and groups. In other words, the CPD chooses not to know things within its power to know about patterns of abuse. In view of these shoddy investigatory practices, it is not surprising that 998 of every 1,000 complaints result in no meaningful action. Imagine what life in this city would be like, if the CPD investigated other crimes the way it investigates police misconduct.

The CPD masks the weaknesses of its oversight system by withholding information from the public. It fails to provide meaningful reports on a timely basis. It resists even the most minimal transparency. When challenged, it deploys its institutional capacities to resist public scrutiny.

With each successive scandal over the last fifteen years—Miedzianowski, Auburn-Gresham, Englewood, Special Operations Section, and now the videotaped bar beatings—the Mayor and Superintendent have assured the public that the necessary reforms have been made or are imminent. Confronted with the threat of a widening police scandal, they have repeatedly responded the same way. The Superintendent declares that bad cops will not be tolerated and that vigorous investigations are ongoing. The Mayor may appoint a special body to address the problem such as the Commission on Police Integrity in 1997 or the current panel advising him on selection of a director for the Office of Professional Standards. Then, when public attention wanes, the *status quo* is restored without any meaningful reforms having been instituted.

We should be clear about what is at stake here. To the extent the Mayor and Superintendent have long known that the machinery of police accountability is broken and have not fixed it, they are implicated in the crimes of the abusive officers they publicly deplore. That is the ultimate meaning of the statistics cited above: every day residents of Chicago suffer police abuses that could be prevented by an effective system of supervision, monitoring and discipline.

There can no longer be any doubt that the CPD does not have the capacity to police itself. The time has come to institute independent civilian review accountable to the people of Chicago.



Craig B. Futterman  
Clinical Professor of Law  
University of Chicago Law School  
(773) 702-9611  
[futterman@uchicago.edu](mailto:futterman@uchicago.edu)



Jamie Kalven  
Invisible Institute  
(773) 220-5085  
[kalven@invisibleinstitute.com](mailto:kalven@invisibleinstitute.com)