

**Comments on the Chicago Police Department's  
Proposed Use of Force Guidelines  
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In April 2016, the Mayor's Task Force released its findings and concluded that the Chicago Police Department (CPD) has no regard for the sanctity of life when it comes to people of color and that CPD has long targeted communities of color with excessive force. Given the prevalence of unlawful force resulting in the death and injury to thousands of Chicagoans, there is an immediate, urgent need for the CPD to overhaul its policies and practices related to the use of force. Unfortunately, the proposed use of force revisions fall far short of remedying the systemic deficiencies that have long plagued the CPD. A summary of the most critical deficiencies follows:

**Fails to set forth the legal limitations on physical interactions between police and civilians.**

The proposed policy reads as if officers should assume that some use of force will be warranted in almost every police-civilian interaction and that the officer's task is merely to determine the appropriate level of force. This is wrong as a matter of law. The policy's framing principle must be that absent a public safety emergency or probable cause to make an arrest, police officers should not—under any circumstances—physically engage with or use any sort of force against civilians. In the event that a physical interaction between an officer and a civilian is warranted, the policy must state clearly and unequivocally that the officer is obligated to use the minimum amount of force necessary to achieve a legitimate public safety-related goal.

**Sanctions the use of deadly force in questionable circumstances.**

In multiple places the policy states that the sanctity of human life is CPD's highest priority. But the policy itself belies this claim because it fails to state in clear, simple language that the use of deadly force should be a measure of last resort and is to be used only when necessary to protect imminent threat to life or great bodily harm. The policy should delete terms such as "reasonably believes" or "reasonably necessary" because they are confusing and fail to provide clear guidance to officers. The policy should instead read: "The use of deadly force is a measure of last resort that is permissible only when necessary to protect against an imminent threat to life or great bodily injury. As such, an officer may use deadly force only when such force is necessary to prevent: (a) death or great bodily harm from an immediate threat posed to the sworn member or another person, or (b) an arrest from being defeated by resistance or escape, and the person poses an immediate threat of death or great bodily harm to a sworn member or another person unless arrested without delay."

**Lacks transparency, fails to prioritize accountability and defeats the public's right to know about police shootings.**

The revised policy fails to establish concrete timeframes regarding releasing information to the public and to the Civilian Office of Police Accountability ("COPA") regarding police shootings. The policy must prioritize transparency and make as a default practice the public release of any

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video and other relevant information within 48 hours, unless the release would seriously compromise an ongoing investigation. In all cases, any video and other relevant information should be released within 14 days of the incident.

In addition, the proposed policy fails to adequately address delays in notifying COPA whenever an officer discharges a weapon or uses a taser—delays that have hampered independent investigations and betrayed public confidence in those investigations. The policy must be rewritten to ensure that COPA will be notified *immediately* after an officer discharges a weapon or uses a taser, and that the failure to immediately notify COPA shall result in discipline.

Finally, the policy gives the CPD—and not COPA—control over the scene of a police shooting, taser discharge, or other significant use of force. This is in fundamental tension with the notion that these investigations should be controlled by an agency that is independent from the CPD. The policy should give COPA, and not CPD, primary control over the scene. If COPA is dependent upon CPD supervisors for access to the scene and the evidence, the public has every right to continue to question the independence of these investigations.

#### **Fails to adequately protect the right to protest.**

The policy fails to make clear that force cannot be used solely because people are exercising their first amendment rights to speech, protest and dissent. To the contrary, the policy authorizes the use of devices that inflict excruciating pain on protesters—including OC spray and long range acoustic devices. The policy should ban the use of long range acoustic devices because of the threat these devices pose to the right to protest, ensure that no protester is subject to any use of force in the absence of an imminent threat to public safety and explicitly prohibit the use of batons, OC spray, and tasers on passively resisting protesters.

#### **Empowers officers to use tasers and OC spray without sufficient justification and in dangerous circumstances.**

The proposed taser policy fails to state clearly that tasers should only be used against a violent individual and when other methods of controlling that individual have failed. Indeed, the proposed policy as written wrongfully allows officers to use tasers on: 1) unarmed people when they are simply walking away from a police officer, 2) people who pose a potential harm only to themselves, and 3) people who are not actively threatening anyone with violence. The taser policy should also state affirmatively that the use of tasers on people who are unarmed but uncooperative is strictly prohibited. The proposed policy allows officers to use OC spray on people who resist an officer's command—even when there is no immediate threat to public safety. The policy should be re-written to restrict the use of OC spray only to situations where there is such a threat. Further, the use of OC spray should be explicitly prohibited in the following situations: 1) inside a vehicle or any enclosed area; 2) on protestors who are passively resisting; and 3) on a handcuffed individual.

#### **Fails to accommodate the special circumstances of pregnant women, people with disabilities (including mental illness) and the very old and the very young.**

According to the proposed policies, an officer could use a taser, OC spray and other control techniques on people who are particularly vulnerable to suffering great harm or even death as a result of the control technique. The policy must ensure that before using *any* less than lethal

force, an officer must first calculate whether the individual presents as someone who may be particularly vulnerable to harm as a result of the contemplated force. The policy should prohibit the use of tasers and OC spray on people who are over 60 or under 18 and on pregnant women. Additionally, CPD should be required to secure a medical evaluation for every individual who has been tased—regardless of age or circumstances.

**The proposed “Level of Force Guidelines” import CPD’s old use of force matrix which has proved confusing, impractical and ineffective, and the guidelines are inconsistent with the use of force policies outlined above.**

Experience and best practice have called matrices like the CPD’s into question, because they have not served officers well in practice. CPD’s reliance on training its officers on a matrix that is confusing and in tension with the force principles described in the proposed policy has contributed to a pattern and practice of excessive force. Resurrecting the old matrix in the form of “guidelines” will lead to similar results. Because these “guidelines” are confusing, and duplicative or contradictory of the force guidelines specified above, they should be scrapped in their entirety.