

**COMPLAINT SUBMITTED TO THE UNITED STATES DEPARTMENT  
OF JUSTICE DOCUMENTING THE ROLE OF THE INDEPENDENT  
POLICE REVIEW AUTHORITY IN PERPETUATING A CODE OF SILENCE  
AND CULTURE OF VIOLENCE IN THE CHICAGO POLICE DEPARTMENT**

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## INTRODUCTION

The City of Chicago is reeling from the pain of watching a cold-blooded police killing documented on videotape. Calls for the intervention of the United States Department of Justice (“DOJ”) have come from many quarters: Illinois Attorney General Lisa Madigan has written a letter requesting DOJ to investigate the Chicago Police Department (“CPD”); former Secretary of State Hillary Rodham Clinton has called for an investigation of police brutality in the city; the Chicago Tribune and Sun-Times have called for federal intervention;<sup>1</sup> Chicago Mayor Rahm Emanuel has signaled his openness to DOJ’s intervention; civic leaders and activists throughout the State of Illinois have expressed outrage at the broken relationship between the CPD and the communities its members are sworn to serve and protect. Now, the DOJ has announced that its Special Litigation Section is launching an investigation into the CPD’s use of force, including the use of deadly force, racial, ethnic and other disparities in use of force and police accountability mechanisms.<sup>2</sup>

The undersigned are activists, lawyers, organizers and leaders with a history of commitment to changing the culture of impunity that has driven Chicago’s long and

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<sup>1</sup> Sun Times Editorial Board, *Roll out the Carpet for Federal Probe of Police*, CHICAGO SUN-TIMES (December 3, 2015), available at <http://chicago.suntimes.com/opinion/7/71/1151055/editorial-21>; Kristen McQueary, *A Task Force to Study the Police? Please Say You’re Kidding*, CHICAGO TRIBUNE (December 3, 2015), available at <http://www.chicagotribune.com/news/opinion/commentary/ct-mccarthy-rahm-hillard-cline-weis-police-perspec--1204-20151203-story.html>.

<sup>2</sup> United States Department of Justice, *Justice Department Opens Pattern or Practice Investigation into the Chicago Police Department* (December 7, 2015), available at <http://www.justice.gov/opa/pr/justice-department-opens-pattern-or-practice-investigation-chicago-police-department>.

sorry history of police-on-citizen violence. Given both the deep-rooted unwillingness and failure of local officials and politicians to end the state-sanctioned brutality, the undersigned applaud DOJ's intervention and file this complaint in an effort to support the DOJ fact-finding process. Specifically, this complaint sets forth the reasons why the DOJ probe must focus in significant part on Chicago's Independent Police Review Authority ("IPRA"). It also elucidates the reasons why IPRA must be abolished and reconstituted as a meaningful, truly independent police oversight agency.

Petitioners stand ready to assist federal officials in both documenting the CPD's patterns and practices of rights abuses and developing sustainable, effective remedies.

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The world has seen the videotaped killing of Laquan McDonald, a 17-year-old boy. In October 2014, this young man's life was ended in a hail of bullets fired at him by Chicago Police Officer Jason Van Dyke, who, from a point-blank distance and with no provocation, shot McDonald 16 times in the back, arms and neck – including while he lay prone on the ground. Laquan McDonald's killing is more than a single stark and horrific incident of police brutality. It is emblematic of Chicago's institutional inability to hold accountable police officers who violate the civil rights of citizens.

Jason Van Dyke has a long and troubled disciplinary history. In his relatively short time with the CPD he amassed at least 20 separate misconduct allegations, including two for shootings.<sup>3</sup> He was never disciplined for misconduct, even after a

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<sup>3</sup> See Invisible Institute, Citizens Data Project, available at <http://cpdb.co/officer/jason-van-dyke/7655> (last accessed December 4, 2015); Elliot C. McLaughlin, *Chicago Officer*

federal court found him guilty of police brutality and awarded over half a million dollars to one victim of his abuses.<sup>4</sup> In a sense, this is unsurprising. IPRA, the agency that investigates complaints and decides on police discipline, has a long practice of refusing to consider an individual officer's pattern of prior misconduct allegations when investigating a new claim of abuse. It also refuses to examine evidence of potential patterns of abuse in need of investigation. As a result, Van Dyke was never even identified as a repeat offender, when he should have been taken off the streets. Laquan McDonald's killing was a preventable tragedy that occurred because of IPRA's deliberate ineptitude and the police code of silence that it supports.

The City's routine and entrenched code of silence went into full effect immediately after Van Dyke's execution of Laquan McDonald. Civilian witnesses to the killing were told to leave – under threat of arrest – by officers who made no attempt to secure their statements or contact information. Other witnesses who attempted to make

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*Had History of Complaints Before Laquan McDonald Shooting*, CNN (November 26, 2015), available at <http://www.cnn.com/2015/11/25/us/jason-van-dyke-previous-complaints-lawsuits/>; see also Sarah Kaplan, *Chicago Police Officer Charged in Deadly Shooting Has a History of Misconduct Complaints*, THE WASHINGTON POST (November 25, 2015), available at <https://www.washingtonpost.com/news/morning-mix/wp/2015/11/25/chicago-cop-charged-in-deadly-shooting-has-a-history-of-misconduct-complaints>. Between May 2002 and December 2008, Van Dyke incurred 12 misconduct complaints, six for excessive force. See *Moore v. Smith*, No. 07 C 5908 (N.D. Ill.), "Selected Members Having More than 5 Complaints – 05 May 2002 to 05 Dec 2008," available at <https://www.documentcloud.org/documents/1237391-moore-cc-list-1-120.html>; *Moore v. Smith*, No. 07 C 5908 (N.D. Ill.), "Selected Members Having More than 5 Excessive Force Complaints – 05 May 2002 to 05 Dec 2008," available at <https://www.documentcloud.org/documents/1237392-moore-e-f-list.html>.

<sup>4</sup> See McLaughlin, *supra* note 3.

reports at the police station were harassed by officers.<sup>5</sup> Police on the scene of the shooting procured and allegedly erased 86 minutes of video footage of the shooting, taken by a nearby Burger King surveillance system.<sup>6</sup> Following the shooting, the Chicago Police Department released false public statements that 17-year-old McDonald lunged at Van Dyke with a knife, causing Van Dyke to shoot him in self-defense, even though the Department possessed conclusive video evidence showing this to be a lie.<sup>7</sup> Every Chicago police officer on the scene either repeated the same falsehood in official reports or claimed that he or she did not see the shooting.<sup>8</sup>

The Department's concerted effort at cover-up did not end there. Chicago Mayor Rahm Emmanuel, former-Police Superintendent Garry McCarthy, IPRA investigators, Cook County State's Attorney Anita Alvarez, and Pat Camden, spokesperson for the

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<sup>5</sup> Jason Meisner, *Burger King Manager Told Grand Jury of Gap in Laquan McDonald Video*, CHICAGO TRIBUNE (November 28, 2015), available at <http://www.chicagotribune.com/news/local/breaking/ct-chicago-cop-shooting-laquan-mcdonald-met-20151127-story.html>; Jason Meisner, *Lingering Questions in Laquan McDonald Shooting Case, Video*, Chicago Tribune (December 5, 2015), available at <http://www.chicagotribune.com/news/local/breaking/ct-chicago-cop-shooting-laquan-mcdonald-faq-met-20151204-story.html>.

<sup>6</sup> *Id.*

<sup>7</sup> Jamie Kalven, *Sixteen Shots*, SLATE MAGAZINE (February 10, 2015), available at [http://www.slate.com/articles/news\\_and\\_politics/politics/2015/02/laquan\\_mcdonald\\_shooting\\_a\\_recently\\_obtained\\_autopsy\\_report\\_on\\_the\\_dead.html](http://www.slate.com/articles/news_and_politics/politics/2015/02/laquan_mcdonald_shooting_a_recently_obtained_autopsy_report_on_the_dead.html); *McCarthy Admits Initial Press Release on Laquan McDonald Shooting was Wrong*, NBC 5 CHICAGO (December 1, 2015), available at <http://www.nbcchicago.com/news/local/McCarthy-Admits-Initial-Press-Release-on-Laquan-McDonald-Was-Wrong-Thats-My-Fault-359551581.html>.

<sup>8</sup> Chicago Tribune Staff, *Laquan McDonald Police Reports Differ Dramatically from Video*, CHICAGO TRIBUNE (December 5, 2015), available at <http://www.chicagotribune.com/news/local/breaking/ct-laquan-mcdonald-chicago-police-reports-met-20151204-story.html>.

powerful Fraternal Order of Police, were all complicit in concealing Van Dyke's crime.<sup>9</sup> In the face of repeated public calls and Freedom of Information Act requests for the video, the City of Chicago denied its release, all the while sticking to the fictitious official narrative that Van Dyke acted in self-defense. The City settled with McDonald's family for \$5 million in June.<sup>10</sup> And even after the settlement, officials stood by the CPD's false account exonerating Van Dyke and hid the video from the public for nearly 400 days, until Cook County Circuit Court Judge Franklin Valderrama ordered its release; the Court found that the CPD had absolutely no legal justification for

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<sup>9</sup> For an overview of the cover-up of the McDonald case, see Conor Friedersdorf, *The Corrupt System that Killed Laquan McDonald*, THE ATLANTIC (November 27, 2015), available at <http://www.theatlantic.com/politics/archive/2015/11/protesting-the-corrupt-system-that-killed-laquan-mcdonald/417723/>. Cook County State's Attorney Alvarez has gone on record to state that the prosecution of police officers, in particular, "are highly complex matters" with "unique legal issues," as justification for the 13 month delay in Van Dyke's prosecution. See *Alvarez Defends Herself, Mayor Emanuel in Timing of Charges in Laquan McDonald Case*, NBC CHICAGO (November 24, 2015), available at <http://www.nbcchicago.com/blogs/ward-room/Alvarez-Opponents-Question-Timeline-of-Release-of-McDonald-Video-353183351.html>. But former Assistant State's Attorney Robert Milan has stated that if McDonald's shooter "was the average citizen...the case would have been charged in no longer than 48 hours[.]" Dan Hinkel and Matthew Walberg, *Long Inquiry Before Charges in Laquan McDonald Shooting Prompts Scrutiny*, CHICAGO TRIBUNE (November 25, 2015), available at <http://www.chicagotribune.com/news/local/breaking/ct-chicago-cop-shooting-laquan-mcdonald-charges-delay-met-20151125-story.html>.

<sup>10</sup> Jeremy Gorner, *Chicago Poised to Pay \$5 Million to Family of Teen Shot 16 Times by Police*, CHICAGO TRIBUNE (April 10, 2015), available at <http://www.chicagotribune.com/news/local/breaking/ct-million-dollar-police-settlement-met-20150410-story.html>. See also Jason Meisner et al., *Chicago Releases Dash-Cam Video of Fatal Shooting After Cop Charged with Murder*, CHICAGO TRIBUNE (November 24, 2015), available at <http://www.chicagotribune.com/news/local/breaking/ct-chicago-cop-shooting-video-laquan-mcdonald-charges-20151124-story.html>.

suppressing the video from the public.<sup>11</sup> In the wake of the video's release and widespread citizen protests, the Cook County State's Attorney charged Van Dyke with first-degree murder – the first time an on-duty CPD officer has been criminally prosecuted for shooting a citizen in nearly 50 years.<sup>12</sup>

Absent the video, IPRA would have adopted Van Dyke's version of events and exonerated the officer of wrongdoing, just as it had done on the 20 other occasions that Van Dyke was accused of brutality and in the more than 400 other police shootings that the agency had investigated since it was formed in September 2007. IPRA has yet to launch an investigation into, much less discipline, any of the officers who covered up Van Dyke's shooting, furthering the CPD's code of silence.<sup>13</sup>

On December 7, 2015 the city released another police shooting video, this one involving the killing of a 25-year-old African American man named Ronald Johnson, who was shot by a CPD officer just eight days before Laquan McDonald's death. That

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<sup>11</sup> Zach Stafford, *Judge Rules to Release Video of Chicago Teen Being Shot 16 Times by Police*, THE GUARDIAN (November 19, 2015), available at <http://www.theguardian.com/us-news/2015/nov/19/chicago-laquan-mcdonald-police-shooting-video>; Memorandum Opinion and Order, *Brandon Smith v. Chicago Police Department*, 2015 CH 11780, Circuit Court of Cook County (Valderrama, J. Nov. 19, 2015), available at <https://assets.documentcloud.org/documents/2566895/15-ch-11780-smith-v-cpd-msj-memorandum-opinion.pdf>.

<sup>12</sup> See Chicago Tribune, *Killing by Policeman Called Self-Defense* (June 6, 1968), available at <http://archives.chicagotribune.com/1968/06/06/page/27/article/killing-by-policeman-called-self-defense>; *People v. Nuccio*, 43 Ill. 2d 375 (1969).

<sup>13</sup> See note 9, *supra*; see also Carol Marin and Don Moseley, *Alvarez Addresses Missing Minutes from Security Video in Laquan McDonald Case*, NBC CHICAGO (November 24, 2015), available at <http://www.nbcchicago.com/news/local/Alvarez-Addresses-Missing-Minutes-From-Security-Video-in-Laquan-McDonald-Case-353209051.html>.

video, the release of which the City had also fought, shows a Chicago police officer fire at least two bullets into Mr. Johnson's back as he was running away from the police.<sup>14</sup>

More of the same is guaranteed to follow.<sup>15</sup> Despite the recent removal of various City officials in the wake of the McDonald shooting,<sup>16</sup> one thing is clear: Police misconduct will not abate until there is institutional transformation of the oversight and discipline of CPD officers.

IPRA is disqualified from conducting that task, for the agency has a deep institutional bias in favor of accused police officers. In July 2015, IPRA's former Chief Administrator and mayoral appointee, Scott Ando, fired one of his investigators, a former CPD Commander named Lorenzo Davis. Davis's offense was refusing orders from his supervisors (including Ando) to change half a dozen of his investigative findings that Chicago police officers shot citizens without justification.<sup>17</sup> Three of these shootings were fatal.<sup>18</sup> His termination is powerful evidence of IPRA's bias; Davis was

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<sup>14</sup> See Monica Davey, *No Charges for Chicago Officer in 2014 Shooting of Ronald Johnson*, N.Y. TIMES (December 7, 2015), available at

[http://www.nytimes.com/2015/12/08/us/chicago-police-shooting-ronald-johnson.html?\\_r=0](http://www.nytimes.com/2015/12/08/us/chicago-police-shooting-ronald-johnson.html?_r=0).

<sup>15</sup> Cf. notes 19 and 24, *infra*.

<sup>16</sup> See Michael Sneed, *Sneed Exclusive: Emanuel Fires McCarthy*, CHICAGO SUN-TIMES (December 1, 2015), available at <http://chicago.suntimes.com/news-chicago/7/71/1143320/sneed-exclusive-mccarthy-fired>; Jon Seidel, *Police Review Authority Boss Ousted*, CHICAGO SUN-TIMES (December 6, 2015), available at

<http://chicago.suntimes.com/chicago-politics/7/71/1158836/police-review-authority-boss-ousted>.

<sup>17</sup> See Chip Mitchell, *Fired Investigator: Policy Change Could Help Cover up Police Misconduct*, WBEZ (August 10, 2015), available at <http://www.wbez.org/news/fired-investigator-policy-change-could-help-cover-police-misconduct-112614>.

<sup>18</sup> *Id.*



fired because he would not bend under pressure to remove his negative findings from the official record.<sup>19</sup> IPRA's decision to remove him reflects the agency's endorsement of a police code of silence.

This complaint lays out both the CPD's systematic brutality, and the procedural, administrative and substantive failings of IPRA. It reveals that IPRA has repeatedly refused to provide any real oversight of the CPD but instead systematically whitewashes police misconduct and allows a small percentage of officers to harm the most vulnerable with impunity. The result has been the creation of a climate of deep distrust of the CPD by Chicago residents, and in particular the City's black community.<sup>20</sup>

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<sup>19</sup> One of the IPRA investigations that Davis contests is that of Cedric Chatman, who was shot by police as he fled from officers in the City's South Shore neighborhood in January 2013. IPRA reported that the shooting officer, Kevin Fry, feared for his life as Chatman "pointed a dark object" toward the responding officers. That object turned out to be, not a weapon, but a black iPhone case. Davis viewed the surveillance video as part of the IPRA inquiry and stated he did not see Chatman aim anything at officers. Another investigator on IPRA's team found that Fry violated CPD's deadly force policy. Yet, the final IPRA report determined the violation to be "unfounded." A court battle is currently ongoing over whether the video from the Chatman shooting will be made public. See Dawn Rhodes, *Another Court Battle Being Waged over Release of Fatal Police Shooting Videos*, CHICAGO TRIBUNE (December 2, 2015), available at <http://www.chicagotribune.com/news/local/breaking/ct-fatal-chicago-police-shooting-videos-met-20151202-story.html>.

<sup>20</sup> See, e.g., Barbara Brotman, *Black Chicago Police Officers Work in Schools to Defuse Distrust*, CHICAGO TRIBUNE (November 20, 2015), available at <http://www.chicagotribune.com/news/ct-police-youths-safe-interactions-20151120-story.html>; Jeremy Gerner and Geoffrey Hing, *Tribune Analysis: Cops Who Pile Up Complaints Routinely Escape Discipline*, CHICAGO TRIBUNE (June 13, 2015), available at <http://www.chicagotribune.com/news/ct-chicago-police-citizen-complaints-met-20150613-story.html>; Salim Muwakkil, *Black and Blue Chicago*, IN THESE TIMES (September 7, 2011), available at [http://inthesetimes.com/article/11897/black\\_and\\_blue\\_chicago](http://inthesetimes.com/article/11897/black_and_blue_chicago); see also Black Youth

Some of the signers of this complaint have personally witnessed decades of failure by the CPD's disciplinary apparatus. Ironically, IPRA was created in response to demands for reform not all that different from the present outcry. The City of Chicago established IPRA in 2007 in response to a spate of police shootings, unchecked brutality, and a lack of public faith in the Department's practices for addressing police misconduct.<sup>21</sup> IPRA was intended to counter decades of complaints of biased and incompetent investigations into police misconduct, including into the infamous Burge

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Project, *Black Millennials in America* 32-34, available at <http://blackyouthproject.com/wp-content/uploads/2015/11/BYP-millennials-report-10-27-15-FINAL.pdf>.

<sup>21</sup> See Adrienne Lu, *Police Review Board Administrator Draws Mixed Reviews*, N.Y. TIMES (Oct. 6, 2011), <http://www.nytimes.com/2011/10/07/us/police-review-board-administrator-draws-mixed-reviews.html>; see also Independent Police Review Authority website, available at <http://www.cityofchicago.org/city/en/depts/ipra.html>. The Department's response to Officer Anthony Abbate's violent beating of a female bartender captured on videotape and viewed millions of times throughout the world played a prominent role in the creation of IPRA. A federal jury in that case found that the City of Chicago, as a matter of policy and practice, adhered to a "code of silence" to protect police officers like Abbate from discipline. See Entered Judgment, *Obrycka v. Abbate*, No. 07 C 2372 (N.D. Ill. Nov. 13, 2012). Similar to city officials' attempt to suppress the video as a condition of the monetary settlement of Laquan McDonald's murder, city officials attempted to bury the code of silence verdict in the *Obrycka* case. The city offered to pay off Ms. Obrycka and her attorneys if they agreed to join the City of Chicago in a motion to "erase" the verdict. The federal judge refused to do so, finding that the verdict "has ramifications for society at large" and was not the property of the parties for barter; it belonged to the public. *Obrycka v. City of Chicago*, 913 F.Supp.2d 598, 606 (N.D.IL. 2012); David Heinzmann, 'Code of Silence' Verdict Stands in *Abbate Case*, CHICAGO TRIBUNE (December 12, 2012), available at [http://articles.chicagotribune.com/2012-12-21/news/ct-met-abbate-ruling-code-of-silence-20121221\\_1\\_code-of-silence-verdict-abbate-case-police-code](http://articles.chicagotribune.com/2012-12-21/news/ct-met-abbate-ruling-code-of-silence-20121221_1_code-of-silence-verdict-abbate-case-police-code). The City's refusal to acknowledge or address the code of silence is a significant cause of the pattern and practice of civil rights violations documented in this submission.

torture scandal.<sup>22</sup> Unlike its predecessor, the Office of Professional Standards (OPS), IPRA was ostensibly to be independent from the police – IPRA’s administrator reports directly to the mayor rather than to the police superintendent.<sup>23</sup> But as recent events have shown, this is a distinction with little meaning. IPRA is in actuality a continuation of OPS; a strong institutional bias and organizational culture that promotes the protection of police officers remains entrenched in the agency.

Chicago stands at a crossroads. The City’s law enforcement problems are deep and intractable, and public trust of police is – understandably – at an all-time low. The City has proven incapable of addressing its rampant abuses and code of silence. Any meaningful intervention must take into account not only the egregious pattern of brutalization perpetuated by the Chicago Police Department but also the utter failure of the City’s system of police accountability to intervene and stop the violence.

### **CITY OF CHICAGO POLICE OFFICERS SYSTEMATICALLY KILL AND BRUTALIZE CITIZENS**

Laquan McDonald’s case is just the tip of the iceberg in terms of Chicago police brutality.<sup>24</sup> Between 2010 and 2014, Chicago police fatally shot 70 people – the highest

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<sup>22</sup> See Human Rights Watch, *Shielded from Justice: Police Brutality and Accountability in the United States, Chicago 1998*, <https://www.hrw.org/legacy/reports98/police/uspo55.htm> and <https://www.hrw.org/legacy/reports98/police/uspo53.htm>; see also Leon Finney Jr., *Commentary: The Four-Decade Fight for Chicago Police Reform*, CHICAGO TRIBUNE (November 27, 2015), available at <http://www.chicagotribune.com/news/opinion/commentary/ct-laquan-mcdonald-police-finney-perspec-1130-20151127-story.html>.

<sup>23</sup> See Lu, *supra* note 21.

<sup>24</sup> See Justin Glawe, *The Other Laquan McDonalds: More Questionable Killings by Chicago Police*, THE DAILY BEAST (November 25, 2015), available at

number of police killings in the country by metropolitan area. Even when adjusted for population, Chicago ranks fourth in the nation, behind only Phoenix, Philadelphia and Dallas.<sup>25</sup> Since 1986, more than 1,600 individuals have been the victims of Chicago police shootings – averaging more than one person shot per week.<sup>26</sup> Police shootings in Chicago overwhelmingly target black residents more than any other group.<sup>27</sup> According to IPRA’s own numbers, black people are ten times more likely than whites to be shot by a Chicago Police Officer. Between 2009 and 2013, 75% of police shooting victims were black, though black people comprised only 32.3% of Chicago’s population.<sup>28</sup> In the first quarter of 2015, three out of four police shootings involved a black person; in the second quarter of 2015, every police shooting involved a black person.<sup>29</sup>

Civil rights judgments and settlements serve as proof of the CPD’s unchecked patterns of violence. Litigation of cases against Department officers for inflicting violence on Chicago’s communities have cost taxpayers \$521 million between 2004 and

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<http://www.thedailybeast.com/articles/2015/11/25/the-other-laquan-mcdonalds-more-questionable-killings-by-chicago-police.html>.

<sup>25</sup> See Andrew Schroedter, *Fatal Shootings by Chicago Police: Tops Among Biggest U.S. Cities*, BETTER GOVERNMENT ASSOCIATION (July 26, 2015), available at [http://www.bettergov.org/fatal\\_shootings\\_by\\_chicago\\_police\\_tops\\_among\\_biggest\\_us\\_cities/](http://www.bettergov.org/fatal_shootings_by_chicago_police_tops_among_biggest_us_cities/).

<sup>26</sup> Steve Bogira, *When Chicago Cops Shoot*, THE READER (May 20, 2015), available at <http://www.chicagoreader.com/chicago/chicago-police-department-shooting-kevin-fry-cops-cedrick-chatman/Content?oid=17767928>.

<sup>27</sup> See Schroedter, *supra* note 25.

<sup>28</sup> See We Charge Genocide, *Police Violence Against Chicago’s Youth of Culture: A Report Prepared for the United Nations Committee Against Torture* 6 (September 14, 2014), available at <http://report.wechargegenocide.org/>.

<sup>29</sup> See Independent Police Review Authority, “Officer Involved Shootings,” available at <http://www.iprachicago.org/resources.html>.

2014.<sup>30</sup> For example, according to court records (and in a case described further below), Jamaal Moore was shot and killed on December 15, 2012 by a Chicago police officer after another officer ran Moore over with a police car and while Moore was on the ground.<sup>31</sup> The City of Chicago agreed to pay \$1.25 million to Moore's family in September 2014.<sup>32</sup> IPRA found Moore's shooting to be justified.<sup>33</sup> Other similar shooting cases abound in the record of city settlements.<sup>34</sup>

An analysis of these settlements also reveal a number of startling other CPD practices.<sup>35</sup> These include CPD officers targeting women and children with violence in incidents that result in broken bones, head injuries, and other wounds requiring medical attention. They include a rash of incidents of excessive force perpetuated during CPD-initiated traffic stops and routine arrests. And they include unwarranted acts of physical force by police during otherwise casual interactions with citizens, as well as within citizens' homes. These suits, while reflective of general trends, do not of course encompass the many episodes of police violence that are never brought before

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<sup>30</sup> Andy Shaw, *City Pays Heavy Price for Police Brutality*, Chicago Sun-Times (April 14, 2014), available at <http://chicago.suntimes.com/chicago-politics/7/71/167182/city-pays-heavy-price-for-police-brutality>; see also Andy Shaw, *Key to Cutting Costly Brutality Beefs? Change Chicago Police Culture*, BETTER GOVERNMENT ASSOCIATION (April 14, 2014), available at <http://www.bettergov.org/news/key-to-cutting-costly-brutality-beefs-change-chicago-police-culture>.

<sup>31</sup> Complaint, *Moore et al v. City of Chicago, et al.*, No. 13 C 00483 (N.D. Ill. Jan. 22, 2013).

<sup>32</sup> See Phil Rogers, *\$1.25 Million for Family of Unarmed Man Shot by Police*, NBC CHICAGO (Sept. 8, 2014), available at <http://www.nbcchicago.com/investigations/125-for-Family-of-Unarmed-Man-Shot-by-Police-274404421.html>.

<sup>33</sup> See Moore investigation (L1059031U12-47), available at [http://www.iprachicago.org/Investigations\\_2012.html](http://www.iprachicago.org/Investigations_2012.html).

<sup>34</sup> For an overview of such cases, see Appendix A, attached hereto.

<sup>35</sup> See *id.*

the court for a host of reasons, including victims' fear of reprisal and lack of victim resources.<sup>36</sup>

### **IPRA CONDONES AND FACILITATES CPD'S ABUSIVE TACTICS AND ALLOWS A CODE OF SILENCE TO FLOURISH AMONG THE RANKS**

Police brutality flourishes in Chicago because there is no effective system for police accountability. Unless that changes, the widening cycle of violence will endure: police officers who abuse citizens will continue to believe they can do so with impunity and further abuses will ensue. IPRA is worse than ineffectual; it is institutionally biased in favor of accused police and it fails at its fundamental task of disciplining offenders.<sup>37</sup> Any intervention into the Chicago Police Department must include an accounting of its oversight agency as well. A listing of IPRA's institutional failings follows.

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<sup>36</sup> See *We Charge Genocide*, *supra* note 28.

<sup>37</sup> See, e.g., Craig Futterman et al., *Use of Statistical Evidence to Address Police Supervisory and Disciplinary Practices: The Chicago Police Department's Broken System*, 1 DEPAUL JOURNAL FOR SOCIAL JUSTICE 251 (2007); *We Charge Genocide*, *supra* note 28, at 5-6; Chicago Justice Project, *Issue Brief: IPRA Review – More Access Needed*, available at <http://chicagojustice.org/research/issue-briefs/issue-brief-ipra-review-more-access-needed>; Janine Hoft, *Police Accountability and All of Us*, People's Law Office (July 27, 2012), available at <http://peopleslawoffice.com/analysis-of-quarterly-report-ipra-chicago-police-accountability-brutality-civil-rights>; Gorner and Hing, *supra* note 20; Annie Sweeney and Jeremy Gorner, *Police Misconduct Cases Drag on for Years*, CHICAGO TRIBUNE (June 17, 2012), available at [http://articles.chicagotribune.com/2012-06-17/news/ct-met-cop-investigations-delayed-20120617\\_1\\_police-officers-charges-of-excessive-force-chicago-police-board](http://articles.chicagotribune.com/2012-06-17/news/ct-met-cop-investigations-delayed-20120617_1_police-officers-charges-of-excessive-force-chicago-police-board); Chip Mitchell, *Who Polices the Police? In Chicago, its Increasingly Ex-Cops*, WBEZ (December 5, 2014), available at <http://www.wbez.org/news/who-polices-police-chicago-its-increasingly-ex-cops-111194>; Locke Bowman, *Police Discipline Agency Won't Tackle the Tough Cases*, THE HUFFINGTON POST (January 31, 2014), available at [http://www.huffingtonpost.com/locke-bowman/police-discipline-agency-chicago-ipra\\_b\\_4680843.html](http://www.huffingtonpost.com/locke-bowman/police-discipline-agency-chicago-ipra_b_4680843.html).



## IPRA Almost Never Disciplines Offending Police Officers

Pursuant to Chicago Municipal Code, Ordinance 2-57-40(c), IPRA is required to “conduct investigations into all cases in which a department member discharges his or her firearm, stun gun or taser in a manner which potentially could strike an individual, even if no allegation of misconduct is made.” Based on the published investigations, between 2012 and 2014, IPRA investigated 70 officer shootings<sup>38</sup> in which an officer hit a person. IPRA found each of these shootings to be “justified” in accordance with Chicago Police directives.<sup>39</sup> Between 2007 and early 2015, IPRA investigated over 400 police shootings (both fatal and non-fatal), and with two exceptions for two off-duty officers, in each case IPRA cleared the officer of wrongdoing.<sup>40</sup> IPRA has never sustained an on-duty police shooting.

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<sup>38</sup> IPRA publicized 71 shooting investigations but one of those, L1056092U12-19, involved the shooting of a pit bull. Despite IPRA statistics showing many animal-related officer shooting deaths each year, *see* Independent Police Review Authority, *Quarterly Report: July 1, 2015-September 30, 2015* 4-5, available at <http://www.iprachicago.org/2015-10-15QuarterlyReport.pdf>, this was the only such shooting investigation published by IPRA between 2012 and 2014.

<sup>39</sup> *See* Chicago Police Department, General Order 03-02-03(II), available at <http://directives.chicagopolice.org/directives/data/a7a57be2-1290de63-7db12-90f0-e9796f7bbbc1a2d2.pdf?hl=true>. “A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary: ... to prevent death or great bodily harm to the sworn member or to another person, or to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested: has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or; is attempting to escape by use of a deadly weapon or; otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.”

<sup>40</sup> *See* Mitchell, *supra* note 17; Paul Meincke and Eric Hong, *IPRA Recommends Chicago Officer Dante Servin, Who Killed Rekia Boyd, Be Fired*, ABC CHICAGO (September 16, 2015),

IPRA's recommendation to fire off-duty Officer Dante Servin for the shooting death of Rekia Boyd was issued only after city-wide protests and widespread media coverage.<sup>41</sup> It represents the first time IPRA has recommended that a CPD officer be terminated from the force.<sup>42</sup> In the few instances in which IPRA investigators mustered the courage to challenge the agency's institutional bias to protect police officers accused of misconduct and found that a Chicago police officer shot a citizen without any justification, IPRA's Chief Administrator ordered the investigators to erase their findings from the official file and falsely record that the shootings were justified.<sup>43</sup>

As a result, IPRA time and again finds officers to be "justified" when they shoot civilians, despite stark discrepancies in the investigations that undermine IPRA's findings. Some key examples include:<sup>44</sup>

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available at <http://abc7chicago.com/news/ipra-recommends-officer-who-killed-reakia-boyd-be-fired/987615/>; see also Bogira, *supra* note 26.

<sup>41</sup> See Dawn Rhodes, *Protesters Call for Police Board to Fire Cop Acquitted in Fatal Shooting*, CHICAGO TRIBUNE (August 20, 2015), available at <http://www.chicagotribune.com/news/local/breaking/ct-reakia-boyd-protest-police-board-20150820-story.html>; WBEZ, *IPRA Recommends Dante Servin Be Fired*, Interview with Martinez Sutton (September 17, 2015), available at <http://www.wbez.org/programs/morning-shift/2015-09-17/ipra-recommends-dante-servin-be-fired-112968>.

<sup>42</sup> Steve Bogira, *IPRA Recommends the Firing of a Chicago Police Officer Involved in a Shooting*, CHICAGO READER (June 29, 2015), available at <http://www.chicagoreader.com/Bleader/archives/2015/06/29/ipra-recommends-the-firing-of-a-chicago-police-officer-involved-in-a-shooting>.

<sup>43</sup> IPRA's Chief Administrator sent a powerful message to any other investigator who would dare find that a Chicago police officer lacked justification for shooting a civilian, when Ando fired Lorenzo Davis for refusing to exonerate police officers who illegally killed citizens and erased evidence of any adverse findings against the officers. See Mitchell, *supra* note 17.

<sup>44</sup> Each of these was detailed in a 2015 in-depth investigative report of the Chicago Police Department and IPRA. See Sarah Macaraeg, *How the 'Gold Standard' of Police*



Antwoyn Johnson: The 24-year-old was shot by an on-duty officer on June 16, 2013, after he allegedly ran away from officers and, during the chase, “looked in the direction of the officers and reached with his right hand and put it on the grip of the handgun in his waistband.”<sup>45</sup> The shooting was found to be justified after a one-year investigation. However, Johnson was shot in the middle of his back, in apparent contradiction to the description of the shooting by the involved officer. There is no video of the incident as the involved officer’s dash cam was “not functional that day.”<sup>46</sup> In addition, Johnson’s alleged weapon found at the scene tested negative for fingerprints and had no magazine clip. The clip was purportedly later found a block away from the shooting site by another officer who was never interviewed by IPRA.

Tywon Jones: The 16-year-old received five fatal gunshots to the back by an on-duty officer on May 5, 2013, while Jones purportedly rode his bike and shot behind him at officers. The shooting was found to be justified. Despite the fact that the shooting happened in the middle of the street at approximately four o’clock in the afternoon, IPRA was allegedly unable to locate any civilian witnesses.<sup>47</sup> The IPRA investigation failed to note any attempt to locate dash cam video or any other videotaped footage of the incident.

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*Accountability Fails Civilians by Design*, TRUTHOUT (April 19, 2015), available at <http://www.truth-out.org/news/item/30285-how-the-gold-standard-of-police-accountability-fails-civilians-by-design#>.

<sup>45</sup> IPRA Investigation 1062909/U #13-22, Statement Officer A, June 17, 2013.

<sup>46</sup> *Id.*

<sup>47</sup> See IPRA Log#1062003/U#13-18.

Jamaal Moore: Twenty-three-year-old Moore was shot and killed by an on-duty officer on December 15, 2012. The shooting was found to be justified, though Moore was not found to have a weapon, and though he was shot at close range after the officer had already run him over in the parking lot.<sup>48</sup> While the IPRA summary report notes that Moore received gunshots to the “stomach and pelvis,” the report of the postmortem reveals that he sustained a gunshot wound to the left side of his back and the left side of his hip.<sup>49</sup> The case was eventually settled by the City for \$1.25 million, after the district court judge noted that the dash cam video from the incident “does not comport fully with [the officers’] version of events.”<sup>50</sup> That video, according to the court, showed the officer shooting Moore at “point blank range in the left lateral hip” as he tried to run away.<sup>51</sup>

Divonte Young: Twenty-year old Divonte Young was shot in the back by an on-duty officer in plainclothes on August 9, 2012, after he allegedly shot at civilians and pointed a gun at the involved officer. The shooting was fatal but was found to be justified after an 18-month investigation. No weapon was ever located on or near Young. IPRA’s summary states Young was shot in the side and torso, while the postmortem states Young sustained a gunshot wound that “entered through

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<sup>48</sup> See IPRA Log #1059031/#U12-47.

<sup>49</sup> *Id.*

<sup>50</sup> See *Moore v. City of Chicago*, No 13 C 483, 2014 WL 2457630, at \*3 (N.D. Ill. May 30, 2014).

<sup>51</sup> *Id.*

the right side of his back.”<sup>52</sup> No residual gun discharge was found on Young’s hands. There is currently a lawsuit pending against the City of Chicago stemming from Young’s shooting death.<sup>53</sup>

Derrick Suttle: Suttle, 47-years old, was repeatedly shot and then killed by an off-duty police officer in the police officer’s back alley on February 11, 2012. The involved officer reported to IPRA that he feared for his life when Suttle, maneuvering a vehicle in the alley, ran into the officer.<sup>54</sup> However, an anonymous witness reported that the police officer shot into the van Suttle was driving as he attempted to back up the car in the alley.<sup>55</sup> IPRA failed to report canvassing for other witnesses (other than the involved officer’s wife and a blind man in the area) and no video of the incident was recorded. The shooting was found to be justified after a 19-month investigation.

Flint Farmer: Farmer, 29 years old, was shot and killed by Chicago Police Officer Gildardo Sierra, leaving Farmer’s 3-year-old daughter without a father. Despite video showing Sierra fire three shots into Mr. Farmer’s back as he lay bleeding on a parkway on June 7, 2011 and despite Sierra’s two other shootings within six months of executing Mr. Farmer, the City found the shooting was justified despite the fact that Mr. Farmer was unarmed when he was killed.<sup>56</sup> During the

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<sup>52</sup> See IPRA Log #1056189/U#12-21.

<sup>53</sup> See *Young v. City of Chicago*, No. 13 C 5651, 2014 WL 7205585 (N.D. Ill. Dec. 18, 2014).

<sup>54</sup> See IPRA Log #1051844/U#12-03.

<sup>55</sup> *Id.*

<sup>56</sup> See Stacy St. Clair and Jeremy Gorner, *Chicago Set to Pay \$4.1 Million in Police Shooting*, CHICAGO TRIBUNE (Feb. 9, 2013), available at <http://articles.chicagotribune.com/2013->

ensuing press coverage, the Chicago police superintendent admitted that the Department lacked any procedures to track the frequency of police shootings.<sup>57</sup> Consistent with a pattern documented by the *Chicago Tribune*, investigators in the Farmer shooting delayed giving Sierra a breathalyzer for more than five hours, even though Sierra drank “multiple beers” shortly before he repeatedly shot Mr. Farmer in the back.<sup>58</sup> The City paid \$4.1 million dollars to settle the civil rights case brought by Mr. Farmer’s family.<sup>59</sup>

These cases underscore IPRA’s bias, which is not limited to investigations of officer shootings. Rather, it pervades the entire investigative process. Recently released data of Chicago police misconduct confirms this point:

- An analysis of 56,361 misconduct allegations from 2001 to 2008 and 2011 to 2015 found that more than 96 percent of cases were not sustained.<sup>60</sup>
- 28,567 allegations of misconduct were filed against Chicago Police Department officers between March 2011 and September 2015. Less than 2% of those complaints resulted in any discipline. Of those cases in which

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[02-09/news/ct-met-chicago-cop-settlement-20130209\\_1\\_three-shootings-flint-farmer-officer-gildardo-sierra.](http://www.chicagotribune.com/2011-10-22/news/ct-met-police-involved-shootings-1023-20111022_1_three-shootings-flint-farmer-gildardo-sierra)

<sup>57</sup>See Stacy St. Clair, Jeremy Gorner, and Steve Mills, *Chicago Cop under Scrutiny for 3 Shootings, 2 of them Fatal*, CHICAGO TRIBUNE (Oct. 22, 2011), available at [http://articles.chicagotribune.com/2011-10-22/news/ct-met-police-involved-shootings-1023-20111022\\_1\\_three-shootings-flint-farmer-gildardo-sierra](http://articles.chicagotribune.com/2011-10-22/news/ct-met-police-involved-shootings-1023-20111022_1_three-shootings-flint-farmer-gildardo-sierra).

<sup>58</sup> See St. Clair and Gorner, *supra* note 56 (“A December 2007 Tribune investigation, ‘Shielded From the Truth,’ showed that supervisors often waited hours to administer breath tests to officers, both on- and off-duty, raising questions about how aggressively the department investigates shootings involving officers.”).

<sup>59</sup> See *id.*

<sup>60</sup> See Adeshina Emmanuel and Jonah Newman, *Police Misconduct by Whites More Likely to be Upheld*, CHICAGO REPORTER (November 10, 2015), available at <http://chicagoreporter.com/police-misconduct-complaints-by-whites-more-likely-to-be-upheld/>.

discipline was imposed, the vast majority resulted in a reprimand or a suspension of less than one week.<sup>61</sup>

As a result, Chicago police officers can be nearly certain that they will be able to abuse residents without fear of serious consequence.

### **IPRA Turns a Blind Eye to Patterns of Police Abuse**

Police abuse in Chicago is a highly patterned phenomenon. Repeat offenders – those with 11 or more complaints – make up about 10% of the force but receive 30% of all complaints. They average 3.7 times as many complaints per officer as the rest of the Department.<sup>62</sup> The problem of unchecked police abuse in Chicago, however, is not one of a “few bad apples.” As a matter of deliberate practice, IPRA and the CPD fail to examine patterns of misconduct complaints when investigating or disciplining police misconduct. That is, they do not analyze patterns of complaints *proactively* to identify or investigate individuals or groups of officers engaged in patterns of abuse. And they refuse to examine patterns of complaints – and the wealth of information available in the investigative files associated with those complaints – *reactively*, when investigating any particular charge of police abuse.<sup>63</sup> Instead, the agency allows dangerous officers to

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<sup>61</sup> Mason Johnson, *Data: Chicago Cops Face Many Misconduct Allegations, But Are Rarely Disciplined*, CBS CHICAGO (November 11, 2015), available at <http://chicago.cbslocal.com/2015/11/11/data-despite-thousands-of-complaints-chicago-cops-are-rarely-disciplined-for-misconduct-allegations/>; see Invisible Institute, *An Intro to the Citizens Police Data Project* (last accessed December 4, 2015), available at [http://view.stacker.cc/newsbound/cpdb\\_launch/](http://view.stacker.cc/newsbound/cpdb_launch/).

<sup>62</sup> Invisible Institute, CPDP, *supra* note 61.

<sup>63</sup> See Rob Stafford and Katy Smyser, *Millions Paid to Settle Misconduct Suits*, NBC CHICAGO (May 1, 2012), available at <http://www.nbcchicago.com/investigations/unit-5-chicago-reporter-chicago-police-ipra--149771045.html>; Ron Safer et al, *Preventing and Disciplining Police Misconduct: An Independent Review and Recommendations Concerning*

remain on the streets, often with deadly consequences. Laquan McDonald might be alive today had IPRA examined Jason Van Dyke's pattern of complaints in its earlier investigations of the officer's misconduct.<sup>64</sup>

Van Dyke is far from the only repeat offender. Chicago's failure to discipline such officers has made national headlines. In the six years leading to his federal indictment, Jerome Finnigan amassed 71 citizen complaints, including for illegal searches and excessive force.<sup>65</sup> He received no discipline from IPRA or the CPD and remained on active duty until, in 2011, he pled guilty along with a number of fellow officers to a civil rights conspiracy that involved falsely arresting people, breaking into

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*Chicago's Police Disciplinary System* 44-46, 56 n 10 (December 2014) (describing the policing agencies' failure to track complaints across multiple systems), available at [https://www.cityofchicago.org/content/dam/city/progs/safety/Preventing\\_Disciplining\\_Police\\_Misconduct\\_Dec\\_2014.pdf](https://www.cityofchicago.org/content/dam/city/progs/safety/Preventing_Disciplining_Police_Misconduct_Dec_2014.pdf); We Charge Genocide, *supra* note 28, at 4; Sarah Macaraeg and Alison Flowers, *Amid Shootings, Chicago Police Department Upholds Culture of Impunity*, TRUTHOUT (October 22, 2014), available at <http://www.truth-out.org/news/item/26986-amid-shootings-chicago-police-department-upholds-culture-of-impunity>; Gorner and Hing, *supra* note 20; *see also* U.S. DOJ, Office of Community Oriented Policing Services, *Building Trust Between Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement* 32 (2009), available at <http://www.theiacp.org/portals/0/pdfs/BuildingTrust.pdf>; *cf.* Mark Puente, *Some Baltimore Police Officers Face Repeated Misconduct Lawsuits*, THE BALTIMORE SUN (October 4, 2014) (noting that an investigation into the Baltimore Police Department revealed that the City failed to keep track of officers who repeatedly faced brutality-related lawsuits. That investigation eventually led to an inquiry by the Department of Justice), available at <http://www.baltimoresun.com/news/maryland/sun-investigates/bs-md-police-repeaters-20141004-story.html>.

<sup>64</sup> See Kaplan, *supra* note 3.

<sup>65</sup> See Invisible Institute, Citizens Data Project, available at <http://cpdb.co/officer/jerome-finnigan/2235> (last accessed December 6, 2015). The number provided by the Invisible Institute does not reflect three additional complaints lodged against Finnigan.

their homes, and robbing them.<sup>66</sup> Similarly, Aldo Brown, who had 16 citizen complaints lodged against him, was never disciplined by IPRA. He was finally convicted of excessive force last year after attacking a suspect who was lying on the ground.<sup>67</sup> Raymond Piwnicki was among CPD officers with the most use of force complaints issued against them between 2001 and 2005, earning a total of 55 complaints.<sup>68</sup> He has been the subject of multiple civil rights lawsuits.<sup>69</sup> Rather than act on his pattern of

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<sup>66</sup> See Timothy Williams, *Chicago Rarely Penalizes Officers for Complaints, Data Shows*, N.Y. TIMES (November 18, 2015), available at <http://www.nytimes.com/2015/11/19/us/few-complaints-against-chicago-police-result-in-discipline-data-shows.html>; *United States v. Finnigan*, No. 07 CR 634-1, ECF 78, (N.D. Ill. Apr. 26, 2011); Hillel Levin, *Officer Finnigan: The Chicago Police Department Hailed Him As One of Their Finest, Then They Decided He Was One of their Worst*, PLAYBOY MAGAZINE (April 2012) (Finnigan reports that his 50 plus misconduct and brutality complaints were of no concern because Department procedures gave him plenty of time to collude with fellow officers and supervisors to concoct consistent statements). Fellow S.O.S. Officer Keith Herrera accumulated 56 complaints without discipline in the six years leading up to his federal indictment. He told CBS's Katie Couric that he had no fear of punishment from those complaints, as his supervisors encouraged and rewarded his dishonesty. See Tanya Simon, *Officer Herrera Goes Public*, CBS 60 MINUTES, (May 30, 2008), available at <http://www.cbsnews.com/news/officer-herrera-goes-public/> (Couric: "Was it a well known practice in SOS to write things in police reports that didn't actually happen on the scene?" "'Creative writing' was a certain term that bosses used to make sure that the job got done," Herrera says. "I didn't just pick up a pen and just learn how to do this. Bosses. Guys that I work with that were older than I was. That had time on the job, you learn this stuff. It's taught to you. 'This is how it's done. This isn't right. Put this in there.' And you gotta listen to them.").

<sup>67</sup> See Williams, *supra* note 66.

<sup>68</sup> See *Bond v. Utreras*, No. 04 C 2617 (N.D. Ill.), "List of 662 Chicago Police Officers with More than 10 Complaints Between May 2001 and May 2006," available at <https://assets.documentcloud.org/documents/1237492/bond-list-of-662-police-officers.pdf>.

<sup>69</sup> See *Traylor v. Piwnicki et al.*, No. 02 C 4766 (N.D. Ill.); *Mitchell v. City of Chicago et al.*, No. 05 C 6619 (N.D. Ill.); *Edwards v. City of Chicago*, No. 06 C 1988 (N.D. Ill.); *Guerrero v. Finnigan et al.*, No. 07 C 1015; *Wilson v. City of Chicago*, No. 12 C 10394 (N.D. Ill.); *McClennon v. City of Chicago et al.*, No. 14 C 3233 (N.D. Ill.).

abuse, IPRA and the CPD have allowed him to continue to accumulate brutality complaints at a pace that has exceeded virtually every other CPD officer in the past 4 ½ years.<sup>70</sup> He remains active on the force and has been promoted to detective.<sup>71</sup> Police Commander Glenn Evans received more than 50 misconduct complaints over the course of his career, including for excessive force, and cost City taxpayers almost \$300,000 in court settlements. Yet, he was never disciplined for his on-duty conduct, by either the CPD or IPRA. Evans is currently on trial, facing criminal charges for sticking a gun down the throat of an innocent man, which were brought about only because the man's DNA was found on the barrel of Evans' gun.<sup>72</sup> And the Department's blind eye to Commander Jon Burge and his henchmen's almost two decades-long pattern of police torture of African-Americans is infamous.<sup>73</sup> The list goes on.<sup>74</sup>

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<sup>70</sup> See note 68, *supra*.

<sup>71</sup> See Macaraeg and Flowers, *supra* note 63.

<sup>72</sup> See Tribune Editorial Board, *Is this Chicago Police Commander a Reckless Cowboy?* CHICAGO TRIBUNE (September 26, 2014), available at <http://www.chicagotribune.com/news/opinion/editorials/ct-chicago-police-evans-abuse-scandal-edit-0928-20140926-story.html>; Glenn Evans, *Lauded Chicago Police Commander Charged with Misconduct, Named as Defendant in Several Lawsuits*, ABC CHICAGO (August 28, 2014), available at <http://abc7chicago.com/news/past-allegations-uncovered-against-cpd-commander-charged-with-misconduct/284561/>; Jim Avila and Serena Marshall, *US Cities (and Taxpayers) Paying Millions in Police Misconduct Settlements*, ABC NEWS (November 17, 2014), available at <http://abcnews.go.com/US/us-cities-paying-millions-police-misconduct-settlements/story?id=26916697>.

<sup>73</sup> See e.g., John Conroy, *A Town Without Pity*, CHICAGO READER (January 11, 1996), available at <http://www.chicagoreader.com/chicago/town-without-pity/Content?oid=889464>.

<sup>74</sup> See Gerner and Hing, *supra* note 20.



## **IPRA's Findings Against Officers Are Highly Influenced By the Race of the Complainant**

Race figures prominently in patterns of abuse in Chicago: the race and social status of the victim matter. Black Chicagoans are the most likely to be abused by police and the least likely to be believed by IPRA. Black Chicagoans filed 61% of all complaints against officers but make up only 25% of sustained complaints, while white Chicagoans – who filed just 21% of total complaints – account for 58% of sustained complaints.<sup>75</sup> In a city where black people are disproportionately besieged by police brutality, IPRA has concluded that the overwhelming majority of police victims are white. Over the past five years, whites in Chicago were almost seven times more likely to have their police misconduct complaints sustained than African-Americans, even though blacks filed three times more complaints against police officers and are ten times more likely to be shot by Chicago police than whites.<sup>76</sup>

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<sup>75</sup> See Invisible Institute, CPDP, *supra* note 61.

<sup>76</sup> See Emmanuel and Newman, *supra* note 60; Angela Caputo, *Data: Black Chicagoans at Higher Risk of Being Shot by Police*, Chicago Reporter (January 23, 2014), available at <http://chicagoreporter.com/data-black-chicagoans-higher-risk-being-shot-police/>. Racial bias is also evident in IPRA's disparate treatment of officers accused of misconduct. IPRA is twice as likely to sustain an excessive force complaint against a black officer than a white one. See Tanveer Ali, *Black Officers Twice as Likely to Be Punished by CPD: Data*, DNAinfo (November 10, 2015), available at <http://www.dnainfo.com/chicago/20151110/bronzeville/repeat-excessive-force-offenders-within-cpd-rarely-punished-data-shows>. In a related trend, African-American police officers are underrepresented on the Chicago Police Department, particularly at the supervisory and command levels. See, e.g., Glen Reedus, *As Police Commander's Trial Nears, a "Black in Blue" Legacy is in the Spotlight*, CHICAGO REPORTER (October 19, 2015), available at <http://chicagoreporter.com/as-police-commanders-trial-nears-a-black-in-blue-legacy-is-in-the-spotlight/>.

IPRA's failure to impose discipline sends a strong message about the value of black lives to both police officers and the community. The culture of impunity in both IPRA and the CPD not only threatens in particular the safety and constitutional rights of Chicago's black community but breeds cynicism and distrust within that community.

### **IPRA Refuses to Investigate Anonymous and Unsworn Complaints**

IPRA fails to investigate anonymous and unsworn police misconduct allegations, purportedly in accordance with Illinois law<sup>77</sup> and CPD directives.<sup>78</sup> In 2014, according to IPRA's own monitoring reports, 552 investigations were not completed because the complaints lacked an affidavit.<sup>79</sup> In the first three quarters of 2015, 225 investigations have been placed by the wayside for lack of an affidavit.<sup>80</sup> An analysis of CPD records from a four-year period ending in mid-December 2014 found that fully 58% of the 17,7000 complaints of police misconduct filed with IPRA were tagged as having "no affidavit" and not investigated.<sup>81</sup>

But despite the internal tagging system, IPRA is not in fact bound by the "sworn affidavit" requirement. The CPD Special Order governing "Conduct of Complaint

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<sup>77</sup> See Uniform Peace Officers' Disciplinary Act, 50 ILCS 725/3.8(b)

<sup>78</sup> See Chicago Police Department, General Order G08-01-01(II)(E), available at <http://directives.chicagopolice.org/directives/data/a7a57be2-12cc274e-6a512-cc28-0757e267c9e275a8.pdf>.

<sup>79</sup> See 2014 IPRA Quarterly Monitoring Reports, available at <http://www.iprachicago.org/resources.html>. Each report details the number of cases "closed after a Pre-affidavit Investigation because the complainants refused to sign an affidavit."

<sup>80</sup> See 2015 IPRA Quarterly Monitoring Reports, available at <http://www.iprachicago.org/resources.html>.

<sup>81</sup> See Gorner and Hing, *supra* note 20.

Investigations” states that an investigator will “evaluate the evidence presented to determine if there is sufficient, independent, and factual information to support the allegation(s) for a sworn affidavit override.”<sup>82</sup> The Order thereafter lists the steps in which an override may be obtained.<sup>83</sup> IPRA’s failure to investigate such a significant percentage of investigations purely because of a lack of affidavit is further evidence of the agency’s refusal to provide independent and thorough oversight of the Department. As the grassroots organizing effort, We Charge Genocide, stated in its report to the United Nations on the issue of police violence in Chicago:

Taking into account the many victims and witnesses who fear retaliation and/or lack the legal and/or financial support necessary to successfully pursue such complaints against the police, it is clear that the numbers of both alleged and sustained complaints represent only a sliver of the actual incidents of the CPD’s use of excessive force.<sup>84</sup>

The practice of failing to investigate unsworn complaints violates nationally-accepted reasonable police practices. The Commission on Accreditation for Law Enforcement Agencies (CALEA) notes that “agencies should investigate all allegations of misconduct, regardless of their source.”<sup>85</sup> As for anonymous complaints, CALEA recommends that “the agency [] carefully review each complaint for validation before disregarding it for lack of a credible complainant.”<sup>86</sup> Investigation into anonymous

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<sup>82</sup> Chicago Police Department, Special Order S08-01-01(II)(B)(3), available at <http://directives.chicagopolice.org/directives/data/a7a57be2-12ce5918-9f612-ce5e-33a7953b833b1c1e.pdf?hl=true>.

<sup>83</sup> *Id.*

<sup>84</sup> See We Charge Genocide, *supra* note 28, at 5.

<sup>85</sup> CALEA Accreditation Standard No. 52.1.1, comments, available within U.S. DOJ, Office of Community Oriented Policing Services *supra* note 63, at 67.

<sup>86</sup> *Id.*

complaints was also cited as a principle of an “effective complaint process” by the DOJ,<sup>87</sup> and was offered as a recommendation in the report DOJ issued on the Ferguson Police Department – for the very reasons set forth by We Charge Genocide.<sup>88</sup>

**IPRA Investigations are Infected by Provisions in City Contracts with the Chicago Police Department, Which Bargain Away Accountability for Officers**

The City has erected barriers to police accountability in its collective bargaining agreements with the police unions, which have facilitated the pattern and practice of civil rights violations.<sup>89</sup> For instance, the City has agreed to destroy police misconduct records that are more than five years old.<sup>90</sup> Critical documentation of patterns of police abuse are at immediate risk of being permanently destroyed, eliminating the very evidence that would enable IPRA, if it were so motivated, to weed out officers who continue to inflict grievous harm on individuals, families, and our communities.<sup>91</sup>

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<sup>87</sup> See U.S. DOJ, Office of Community Oriented Policing Services, *supra* note 63, at 21.

<sup>88</sup> See U.S. DOJ, *Investigation of the Ferguson Police Department* 96 (March 4, 2014), available at [http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson\\_police\\_department\\_report.pdf](http://www.justice.gov/sites/default/files/opa/press-releases/attachments/2015/03/04/ferguson_police_department_report.pdf) (“Modify procedures and practices for accepting complaints to make it easier and less intimidating for individuals to register formal complaints about police conduct, including providing complaint forms online and in various locations throughout the City and allowing for complaints to be submitted online and by third parties or anonymously.”).

<sup>89</sup> See Flint Taylor, *Blood on their Hands: The Racist History of Modern Police Unions*, IN THESE TIMES (January 14, 2015), available at [http://inthesetimes.com/working/entry/17520/police\\_unions\\_racist](http://inthesetimes.com/working/entry/17520/police_unions_racist).

<sup>90</sup> See Agreement between Chicago Police Department and Fraternal Order of Police, Section 8.4 (September 3, 2014), available at [http://directives.chicagopolice.org/contracts/FOP\\_Contract.pdf](http://directives.chicagopolice.org/contracts/FOP_Contract.pdf).

<sup>91</sup> Brentin Mock, *Which Cities Destroy Police Misconduct Complaints as a Matter of Policy*, CITY LAB FROM THE ATLANTIC (December 3, 2015), available at <http://www.citylab.com/crime/2015/12/which-cities-erase-police-complaints-as-a-matter-of-policy/418695/>.

The CPD has also agreed to interrogation buffers and other roadblocks to investigating and disciplining police brutality. For example, a CPD directive mandates that IPRA may not take a statement from a Chicago Police Officer earlier than 24 hours after the shooting incident.<sup>92</sup> This delay allows officers to collude with one another on incident summaries prior to IPRA's investigative involvement. Indeed, Van Dyke admitted as part of a civil case stemming from the police shooting of another black teenager that, in the investigation, he had copied the work of other officers on the scene.<sup>93</sup>

IPRA investigative reports highlight the agency's willingness to accept such plagiarized accounts at face value. For instance, reports repeatedly include language indicating that each of the involved officers and officer witnesses provided similar (if not identical) accounts of the incident.<sup>94</sup> Reports also routinely state that involved officers provided an account "consistent with the Summary of Incident and related

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<sup>92</sup> See Chicago Police Department, General Order G08-01-01, *supra* note 78, at Section III.

<sup>93</sup> David Heinzmann, *Cop in Laquan McDonald Video Tied to Another Police Shooting Death*, CHICAGO TRIBUNE (December 3, 2015), available at <http://www.chicagotribune.com/news/ct-jason-van-dyke-shooting-investigation-20151202-story.html>.

<sup>94</sup> See *e.g.*, IPRA Log #1065676/U#13-39 ("In a statement to IPRA, Involved Member Officer B essentially related the same account of the incident as Officer A."); IPRA Log #1063293/U#13-26 ("In a statement to IPRA on 04 July 2013, witness, Officer C provided his account of this event in a manner consistent with the Department Reports, witness officers, Witness 1 and the Summary contained within this report."); IPRA Log #1059031/U#12-47 ("Officer A stated essentially the same information as Officer B."). Each of these investigative reports are available on IPRA's website under "Officer-Involved Shootings," see <http://www.iprachicago.org/resources.html>.

Department Reports.”<sup>95</sup> Such reports are both direct evidence of police collusion and a lack of independent review by the Department’s watchdog.

### **IPRA is Secretive and Not Transparent.**

IPRA’s veil of secrecy over its investigations exacerbates public distrust. As Laquan McDonald’s case dramatizes, IPRA does not keep the public informed when a Chicago police officer shoots a citizen or is accused of brutality. IPRA, like the CPD, refused to correct the City’s false statements about the circumstances surrounding McDonald’s murder. Unlike law enforcement agencies in Cincinnati and Seattle, which release videos of public encounters between citizens and the police within 24 to 48 hours,<sup>96</sup> IPRA suppressed the video until Judge Valderrama ordered its production over a year after the shooting.

Another recent example: IPRA and the Police Department fought for nearly two years to suppress police video of Chicago Police Officer Marco Proano firing more than a dozen shots into a moving car carrying six unarmed black teenagers on December 22, 2013. Two of the youth were shot by Proano’s bullets. As in the McDonald case, the City of Chicago settled civil rights claims and barred the teens’ families from sharing the

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<sup>95</sup> See, e.g., IPRA Log #1070144/U#14-21; IPRA Log #1060190/U#13-05; IPRA Log #1062003/U#13-18; IPRA Log #1063293/U#13-26; IPRA Log #1063863/U#13-28; IPRA Log #1056933/U#12-33.

<sup>96</sup> See Curtis Black, *How Chicago Tried to Cover Up a Police Execution*, CHICAGO REPORTER (November 24, 2015), available at <http://chicagoreporter.com/how-chicago-tried-to-cover-up-a-police-execution/>; Michael Tarm and Sophia Tareen, *Cities’ Policies on Police Shooting Videos Inconsistent*, FOX NEWS 19, available at <http://www.fox19.com/story/30671647/cities-policies-on-police-shooting-videos-inconsistent>.

video. Presiding Cook County Judge Andrew Berman was so troubled by the video that he gave it to the media. “My first reaction was, if those are white kids in the car, there’s no way they shoot,” Judge Berman observed. “You don’t start firing into a car full of unarmed people. You just don’t do that.”<sup>97</sup> Nearly two years later, IPRA has yet to hold Officer Proano accountable for the shooting.<sup>98</sup>

IPRA’s practices for maintaining its investigative files further protect officers who violate people’s civil rights from accountability. The agency’s statistical reports indicate that IPRA publishes only a select few of its investigations into officer shootings. In 2014, IPRA reported conducting 43 officer shooting investigations involving 50 subjects – yet, only 14 of these are published on its website.<sup>99</sup> Similarly, evidence suggests that IPRA and the CPD have wholly underreported the number of fatalities by police. According to an in-depth investigation of the CPD and IPRA, both agencies failed to report<sup>100</sup> at least four fatal shootings in 2012 and 2013.<sup>101</sup> For instance,

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<sup>97</sup> Jonah Newman, *Video: Chicago Cop Opens Fire on Black Teens in Car*, CHICAGO REPORTER (June 17, 2015), available at <http://chicagoreporter.com/video-chicago-cop-opens-fire-on-black-teens-in-car/>.

<sup>98</sup> *Id.*

<sup>99</sup> See IPRA, 2014 Investigations, available at [http://www.iprachicago.org/Investigations\\_2014.html](http://www.iprachicago.org/Investigations_2014.html); IPRA, “Officer-Involved Shootings - Statistical Reports Year 2014,” available at <http://www.iprachicago.org/resources.html>.

<sup>100</sup> IPRA has represented that the agency’s police violence numbers “are sourced directly from the Chicago Police Department, via the Citizen and Law Enforcement Analysis and Reporting (CLEAR) database.” See Sarah Macaraeg, *As Chicago Police Kill Youth, Vast Misconduct Allegations Purged*, TRUTHOUT (April 2, 2015), available at <http://www.truth-out.org/news/item/29989-non-fatal-how-a-boy-s-deadly-shooting-by-chicago-police-uncovers-accountability-mechanisms-designed-to-fail>.

<sup>101</sup> See *id.*



investigative journalists uncovered 11 fatal police shootings in 2012; the IPRA/CPD count was eight.<sup>102</sup> In addition, IPRA has published only six investigations into the 11 fatal shootings that occurred that year.<sup>103</sup>

Similar incongruities are apparent in 2014. There is no published investigation of the fatal shooting death of 14-year-old Pedro Rios, who was fatally shot by Chicago police during the Fourth of July weekend. A lawsuit brought by Rios' family alleged that officers shot Rios twice in the back despite the fact that he failed to present a threat.<sup>104</sup> Incomprehensibly, IPRA classified the Rios shooting, which was deemed a homicide in the medical examiner's autopsy findings, as "non-fatal."<sup>105</sup>

The agency also fails to account for a large contingent of other misconduct investigations. In the first quarter of 2015, IPRA reported completing 414 investigations. Twenty-seven of these resulted in sustained findings, 89 were not sustained, 59 were unfounded, four resulted in exonerations and 62 were tagged as "no affidavit" and not investigated. This breakdown fails to classify the 173 cases that IPRA supposedly closed but for which there is no indication in the report as to the outcome.<sup>106</sup>

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<sup>102</sup> See *id.*

<sup>103</sup> See IPRA 2012 investigations, available at [http://www.iprachicago.org/Investigations\\_2012.html](http://www.iprachicago.org/Investigations_2012.html). The six investigations were IPRA Log #1059031/U#12-47, IPRA Log #1058420/U#12-44, IPRA Log #1059078/U#112-41, L1056189/U#12-21, L1055355/U#12-18, and L#1051844/U#12-03.

<sup>104</sup> See Jeremy Gorner, *Family Sues Chicago Over Fatal Shooting of 14-Year-Old Boy By Police*, CHICAGO TRIBUNE (April 9, 2015), available at <http://www.chicagotribune.com/news/local/breaking/ct-police-shooting-boy-lawsuit-met-20150409-story.html>.

<sup>105</sup> See Macaraeg, *supra* note 100.

<sup>106</sup> See Independent Police Review Authority, *Quarterly Report: January 1, 2015-March 31, 2015* 2, 4, 6, available at <http://www.iprachicago.org/2015-04-15QuarterlyReport.pdf>.



Similar patterns can be found in years 2012, 2013 and 2014. For instance, in the third quarter of 2014, IPRA completed 542 investigations. The quarterly report notes that 27 of these were sustained, 110 were not sustained, 66 were unfounded, seven resulted in exonerations and 136 were not investigated because there was no affidavit. This breakdown again leaves 196 cases for which IPRA failed to account.<sup>107</sup>

IPRA's written reports concerning its closed cases are less than a model of transparency. Even though the identities of police officers accused of brutality are public information under the Illinois Freedom of Information Act, IPRA refuses to publish officer names in any of its reports.<sup>108</sup> Moreover, while IPRA does publish redacted investigative reports for police shootings and sustained excessive force cases, it refuses to post summaries of cases that it fails to sustain, even though that information also belongs to the public.<sup>109</sup>

IPRA also lacks transparency as to its operations. On information and belief, IPRA fails to maintain any written policy and procedure manual, adding to the unchecked power of IPRA's Chief Administrator to inject his bias into IPRA investigations. Lorenzo Davis's termination from IPRA highlighted this point as it brought to light a recent policy change within the agency that has facilitated the concealment of police misconduct. Prior to Ando's tenure, supervisory disagreements with investigator findings would result in a written non-concurrence that would

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<sup>107</sup> Independent Police Review Authority, *Quarterly Report: July 1, 2014-September 30, 2014* 2, 4, available at <http://www.iprachicago.org/2014-10-15QuarterlyReport.pdf>.

<sup>108</sup> See *Kalven v. City of Chicago*, 2014 IL App (1st) 121846.

<sup>109</sup> See *id.*

become part of IPRA's official investigative file. Ando altered the policy in March of this year. As set forth in an email from Ando to IPRA employees, in accordance with the agency's "chain of command," any supervisor now has the capacity to direct a subordinate to change his investigative findings – without the requisite paper trails.<sup>110</sup> As Davis observed, IPRA's illegal practice of purging its files of adverse investigative findings eliminates any accountability of IPRA to the public: "There would not be a record of what the findings were, initially, before they were changed."<sup>111</sup>

Also lacking from the public records is any information about the training IPRA investigators and supervisors receive, including who conducts such training. However, outside sources have revealed that IPRA use of force investigative training is led by Bill Lewinsky, who is nationally-recognized as an apologist for law enforcement brutality.<sup>112</sup> IPRA investigators are thus trained to justify Chicago police officers' use of force. The *New York Times* reported, "[Lewinsky's] conclusions are consistent: The officer acted appropriately, even when shooting an unarmed person. Even when shooting someone in the back. Even when witness testimony, forensic evidence or video footage contradicts the officer's story."<sup>113</sup> In light of Lewinsky's reputation, the Justice

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<sup>110</sup> See Mitchell, *supra* note 17.

<sup>111</sup> See *id.*

<sup>112</sup> See Chip Mitchell, *City Sends Police-Shooting Investigators to Trainer Accused of Pro-Cop Bias*, WBEZ (September 28, 2015), available at <http://www.wbez.org/news/city-sends-police-shooting-investigators-trainer-accused-pro-cop-bias-113077>; Matt Apuzzo, *Training Officers to Shoot First, and He Will Answer Questions Later*, N.Y. TIMES (August 1, 2015), available at [http://www.nytimes.com/2015/08/02/us/training-officers-to-shoot-first-and-he-will-answer-questions-later.html?\\_r=0](http://www.nytimes.com/2015/08/02/us/training-officers-to-shoot-first-and-he-will-answer-questions-later.html?_r=0).

<sup>113</sup> See Apuzzo, *supra* note 112.

Department asked Psychology Professor Lisa Fournier to evaluate his work. She concluded that Lewinsky's work was biased, "invalid and unreliable."<sup>114</sup> Lewinsky's retention by IPRA is further evidence of the agency's institutional bias to protect police.

### **IPRA Does Not Conduct Timely Investigations**

IPRA repeatedly fails to conduct timely investigations of officer shootings. Of all the fatal shootings closed by IPRA between 2012 and 2014, investigations lasted an average of 16 months<sup>115</sup> – ten months beyond the time limit recommended by the DOJ.<sup>116</sup> This timeframe is also well beyond that contemplated by the IPRA ordinance, which states that for any investigations not completed within six months, the agency's chief administrator must notify the major's office, city council committee on public safety, the complainant, and the officers named in the complaint of the reasons for the failure to complete the investigation in a timely manner.<sup>117</sup> There are no publically available records on IPRA's website as to how frequently the agency invokes this six-month requirement and whether IPRA actually abides by the ordinance's requirements.

### **IPRA Refers Many Cases Back to CPD for Internal Review**

As its name reflects, IPRA was created to function outside of the CPD chain of command, thereby fostering independent oversight of the Department. Yet, by virtue

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<sup>114</sup> *Id.*

<sup>115</sup> See Macaraeg, *supra* note 100.

<sup>116</sup> See U.S. Department of Justice, Office of Community Oriented Policing Services, *Standards and Guidelines for Internal Affairs: Recommendations from a Community of Practice* 33 (August 21, 2009), available at <http://ric-zai-inc.com/Publications/cops-p164-pub.pdf>.

<sup>117</sup> See Chicago Municipal Code § 2-57-070.

of design,<sup>118</sup> IPRA refers a vast number of its cases to the Department's own Bureau of Internal Affairs. Over the past three years, IPRA has referred approximately 16,000 complaints (or 72% of the agency's intake of misconduct complaints) to the bureau.<sup>119</sup> Internal Affairs investigated a meager 22% of the complaints it received. The rest were classified as "administratively closed" and not investigated.<sup>120</sup>

### **IPRA Abdicates its Disciplinary Responsibility via a "Mediation" Program**

Additional evidence of IPRA's failure to provide effective police oversight is the agency's reliance on the "Mediation Program," widely touted by former IPRA Chief Administrator Ando, whereby cases of police misconduct that would likely result in a sustained finding and discipline through the regular investigative process are instead referred to "mediation."<sup>121</sup> These cases are not investigated, and result in, at most,

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<sup>118</sup> See Chicago Municipal Code, Ordinance 2-57-40(c), *supra*.

<sup>119</sup> See Macaraeg, *supra* note 44. Chicago municipal code requires that IPRA directly investigate cases involving domestic violence, excessive force, coercion, verbal abuse, discharge of a firearm, stun gun, or taser, death or injury in police custody or lock-facilities, or suits settled by the City of Chicago Law Department. Chicago Municipal Code § 2-57-040.<sup>119</sup> But IPRA's "powers and duties" do not include, for instance, the Chicago Police Department's stop-and-frisk practices (which have come under repeated legal attack), sexual assault, allegations of false arrest, or denial of medical aid. These are referred to the Chicago Police Department's Department of Internal Affairs. See Chicago Municipal Code § 2-57-040(f).

<sup>120</sup> See Macaraeg, *supra* note 44. See also Independent Police Review Authority, Quarterly Reports, available at <http://www.iprachicago.org/resources.html> (documenting referrals to other agencies, including IAD).

<sup>121</sup> See Remarks of Scott Ando, Independent Police Review Authority, 2015 Budget Statement to the City Counsel Committee on Budget and Government Operations 3 (Oct. 29, 2014), available at [http://www.cityofchicago.org/content/dam/city/depts/obm/supp\\_info/2015Budget/Budget\\_Hearing\\_Statements\\_MBE\\_WBE\\_Org/056\\_Statement\\_MBE\\_WBE\\_Org\\_2015.pdf](http://www.cityofchicago.org/content/dam/city/depts/obm/supp_info/2015Budget/Budget_Hearing_Statements_MBE_WBE_Org/056_Statement_MBE_WBE_Org_2015.pdf). See also Macaraeg, *supra* note 44.

sustained findings on less serious charges. Police are given discipline amounting to a slap on the wrist.

According to Ando, 250 cases were referred to mediation between 2011 and 2014, and 236 were, in Ando's words, "successfully resolved."<sup>122</sup> Far from being "successfully resolved," IPRA's abuse of mediation procedures allows the agency to sidestep its investigative and disciplinary responsibilities and furthers the CPD's code of silence, as

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<sup>122</sup> See Ando 2015 Budget Statement, *supra* note 121, at 3.

several high-profile cases make clear.<sup>123</sup> The program also helps IPRA to artificially inflate its rate of “sustained” investigations.<sup>124</sup>

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<sup>123</sup> An abstract of sustained case Log No. 1022314, closed in February 2014, reveals that a 2008 complaint against seven on-duty police officers, three sergeants and one detention aid in the 17th police district was investigated based on allegations that several officers used excessive force against the complainant, that other officers failed to report the misconduct and falsified reports subsequent to the complainant’s arrest, and that certain officers accepted the complainant into lock-up with obvious injuries. *See* IPRA, Sustained Cases 2014, available at [http://www.iprachicago.org/Abstracts%20of%20Sustained%20Cases\\_022014.pdf](http://www.iprachicago.org/Abstracts%20of%20Sustained%20Cases_022014.pdf). In the mediation process, one officer “agreed to accept IPRA’s finding of ‘sustained’ for the allegation that he failed to complete a Tactical Response Report and a Reprimand.” Another officer “agreed to accept IPRA’s finding of ‘sustained’ for the allegation of accepting the victim into lockup with an obvious injury and the violation noted.” A sergeant agreed to accept a finding of sustained for the allegation of “failing to oversee the conduct of lockup and the lockup personnel and a reprimand.” IPRA determined all other allegations to be either unfounded or not sustained. The inconsistencies in this outcome are obvious. One officer was found guilty of failing to accurately fill out a report and another officer was found liable for accepting an obviously injured arrestee into lock-up, both of which suggest that the arrestee was *in fact injured* while in police custody. Yet, the only discipline meted out for such misconduct were two reprimands and one violation noted.

Complaint number 1073331, closed in May 2015 (available at [http://www.iprachicago.org/sustained\\_cases\\_2015.html](http://www.iprachicago.org/sustained_cases_2015.html)) concerned allegations against two officers who failed to report the actions of a third officer, against whom a sustained finding was entered for pointing a gun at a complainant during a traffic altercation. The complaint against the bystander officers were sustained and in mediation they agreed to accept the negligible discipline of a “violation noted.”

In 2013, vice officers conducted a raid of a tanning salon, all of which was caught on the business’ surveillance system. During that raid, Detective Di Pasquale issued a series of racial slurs at the manager, Jessica Klyzek, a woman of Asian descent, while another detective hit Klyzek in the head while she was handcuffed and kneeling on the ground. Di Pasquale and the other officer received a 25-day suspension and 8-day suspension, respectively. This light discipline drew city-wide protests, particularly from Chicago’s Asian-American community. *See* Rob Wildeboer, *Asian-American Activists Seek Firing of Cops in Parlor Video*, WBEZ (September 4, 2015), available at <http://www.wbez.org/news/asian-american-activists-seek-firing-cops-parlor-video-112848>.

The salon’s surveillance video also shows officers discussing how to prevent the recording from being turned over to police authorities. One officer states: “I’d suggest

## IPRA's Staff Is Institutionally Biased

Despite its moniker of independence, there is little evidence that IPRA operates autonomously from the CPD. IPRA is staffed by retired CPD and law enforcement officers. In 2008 the agency's management staff was made up solely of civilians; by 2014, after Ando became chief, upper management was comprised entirely of former law enforcement officers, while ex-CPD made up about 40% of supervisory staff. Ando himself is a former U.S. Drug Enforcement Administration ("DEA") Agent, his first deputy, Steven Mitchell, was another former top DEA agent, and his deputy chief administrator, Steven Hirsch, was a former criminal investigation chief with the Illinois Department of Revenue.<sup>125</sup> Among past and present investigators, Lorenzo Davis is a former Commander within the Chicago Police Department; he served for 23 years

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we take the hard drive and inventory it. Just in case... I'd rather it be in our hands than in theirs." See Rob Wildeboer, *IPRA Fails to Pursue Potential Crime by Cops Caught on Video*, WBEZ (September 21, 2015), available at <http://www.wbez.org/news/ipra-fails-pursue-potential-crime-cops-caught-video-113018>; see also Odette Yousef, *Three Police Officers in Asian Salon Raid Recommended for Suspension*, WBEZ (September 1, 2015), available at <http://www.wbez.org/news/three-police-officers-asian-salon-raid-recommended-suspension-112786>; Brandon Lee, *"Unacceptable" Punishment for Officers Involved in Jessica Klyzek Case*, Advancing Justice (September 2, 2015), available at <http://www.advancingjustice-chicago.org/unacceptable-punishment-for-officers-involved-in-jessica-klyzek-case/>. The officers' acts to suppress and conceal evidence of official misconduct amounts to criminal obstruction of justice. Yet, Ando refused to comment on the videotaped proof of illegal activity, and no investigation has been undertaken into the matter – each of the officers who engaged in the conspiracy have not been subject to either criminal charges or administrative action. See Wildeboer, *IPRA Fails to Pursue Potential Crime by Cops Caught on Video*, *supra*.

<sup>124</sup> See Ando 2015 Budget Statement, *supra* note 121, at 5.

<sup>125</sup> See Mitchell, *supra* note 37.

before joining IPRA's ranks.<sup>126</sup> Other investigators include former DEA agent David Marzullo and former Georgia homicide detective Joshua Hunt.<sup>127</sup>

## CONCLUSION

There is a direct correlation between IPRA's dysfunction outlined in this complaint and the brutality that is and has been endemic in the CPD. IPRA's failings are not negligent or misguided but instead are in place to serve a specific purpose – to clear CPD officers of wrongdoing and ensure official impunity. IPRA's policies, procedures and practices foment a culture of silence, in which police officers abuse Chicagoans, and particularly Chicagoans of color, without consequence. As a result of such institutional misconduct, residents have lost any trust in the City's system of law enforcement, and the lives of thousands are placed in jeopardy every day. This pattern and practice of conduct violates the most basic rights of all Chicagoans and cannot be allowed to continue.

For these reasons, the undersigned specifically request that the United States Department of Justice investigation of the CPD include an explicit focus on the Independent Police Review Authority's role in perpetuating a code of silence and culture of violence within the CPD ranks.

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<sup>126</sup> Chip Mitchell, *City Fires Investigator who Found Cops at Fault in Shootings*, WBEZ (July 20, 2015), available at <http://www.wbez.org/news/city-fires-investigator-who-found-cops-fault-shootings-112423>.

<sup>127</sup> See Mitchell, *supra* note 37.



Respectfully submitted,

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