

**Preventing and Disciplining Police Misconduct**  
**An Independent Review and Recommendations**  
**Concerning Chicago's Police Disciplinary System**

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## **CHICAGO POLICE DEPARTMENT DISCIPLINARY ASSESSMENT**

### **I. INTRODUCTION AND EXECUTIVE SUMMARY**

A police department's disciplinary system must encourage good conduct by police officers. The process for investigating and resolving complaints alleging police misconduct should align with this objective. In recent years, there have been both external and internal concerns about how complaints of misconduct by members of Chicago Police Department (CPD) are investigated and disciplined. Allegations of a "code of silence" among Chicago police officers reveal the public's concern with the current disciplinary system. And there are concerns within CPD about the uncertainty that surrounds police discipline, including the length of time it takes to resolve misconduct complaints and a perceived lack of uniformity across punishments for similar violations.

In particular, alleged incidences of misconduct by members of the CPD are investigated, and discipline is administered, pursuant to a complicated, time-consuming process. CPD's disciplinary system includes three separate City agencies—each created at a different time and for a different purpose—that are tasked with investigating and resolving alleged incidences of police misconduct: the CPD, including its Bureau of Internal Affairs (BIA); the Independent Police Review Authority (IPRA); and the Police Board. As a result, responsibility for identifying misconduct and administering discipline can be fragmented. In addition, historically multiple opportunities to appeal and/or grieve disciplinary decisions from one body to another at multiple stages in the process lengthened the time between the complaint and resolution, creating uncertainty surrounding the administration of discipline. The City's collective bargaining agreements (CBAs) with the unions of Department members limit the ways in which misconduct

may be investigated and disciplined, further complicating the process. A more efficient, consistent system would benefit the public, the Department, and the accused individual.

The disciplinary system utilized by the CPD is evolving and much progress has been made on this front. For example, as discussed in the body of our Report, some of our concerns about the grievance process and the CBAs have been addressed by new CBAs that were recently approved by the unions. Against this evolving backdrop, A.T. Kearney<sup>1</sup>, a leading global management consulting firm headquartered in Chicago and Schiff Hardin<sup>2</sup>, a national law firm also based in Chicago, were asked by the City to conduct an independent review and assessment of what the Department is doing to prevent and address police misconduct and, specifically, to suggest ways the Department can improve. A.T. Kearney and Schiff Hardin agreed to undertake this project *pro bono*, at no expense to the City and its taxpayers.

The review and assessment had two primary goals:

- to determine what more can be done to prevent police misconduct from occurring in the first place; and
- to ensure that when misconduct occurs, it is promptly reported, thoroughly investigated, and appropriately and effectively disciplined.

To reach our recommendations, we:

- studied the current police disciplinary system in Chicago;

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<sup>1</sup> A.T. Kearney is a leading global management consulting firm with offices in more than forty countries. Since 1926, A.T. Kearney has been trusted advisors to the world's foremost organizations. A.T. Kearney is a partner-owned firm, committed to helping clients achieve immediate impact and growing advantage on their most mission-critical issues. For more information, visit: [www.atkearney.com](http://www.atkearney.com).

<sup>2</sup> Schiff Hardin LLP is a general practice law firm representing clients across the United States and around the world. Schiff Hardin LLP has offices located in Ann Arbor, Atlanta, Chicago, Lake Forest, New York, San Francisco, and Washington, D.C. Schiff Hardin attorneys are strong advocates and trusted advisers — roles that contribute to many lasting client relationships. For more information, visit [www.schiffhardin.com](http://www.schiffhardin.com).

- studied the statutes, ordinances, collective bargaining agreements, and other legal requirements that define the current disciplinary system;
- analyzed data – including the number and types of misconduct complaints, and the amount of time it takes to resolve these complaints – provided by the three entities charged with investigating and resolving allegations of police misconduct: the CPD, including BIA, IPRA, and the Police Board;
- interviewed a wide cross section of people who participate in and/or are affected by the police disciplinary system, such as: current and former CPD members, including senior leadership, bureau chiefs, commanders, lieutenants, sergeants, and rank-and-file police officers; IPRA leadership, including its chief and deputy chief administrators; Police Board leadership; other public officials; and community representatives, ministers and other members of the faith community and representatives from organizations focused on police misconduct and accountability;
- analyzed best practices in other municipalities and jurisdictions;
- consulted subject matter experts, including Darrel Stephens of the Major Cities Chiefs Association and Merrick Bobb of the Police Assessment Resource Center; and
- undertook a thorough review of the relevant literature.

Our recommendations fall into two categories. First, we propose changes to prevent misconduct from occurring in the first place, primarily by focusing on guidelines, education and training. We also suggest ways to make the consequences of misconduct more consistent, as well as to more effectively involve direct supervisors in the prevention and detection of

misconduct. Second, we suggest improvements to the system for addressing the misconduct that does occur. We offer ways to make IPRA more accessible and transparent for complainants, as well as to accelerate the time from complaint to resolution; recommend adjusting the jurisdictions of BIA, IPRA, and the Police Board; and make suggestions for streamlining processes where possible.

**A. Prevent and Discourage Misconduct Before It Happens.**

As is explained in greater detail in the body of our report, to prevent and discourage misconduct before it happens, we recommend that CPD:

- **Adopt discipline guidelines.** The Department would be well served to put officers on notice of the consequences of misconduct, and thus deter more misconduct, by adopting discipline guidelines with a specified range of consequences for each type of misconduct. The severity of the consequence ultimately imposed would depend on factors such as the seriousness of the offense and the officer's disciplinary record. Adopting discipline guidelines would also address internal concerns among officers about uncertainty surrounding the disciplinary process and a perceived lack of uniformity and fairness in the punishment imposed for similar violations.
- **Discharge any officer engaging in a "Code of Silence."** Allegations of police cover-up are an area where the benefits of certainty of punishment are so pronounced that there should be little room for flexibility. Accordingly, the discipline guidelines should make clear that any officer found to have deliberately concealed or failed to disclose information about a fellow officer's non-ministerial acts of misconduct will be dismissed. By putting

officers on notice that any officer who intentionally deceives investigators or deliberately withholds information to cover up for a fellow officer runs the risk of sacrificing his job, we believe that the Department will incentivize officers to be forthcoming during investigations, rather than to hide behind an actual or perceived “code of silence.”

- **Implement education-based discipline.** At present, education and supplemental training are not disciplinary options within CPD. While traditional punishments may convey the message that an officer’s choice was wrong, such punishment may not address the underlying cause of the officer’s misconduct (and thus prevent it from being repeated). Moreover, the punishment may be accompanied by resentment that can last long after the incident. Education-based discipline (EBD) provides an alternative that, for certain offenses and certain offenders, may be a more constructive response to police misconduct because it teaches officers how to make better decisions in the future.
- **Improve supervisory effectiveness and accountability.** Currently, detecting and addressing misconduct is too often viewed as the exclusive responsibility of those involved in the disciplinary process (BIA and IPRA). This ignores the critical role – and responsibility – of direct supervisors in preventing misconduct from occurring in the first place, and when misconduct does occur, promptly taking steps, such as providing counseling and training, to prevent it from recurring in the future. Our suggestions for improvement in this area include: (1) implementing a patrol squad system; (2) expanding the

Field Training Officer program; (3) enhancing the program for hiring, training, and promoting officers; and (4) establishing a supervisor mentoring and evaluation program. Each of these suggestions will make supervisors more directly responsible for – and thus more invested in – their subordinates’ conduct.

- **Explore the feasibility and effects of equipping officers with body-worn cameras.** One recently publicized method for addressing concerns about police misconduct is to require patrol and other officers who interact with the public face-to-face to wear body cameras. These cameras have many potential benefits, including improving relations between the police and the public and reducing instances of police misconduct. But body-worn cameras raise challenges as well, in terms of cost, privacy concerns, and operational and legal implications. For these reasons, we recommend that CPD carefully study the feasibility of body cameras, including by piloting their use by a small number of officers, before implementing this type of program Department-wide.

**B. Make the Disciplinary System More Timely, Transparent, Efficient, and Uniform.**

Our recommendations for addressing misconduct after it occurs center on making the disciplinary system more transparent and uniform and, most importantly, shortening the time between complaint and resolution, thus making discipline more effective when administered. Here we categorize our recommendations by entity (IPRA, BIA, and the Police Board). Once again, each of these recommendations is explained in detail in the body of our report.

- **Across All Entities.** Historically, many misconduct investigations have dragged on for years, and, if discipline is recommended, it takes even longer to implement because of the myriad of grievance and appeals opportunities available. That IPRA, BIA, and CPD supervisors use different case management systems adds to the inefficiency and makes it difficult to track and monitor officer conduct. We recommend: (1) establishing an 18-month deadline for CPD (including BIA) investigations to be completed, subject to only limited exceptions, and holding IPRA, whose investigations tend to be more complex and reliant on external witnesses, and thus more time-consuming, to a goal of completing its investigations within 24 months by 2016; (2) streamlining the appeals and grievance processes; and (3) implementing a single off-the-shelf case management system for use by IPRA, BIA, and the Department's supervisors, and automating the review of disciplinary findings and recommended punishments within this universal system.
- **Independent Police Review Authority.** Since 2007, IPRA, a civilian agency that is independent of CPD, has investigated many of the most serious allegations of police misconduct, including excessive force allegations. To increase IPRA's credibility and accessibility to the community, we recommend that IPRA create a Community Advisory Board, pilot satellite offices where residents can file complaints, and take steps to communicate more clearly the status of investigations. We also have specific recommendations for shortening the length of IPRA investigations, including

by creating a more streamlined process for obtaining affidavits, assigning investigations according to their complexity, and developing periodic deadlines. We would reduce IPRA's caseload by limiting its review of settled cases to those where either the City Council or IPRA's chief administrator specifically requests review. Finally, we recommend increasing IPRA's resources so that it can better manage its caseload.

- **Bureau of Internal Affairs.** BIA currently investigates a large number of operational and personnel violations that would be more appropriately – and more efficiently – handled at the district level. We recommend reducing BIA's caseload by allowing BIA to transfer these less serious allegations to the district where the accused officers are assigned for investigation and resolution. To further increase efficiency, we would improve technical systems, including the Department's performance review system, by updating the system's interface to make it more user-friendly and geared toward supervisors' needs; encourage mediation of cases; and consolidate appeals into one binding track. To increase transparency, we recommend that BIA issue comprehensive annual reports similar to the reports IPRA releases. Finally we support the Department's decision to increase the number of personnel assigned to BIA, particularly sergeants, to avoid having officers investigate fellow officers.
- **Chicago Police Board.** To streamline the appeals process, we recommend that the jurisdiction of the Police Board be adjusted to limit its reviewing authority to cases involving the most serious allegations of police misconduct

or cases where the recommended discipline falls outside the established guidelines. The Police Board should continue to provide hearings and decisions in separation cases. However, it should not be an avenue of appeal for officers to contest discipline that does not involve separation. Instead, a single binding track of appeals through the Department, culminating in review by the superintendent, should be the only means for officers to appeal lesser discipline, including suspensions. Finally, we recommend lengthening the disciplinary history of an officer that can be considered by the Board from the current five years to ten years.

The recommendations that flow from this study are ours alone. They reflect our judgment, as informed by our research and interviews with individuals who participate in and are impacted by the police disciplinary system. As independent consultants, we were not constrained by the practical realities under which those who operate in the present disciplinary system labor. For example, some of our recommendations require amendments to statues or ordinances. We did not consider the political prospects for these changes. Some recommendations cost money to implement. We did not consider the competing demands on Chicago's limited financial resources. Some recommendations require changes to collective bargaining agreements. We did not consider whether these changes are feasible. Some recommendations may be subject to challenge based on existing Illinois precedent defining due process requirements. We did not consider the likelihood of our recommendations surviving judicial review. Finally, we made our recommendations assuming continued involvement by all organizations that participate in the present disciplinary system. We did not consider whether IPRA, BIA, or the Police Board should or should not exist. We assumed their existence and

continued roles in the disciplinary process. Thus, we do not expect, nor should any reader of this report expect, that all of our proposals will be implemented.

At the same time, even during the course of our study, progress has been made toward remedying some of the deficiencies we identified. The City announced that it will increase transparency by making internal investigation files into alleged police misconduct open to public scrutiny. IPRA opened its first satellite office, filled vacant positions, converted five intake aide positions into investigator positions, is in the process of hiring an additional mediation attorney, and addressed turnover in its ranks. All police bargaining agreements have been amended to limit and streamline the options for challenging a disciplinary recommendation. CPD made promotions to the rank of Field Training Officer (FTO) to provide support and guidance for the surge of cadets who joined the force starting in 2013. CPD also improved training, including training of supervisors: more than 9,500 CPD personnel were trained in “Procedural Justice” and more than 1,100 FTOs and supervisors received the “True North” leadership course. BIA significantly augmented its staff. IPRA and BIA changed their procedures to allow investigators to interview accused officers earlier in the investigation. In 2014, CPD began piloting a patrol squad system in several districts. Finally, the new CBAs help streamline the disciplinary and grievance process. As discussed in greater detail below, we support the decisions to pursue these initiatives.

## **II. SUMMARY OVERVIEW OF THE PRESENT DISCIPLINARY SYSTEM**

The disciplinary system as it existed during the course of our review provides the backdrop for our recommendations, particularly those relating to making that system more transparent, uniform, and expeditious. Here, we provide a summary of that system. A more detailed description of the current system is provided in the Appendix of this report. As discussed above, there are three separate agencies that are tasked with investigating or resolving allegations of police misconduct – CPD, including BIA; IPRA; and the Police Board. In addition, City ordinances, collective bargaining agreements, and CPD procedures provide multiple opportunities to appeal or grieve disciplinary decisions.

### **A. Filing Complaints about Police Misconduct**

Each year, there are on average 9,000 complaints of misconduct logged against CPD members. IPRA, which was established in 2007 and operates independently from the Department, is responsible for receiving and logging these complaints. Complaints may come from the community, from internal CPD referrals, or from public reports such as civil lawsuits. After logging a complaint, IPRA assigns the complaint to either itself or the Department to investigate. Where the complaint may involve criminal wrongdoing, IPRA refers the case to, and works with, the State’s Attorney’s Office, the FBI, or the U.S. Attorney’s Office, as appropriate. By ordinance, IPRA is responsible for investigating complaints involving allegations of excessive force, domestic violence, coercion, and bias-based verbal abuse. When a complaint alleges multiple violations, if one alleged violation is within IPRA’s jurisdiction, IPRA retains the entire complaint. IPRA also conducts an investigation any time an officer discharges his or her weapon (including stun gun or Taser) in a manner that could strike someone, a person suffers death or injury in police custody, or an extraordinary or unusual situation occurs in lockup, even if no police misconduct is alleged.

IPRA transfers complaints that are not within its jurisdiction to CPD's Bureau of Internal Affairs. BIA investigates complaints involving more serious types of misconduct, such as criminal misconduct, bribery or other forms of official corruption, drug or other substance abuse, and driving under the influence. Complaints transferred by IPRA to the Department but not investigated by BIA are investigated and disciplined at the district level, through the accused officer's chain of command. Department directives define 34 categories of less serious allegations, ranging from violating medical roll procedure to tardiness in reporting for duty, that the Department handles at the district level.

As of 2012 (the most recent year for which data had been collected at the time of our analysis), IPRA took on average 328 days to resolve a complaint, BIA averaged 215 days, and the districts averaged 142 days. See Exhibit A. In part, these times reflect the relative complexity of the complaints handled by each entity: IPRA handles use of force investigations which by their nature tend to involve external parties; BIA focuses primarily on corruption, misconduct, and severe operational issues; and the districts generally handle routine operational and administrative matters. Beyond case complexity, numerous issues impact case duration, including the availability and quality of resources and infrastructure.

## **B. Investigating Complaints**

With respect to complaints investigated by IPRA or BIA, the investigator contacts the complainant and any witnesses to obtain their statement; questions CPD members other than the accused who may have knowledge of the alleged misconduct; and obtains other relevant evidence, such as police medical reports, videotapes, audiotapes, and forensic evidence. Under state law, IPRA and BIA are required in most cases to obtain a sworn affidavit from the

complainant averring that the complaint is true before they can question the accused officer.<sup>3</sup> Where the complainant has provided such a sworn affidavit, or where an exception to the sworn affidavit requirement applies, IPRA or BIA will interview the officer. In cases that BIA transfers to the districts, the accused officer's unit commander designates a supervisor within the officer's district to conduct the investigation.<sup>4</sup>

### **C. Decisions Regarding Disciplinary Action**

After completing the investigation, the IPRA or BIA investigator prepares a final report that includes a preliminary finding of "sustained," "not sustained," "unfounded," or "exonerated." "Sustained" means the complaint was supported by sufficient evidence to justify disciplinary action. "Not sustained" means the evidence was insufficient to either prove or disprove the complaint. "Unfounded" means the facts revealed by the instigation did not support the complaint (e.g., the complained-of conduct did not occur). And "exonerated" means the complained-of conduct occurred, but the accused officer's actions were proper under the circumstances. If the investigator sustains one or more allegations of misconduct, the investigator (or in cases investigated by IPRA, the investigator's supervisor, subject to review by a deputy and IPRA's chief administrator) will recommend discipline. The recommended discipline – which must be reasonably related to the seriousness of the offense, and must take into consideration the accused officer's complimentary and disciplinary history – may be

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<sup>3</sup> Under the Uniform Peace Officers' Disciplinary Act, 50 ILCS 725/1 et seq., and the collective bargaining agreements, a signed, sworn affidavit is required unless the complaint involves allegations of criminal conduct, a violation of the CPD's medical policy, or a residency violation; the reporting party is a Department or IPRA member; or there is a sworn affidavit override approved by either IPRA's chief administrator or BIA's chief, as appropriate.

<sup>4</sup> The accused officer's immediate supervisor will be assigned to conduct the investigation unless that supervisor initiated the investigation, witnessed the incident that resulted in a complaint being filed, is on extended medical leave, or is on furlough.

“violation noted” (i.e., no discipline recommended), a reprimand, suspension of up to 365 days, or separation.

If a case investigated by IPRA results in a sustained finding, IPRA’s chief administrator may recommend discipline to the police superintendent. IPRA’s findings and recommended discipline (other than in separation cases) go through command channel review – during which designated supervisors in the accused officer’s chain of command have an opportunity to provide comments, and must state whether they concur with the finding and recommendation – before it is sent to the superintendent. The superintendent then has 90 days to respond or the discipline is deemed accepted. The superintendent is free to impose more severe discipline than the chief administrator recommends; however, if the superintendent wants to impose a lesser amount of discipline (or no discipline at all), she must explain in her response letter why she would depart from the chief administrator’s recommendation. The superintendent and the chief administrator then must meet within ten days of IPRA’s receipt of the response letter to discuss the superintendent’s reasons for imposing a different level of discipline and to seek agreement on the proper level of discipline. If the superintendent and chief administrator cannot agree, the chief administrator refers the matter to the Police Board, where the superintendent has the burden of overcoming the chief administrator’s recommendation. The Police Board then assembles a three-person panel to review the case and decide whether the superintendent is justified in departing from the chief administrator’s original recommendation.

If a BIA investigator sustains a complaint and recommends discipline, the investigator’s report likewise goes through the command channel review process in non-separation cases. The reviewing supervisors in the command channel provide comments, if any, and state whether they concur with the investigator’s recommended disposition and discipline. The BIA chief reviews

these materials and makes a final recommendation, which is sent to the superintendent for a final decision.

#### **D. Challenging Disciplinary Recommendations**

After IPRA or BIA recommends discipline, the accused officer has a range of options depending on the duration of the recommended discipline. Although the police bargaining agreements were recently amended to limit and streamline the options for review, traditionally these options have afforded officers an opportunity to significantly delay or prevent implementation of punishment. In 2012, following the filing of a grievance, the average case took 1,029 days, or almost three years, to reach a final disposition. What follows is a description of the various options to challenge a disciplinary recommendation in effect until just recently, followed by a description of the improvements realized through recent negotiations.

In cases where BIA or IPRA recommended a suspension of 15 days or less, it used to be that the officer could appeal that recommendation through the Discipline Screening Program (DSP). In DSP appeals, the Department and the Fraternal Order of Police (FOP) would meet and attempt to agree on a punishment. In IPRA cases, an IPRA representative also attended the meeting, and any agreement was subject to the approval of IPRA's chief administrator. If agreement was reached, and if the officer accepted the recommended punishment, the officer signed a waiver of her right to use the grievance procedure. The recommendation was then sent to BIA's assistant deputy superintendent to implement. If the Department and the FOP failed to reach an agreement or agreed but the officer rejected their recommendation, the superintendent would resolve the disagreement. The superintendent could decrease, but not increase, the originally recommended punishment. If the officer disagreed with the superintendent's recommendation, the officer could grieve the superintendent's decision. If the superintendent

recommended a six- to fifteen-day suspension, the officer could ask the Police Board to review the superintendent's recommendation.

In cases where BIA or IPRA recommended suspension between 16 and 30 days, the officer previously had four options. First, the officer could accept the recommended punishment, which would be forwarded to the superintendent to impose. The superintendent, in turn, could increase or decrease the recommended punishment. If the superintendent increased the recommended punishment, the officer could appeal to the Police Board or through the grievance procedure. Second, the accused officer could appeal the recommended punishment to the superintendent by filing a written report and offering new or additional evidence. The superintendent then decided upon and imposed a punishment. Third, the officer could use the grievance procedure, which is described below. Fourth, the officer could obtain Police Board review. Critically, if the officer chose the second, third, or fourth options and was dissatisfied with the result, the officer could then pursue additional, alternate methods of review.

In cases where BIA or IPRA recommended suspension between 31 and 365 days, the accused officer had the same four options (and the same ability to pursue more than one method of review), although the grievance process and proceedings before the Police Board were more elaborate, as we explain below. Police Board review traditionally has been and continues to be mandatory (and the grievance process unavailable) in cases where separation is recommended.

As a result of the recent contract negotiations, the Discipline Screening Process and direct appeal to the Superintendent have been eliminated, and the other options for challenging a disciplinary recommendation have been modified. Going forward, in cases where IPRA or BIA recommends suspension of ten days or less, the officer may either accept the recommended penalty or challenge the recommendation through a streamlined, binding summary opinion

process. If the recommended suspension is between 11 and 30 days, the officer has three options: she may (1) accept the penalty, (2) use the binding summary opinion process, or (3) file a grievance. (Only if the FOP declines to advance the grievance to arbitration may the officer elect Police Board review.) If IPRA or BIA recommends suspension between 31 and 365 days, the officer again has three options: (1) accept the penalty, (2) file a grievance, or (3) seek Police Board review. Perhaps most important, officers may no longer pursue more than one method of review. Once they select a method for challenging the recommended discipline, that election becomes the exclusive review mechanism.

Finally, for investigations conducted at the district level in cases that result in a sustained finding, the review process is unchanged. The investigating supervisor imposes discipline by preparing a summary punishment action request (SPAR), which explains the incident, the accused officer's record, and the recommended penalty. The accused officer may either accept the punishment or request a hearing, and then appeal through her chain of command. If summary punishment is administered more than three times within a twelve-month period, the officer may contest the fourth and any subsequent application of summary punishment using the appeal and grievance processes available to challenge BIA and IPRA decisions.

#### **E. The Grievance Process**

Under both the prior and current collective bargaining agreements, the grievance procedure consists of four steps, although the new contracts make meaningful changes to the fourth step, the arbitration process. First, the officer submits a grievance to her immediate supervisor within the shorter of seven working days or 35 calendar days after the events giving rise to the grievance. Second, the immediate supervisor forwards the grievance to the unit's commanding officer. The two then discuss the matter with the accused officer in an attempt to resolve the issue outside of the formal grievance process. If this fails, or if the complaint is of a

certain nature (such as one alleging discrimination based on gender, age, or race), the unit's commanding officer makes a recommendation regarding punishment and forwards the recommendation to the Department's Management and Labor Affairs Section (MLAS). Third, if either the officer or the FOP is dissatisfied with the commanding officer's recommendation, either the FOP (on behalf of the officer) or MLAS, or both may request that the case be mediated. Fourth, if mediation is unsuccessful, either party may demand arbitration. There are two forms of arbitration: full and expedited. Under the full arbitration procedure, a neutral third party is chosen to resolve the dispute, and the arbitrator's decision is binding (meaning the officer serves any punishment ordered by the arbitrator immediately). A recommended punishment of 31 to 365 days is eligible for full arbitration only.

For cases involving suspensions of 30 days or less, the prior collective bargaining agreements gave the FOP the option to choose expedited (or fast-track) arbitration as an alternative to full arbitration. Cases submitted for expedited arbitration were first screened using the summary opinion process. The parties selected one arbitrator, who reviewed the relevant materials and recommended a punishment. The parties could agree to accept the summary opinion. If either party rejected the summary opinion, the case was submitted to a different arbitrator for expedited arbitration, under rules agreed upon by the FOP and the Department, and the second arbitrator's recommended punishment became binding. Thus, in cases where the FOP chose expedited arbitration, the officer would not serve any punishment ordered until either the parties accepted the first arbitrator's recommendation or the second arbitrator reached a binding determination. Under the new contracts, by contrast, the summary opinion process has been revised to result in a binding determination, and is available as an option for the disposition of cases involving suspensions of up to 30 days. Further, an expedited (and binding) arbitration

procedure is available for grievances challenging a recommended suspension greater than 11 days.

#### **F. Appeals to the Chicago Police Board**

The Chicago Police Board is an independent body made up of nine private citizens, appointed by the Mayor with the City Council's consent. In addition to resolving disciplinary disputes between the police superintendent and IPRA's chief administrator, the Police Board also serves as an avenue of appeal and review of cases involving serious police misconduct; considers applications, conducts interviews, and submits to the Mayor a list of three candidates for the superintendent's position when that position is vacant; and adopts the rules and regulations governing the Department.

If the superintendent wishes to discharge an officer or suspend her for more than one year, the superintendent must file charges against the officer with the Police Board, and the officer is automatically entitled to a Board hearing. An officer who has been suspended for a period of 31 days to one year is not automatically entitled to a hearing, but she may request one. The superintendent must then file charges with the Board, and the same hearing process follows.

A Police Board hearing is similar to a trial. After the superintendent files charges, the case is assigned to a hearing officer, who sets an initial status date. Generally, the officer obtains an attorney, and the City's Law Department represents the superintendent. Both parties engage in discovery and otherwise prepare for an adversarial evidentiary hearing. A hearing officer presides over the hearing much like a judge and traditional legal rules of evidence apply. The superintendent has the burden of proving the charges against the accused officer by a preponderance of the evidence, and the officer is innocent until proven guilty. The hearing is open to the public, a court reporter transcribes the proceedings, and witness testimony is

videotaped. The transcript and the videotaped testimony are then sent to the Police Board members for their review.

Meeting in executive session (i.e., closed to all but Board members and staff), the Board first determines if the accused officer is guilty. If the Board finds the officer guilty, the Board determines the appropriate penalty by examining the officer's complimentary and disciplinary history. The Board then issues a written decision, notifies the officer and the superintendent, and publishes the decision on the Board's website. The time from start to finish for Police Board review can be lengthy; for example, the Police Board takes an average of six months to review a separation case.

Officers suspended for between six and 30 days may also request Police Board review. While this review is not as involved as a Police Board hearing, it still requires Board participation. The accused officer submits a written statement and any supporting documents to the Board; a hearing officer prepares a written report based on the accused's statement, the BIA or IPRA file, and any rebuttal from the superintendent or IPRA's chief administrator; and the Board receives the hearing officer's written report, as well as an oral report, at the Board's monthly meeting. Based on this information, the Board decides whether to sustain some or all of the allegations and, if necessary, determines the penalty. In determining a penalty, the Board cannot exceed – but may reduce – the penalty approved by the superintendent. The Board then issues a written decision, which it sends to both the officer and the superintendent.

If either the accused officer or the superintendent disagrees with the decision of the Police Board, she may appeal by filing a petition for administrative review in the Circuit Court of Cook County. Pursuant to the Administrative Review Law, the circuit court's decision is appealable as of right to the Illinois Appellate Court and then, through a successful petition for

leave to appeal, to the Illinois Supreme Court. Alternately, the accused officer may challenge the decision of the Police Board through the grievance procedure.

### **III. RECOMMENDATIONS**

A police department's disciplinary system must encourage good conduct by police officers. The process for investigating and resolving complaints alleging police misconduct should align with this objective. CPD's current disciplinary system is evolving and much progress has been made on this front. Work remains to be done, however, and our analysis identified the following areas for improvement:

- The consequences of misconduct should be made more certain.
- Discipline should be designed to discourage future misconduct.
- The time from complaint to resolution should be as short as possible, without sacrificing thorough investigation.
- Supervisors should be held accountable for the actions of their subordinates.
- Officers' conduct should be tracked and monitored.

With these goals in mind, and the present disciplinary system as the backdrop, we reached two sets of recommendations. The first set – implementing discipline guidelines and complaint-based training and improving the supervisory framework – is designed to prevent misconduct. The second set focuses on addressing misconduct when it does occur by making the disciplinary process more uniform, timely, transparent, and efficient. This involves, among other improvements, adjusting the jurisdictions of the three entities that deal with complaints about police misconduct – CPD (including BIA), IPRA, and the Police Board – and streamlining their processes.

#### **A. Prevent and Discourage Misconduct Before It Happens**

Here, we propose changes to prevent misconduct from occurring in the first place.

## **1. Adopt Discipline Guidelines**

Currently, the Department does not use formalized discipline guidelines. Instead, decision makers within CPD and IPRA rely on historical precedent or a sense of what seems just under the circumstances to decide how much, and what type of, discipline to impose in individual cases. Historical precedent is not always accurately applied, however, and different actors may have different views about what justice requires in a given circumstance. As a result, there is a perception among Department members that discipline for similar infractions varies from district to district and from shift to shift. This perception is aggravated by what many view as a lack of transparency in the process by which discipline is imposed.

Because there is a common belief that similarly situated police officers who engage in misconduct are not uniformly disciplined, both officers and the public lack confidence in the disciplinary system, and that system, in turn, is vulnerable to charges of discrimination and favoritism. To address these problems, we recommend that the Department and IPRA develop and implement formal discipline guidelines similar to the Federal Sentencing Guidelines. Specifically, we recommend that the Department and IPRA adopt discipline guidelines with a matrix specifying a range of possible penalties, and available aggravating and mitigating factors, for each type of misconduct. Through these guidelines, the Department and IPRA will bring consistency and transparency to the disciplinary process and, in addition, reduce the time and effort required to impose discipline in individual cases.

The advantages of consistency and transparency must be balanced against the benefits of case-specific discipline, however. Accordingly, we recommend that the Department and IPRA have the ability to consider aggravating and mitigating factors when assessing, from within a range of penalties, the appropriate amount and type of discipline. Those factors might include: (1) the officer's motivation (evidence that the officer acted for personal gain, in anger, or with

prejudice might favor an enhanced penalty, for example, while evidence that the officer acted to protect the public interest might favor a lesser penalty); (2) whether the officer engaged in knowing misconduct or committed an unintentional error; (3) the amount of harm, actual or threatened, the officer's misconduct caused; and (4) the officer's prior disciplinary record. As long as the penalty ranges are relatively narrow, the Department and IPRA will gain the benefits of certainty and uniformity while maintaining the flexibility to impose discipline that fits the individual characteristics of each offense and offender.

Allegations of police cover-up should be an exception to this approach, however. This is one area in which the benefits of certainty are so pronounced that there should be little room for flexibility. Accordingly, we recommend that any officer found to have deliberately concealed or failed to disclose information about a fellow officer's non-ministerial acts of misconduct be dismissed. By putting police on notice that any officer who intentionally deceives investigators, or who deliberately withholds information from them, to cover up for a fellow officer runs the risk of sacrificing his job, we believe that officers will be incentivized to be forthcoming during misconduct investigations, rather than hide behind an actual or perceived "code of silence."

To be sure, developing, refining, and gaining approval for discipline guidelines with penalty ranges that are narrow enough to promote consistency but broad enough to account for case-specific factors will be a labor-intensive endeavor. And implementing guidelines will falter without the buy-in of all stakeholders. But the Department has made progress on this front, having already implemented a "schedule of penalties" for matters handled at the district level through summary punishment. In addition, since our review began, both BIA and IPRA have begun (and, in IPRA's case, completed) drafting discipline guidelines for matters within their respective jurisdictions. We recommend that these guidelines be reviewed and implemented.

Other municipalities, including Denver, Vancouver, and Tucson, as well as Baltimore County and the State of Washington, have successfully adopted guidelines for disciplining police misconduct that would provide useful benchmarks for Chicago.

Adopting discipline guidelines will have the additional benefit of providing a means to give the police superintendent a more meaningful role in determining discipline in cases investigated by IPRA. At present, for violations that are within IPRA's jurisdiction, IPRA's chief administrator provides an initial discipline recommendation to the superintendent. If the superintendent disagrees with the chief administrator's recommendation, and the superintendent and the chief administrator cannot agree on a different level of discipline, the matter goes to the Police Board, where the superintendent has the burden of overcoming the chief administrator's recommendation. Historically, the Police Board has more often than not sided with the chief administrator.

This division of authority is controversial. On the one hand, the superintendent, as the head of the police force, is accountable for how officers conduct themselves. A system – like the current one – that deprives the superintendent of final authority over discipline undermines her ability to implement reforms, effectuate constructive change, and lead the Department effectively. On the other hand, however, IPRA was established to address the widely perceived need for an independent, civilian body to both investigate allegations of police misconduct and provide an opinion regarding the appropriate discipline in individual cases.

In lieu of the current system, we propose that in cases where IPRA sustains a complaint in a matter within its jurisdiction, IPRA should have authority to make a recommendation to the superintendent regarding the applicable guideline level and the presence of aggravating or mitigating factors. If the superintendent agrees with IPRA's recommended guideline, she would

have authority to select a punishment within that guideline's penalty range. If the superintendent and IPRA do not agree, the matter will go to the Police Board for resolution. We believe this approach will strike an appropriate balance between preserving the superintendent's ability to effectively manage the police force and maintaining IPRA's critical role as an independent arbiter of complaints about police misconduct. Indeed, under our recommended approach, IPRA will remain unique in its ability to recommend discipline; although other municipalities, including New York City, have conferred authority to investigate and make findings about alleged misconduct on civilian boards analogous to IPRA, the decision about what discipline to impose in individual cases rests entirely with the police superintendent in these municipalities.

Not only would our recommendations preserve IPRA's independent role while protecting the superintendent's authority, but our proposal also would create significant efficiencies. Under the current division of authority, the back-and-forth between the superintendent and IPRA, and the referral of all disagreements to the Police Board, often prolongs the time between complaint and discipline. By contrast, we would make intervention by the Police Board an option only in cases where the superintendent and IPRA's chief administrator cannot agree on the applicable guideline level. By limiting the number of matters referred to the Police Board, the time from complaint to discipline should be shortened in many cases.

## **2. Implement Education-Based Discipline**

A disciplinary system should be designed to encourage proper conduct. Punishing misconduct does not always accomplish this goal. For example, some infractions occur because the officer lacks the tools to deal with a situation or an understanding about how to select appropriate options when faced with difficult circumstances. In these situations, the traditional punishments of reprimand or suspension run the risk of making the offending officer bitter without helping her to perform her responsibilities more effectively. In other words, punishment

merely relays the message that the officer's choice was wrong. Education-based discipline (EBD) goes further: it teaches the officer to make better decisions in the future. To be sure, certain violations (such as covering up a fellow officer's misconduct) are so egregious that education is not an appropriate option, and certain officers, such as repeat offenders, are not candidates for EBD. However, for other offenses and offenders, education can be the most productive response to police misconduct because it directly addresses the infraction's root cause. In addition, because EBD is imposed pursuant to a voluntary agreement between the officer and the employer, EBD provides an opportunity to streamline disciplinary proceedings, conserve investigatory resources, and reduce the time between complaint and discipline.

At present, education and training are not disciplinary options within the Department. Accordingly, we recommend that the Department adopt a program of complaint-based training. Chicago would not be a trailblazer in this regard. Beginning in 2008, the Los Angeles County Sheriff's Department (LASD) instituted a EBD program, and other cities have followed suit, adopting EBD programs tailored to their specific needs. Today, the Las Vegas, Nevada Metropolitan Police Department; the Newport News, Virginia Police Department; the Sacramento, California Police Department; and the Seattle, Washington Police Department all use EBD to address police misconduct in appropriate circumstances.

Chicago could learn from the experience of these municipalities when designing and implementing a EBD program, and the LASD has offered to serve in an advisory capacity. Although any EBD program Chicago adopts should be tailored to the Department's specific needs, there are several basic principles we believe will work well in Chicago. Specifically, education should be offered as an alternative to punishment to any officer accused of misconduct punishable by suspension of five days or less, unless the alleged offense is a repeat violation of

an offense for which the officer has already elected to receive EBD or an offense deemed unavailable for EBD.<sup>5</sup> The accused officer would be offered the education option at the time she is informed of the complaint against her. When accepting EBD as an alternative to traditional punishment, the officer would be required to admit the alleged misconduct, waive her right to file a grievance or appeal, and participate in appropriate training. The officer's commanding officer would select appropriate training from a recommended set of classes available at the police training academy or an outside entity, and/or alternate training such as community engagement.

The challenge in implementing a EBD program would be to ensure that the Department has the necessary classes available and the resources to deliver them. We believe the Department is well-positioned on this front. The Department's Education and Training Division offers many classes comparable to those taught in the LASD program. For example, the Education and Training Division also currently offers classes focusing on problem solving and self-management, skill enhancement, boundary recognition, substance misuse and abuse awareness, and character reinforcement – all critical components of an effective EBD program.

### **3. Improve Supervisory Accountability and Effectiveness**

Effective supervision is one of the most important means of monitoring and improving officer conduct. Supervision is critical not only for detecting misconduct after it occurs but also for preventing misconduct before it happens. One of the observations that came out of our conversations with current and former police officers and command staff, however, is that discovering and addressing misconduct is too often viewed as the responsibility of IPRA and BIA, and not of the offending officer's immediate supervisor and chain of command. This is

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<sup>5</sup> EBD is not available in the LASD program for the offenses of excessive force, domestic abuse, sexual harassment, and relations with subordinates.

perhaps not surprising given the past emphasis on independent investigations of misconduct and the elaborate process that has developed over the years for addressing disciplinary issues. In our view, however, this attitude is misguided and must be changed. Immediate supervisors and the chain of command should be the primary means of monitoring officer conduct and addressing misconduct, thereby collectively ensuring that subordinate officers perform at their best and most professional. This means, among other things, that supervisors should be held accountable for the conduct of the officers under their command. We have several suggestions for enhancing supervisory accountability and efficacy.

**a. Implement a Patrol Squad System**

We recommend using a “patrol squad system” pursuant to which each patrol sergeant is responsible for developing and monitoring a designated group of officers. The patrol squad system gives sergeants the opportunity to get to know, to coach and mentor, and to monitor the officers in their squad, and the officers gain the benefits of consistency in supervision. Equally important, a patrol squad system creates a single point of accountability, the officer’s patrol sergeant, who is ultimately responsible for the conduct of each officer under her command.

In the current “rotational system,” by contrast, each CPD officer may have multiple patrol sergeants as supervisors, limiting the sergeants’ ability to develop the officers under their command and creating inconsistencies in management styles and expectations. Equally problematic, there is no single point of accountability. Because no one sergeant is responsible for monitoring a given officer, it is much more difficult to hold a supervisor accountable if that officer engages in misconduct.

We acknowledge that moving the Department from a rotational system to a patrol squad system may require changes to the sergeant-officer ratio and may add complexity to scheduling. However, we believe the benefits associated with moving to a patrol squad system –

management consistency and a single point of accountability – outweigh any detriments. The Department began piloting a patrol squad system in three districts at the beginning of 2014, and we encourage the Department to continue this initiative.

**b. Improve the Field Training Officer Program**

After completing classroom training at the Academy, each new CPD officer serves a probationary period during which she is paired with a series of Field Training Officers (FTOs) for three 28-day rotations through one district. In this way, new officers gain exposure to each of the three time shifts within a district. The FTOs monitor the new officers and prepare daily performance reports for the officers under their charge, evaluating them on driving, reporting, communication skills, and demeanor. Ideally, FTOs are assigned to new officers on a one-to-one ratio.

The FTO program thus provides new officers with their first exposure to full-time police work, and FTOs are vital to training new officers. Our interviews with current and former police officers confirmed how instrumental FTOs are in translating what recruits learn at the Academy to how they conduct themselves as officers. If FTOs undermine rather than reinforce the behavior and values taught at the Academy and send the message through their words and actions that the way things are “actually” done in the “real world” differs from what they learned at the Academy, then those “real world” behaviors and values may be the ones that probationary officers embrace for the remainder of their careers.

However, the FTO position historically has been understaffed, there has been no FTO training since 2007, and FTOs are not formally evaluated on their performance as FTOs. Moreover, although FTOs receive a slightly higher salary than others at the rank of police officer, being an FTO is not looked upon as a part of the path to promotion. Given the

importance of the FTO program to the success of new officers and, in turn, to the Department's success, we recommend a number of changes to improve the program.

First, we support the Department's decision to grow the pool of FTOs – which was significantly increased in 2013 to address that year's influx of 1,000 recruits – to 150 officers. This will ensure an effective FTO-to-trainee ratio. Moreover, we recommend that the Department maintain its FTO pool at a level of 150 going forward to accommodate any future increases in new recruits.

Second, to incent officers to apply to become FTOs, we recommend that the Department make prior service as an FTO a requirement, or at least a factor to be considered, in determining whether a police officer is promoted to sergeant. Not only will this encourage qualified officers to seek out the FTO position, it also will help to improve the pool of candidates for sergeant.

Third, we recommend that police officers be selected for promotion to FTO based on a combination of interviews, recommendations, merit, and test scores rather than through the current practice of relying exclusively on test scores. In particular, we recommend that district supervisors be consulted when determining whether an officer under their command will be promoted to FTO. This will strengthen the FTO selection process.

Fourth, we recommend that FTO training be improved, both by updating the FTO training materials and by instituting regular training. As noted, the Department has not conducted FTO training since 2007. "Training the trainers" should pay dividends to the fledgling officers under the tutelage of these FTOs.

Finally, we recommend that the Department create a process for evaluating the FTOs' performance as FTOs. At present, sergeants regularly evaluate the officers under their command, yet performance as an FTO is not a subject for evaluation. The Department should

identify criteria, including any patterns in performance of charges, for sergeants to use when assessing FTOs. We believe that this change, which can be accomplished within the current evaluation system, will help to ensure that FTOs diligently fulfill their duties and thus improve the FTO program.

**c. Improve the Hiring, Training, and Promotion of Supervisors**

We have several recommendations for improving the efficacy of CPD supervisors, which we believe will, in turn, enhance the supervisors' ability to monitor and prevent misconduct.

First, we recommend that the Department institute a sergeant mentorship program similar to, but more informal than, the FTO program. Currently, newly promoted sergeants receive training at the Academy but no formal "on-the-job" training. Our interviews with current and former sergeants suggest that this is an area ripe for improvement. One of the most challenging transitions in any police career is from officer to sergeant, because new sergeants are required for the first time to supervise and monitor other officers. With only classroom training to prepare them for these important duties, the Department members we interviewed commented that they felt "thrown to the wolves" on first assuming their role as sergeant, and that they would have benefitted from mentorship by one of their more experienced counterparts.

Any sergeant mentorship program need not be overly formal or lengthy. Instead, we recommend instituting a requirement that each new sergeant shadow a senior sergeant—selected for this role by the district commander – for one month. This would provide an opportunity for new sergeants to observe their more senior counterpart as they perform the tasks for which sergeants are responsible, including initiating and imposing SPARs, participating in BIA investigations, and managing prisoner intake. The promotion from officer to sergeant requires significant adjustment by the new sergeant to her new role and responsibilities, and a sergeant

mentorship program could help new sergeants assume these responsibilities more quickly and effectively.

Second, we recommend increasing the number of sergeants and lieutenants within the Department. Maintaining a healthy ratio of supervisors to subordinates is critical to ensuring proper supervision. Yet CPD's current ratio of sergeants to police officers and lieutenants to sergeants is low, particularly when compared to other large police departments across the country. For example, Chicago has approximately 9.2 police officers per sergeant, as compared to Los Angeles (6.0 officers per sergeant), New York (4.9 officers per sergeant), Houston (4.4 officers per sergeant), and San Francisco (4.7 officers per sergeant). Of the cities benchmarked, only Philadelphia, with 14.0 officers per sergeant, has more officers per sergeant than Chicago. The disparity between Chicago's lieutenant-sergeant ratio and that ratio in other cities is similar. In most major cities, including Philadelphia, the ratio of sergeants to lieutenants is approximately 4:1; in Chicago it is 10:1. Worse still, these numbers do not tell the whole story: because many of the Department's supervisors are stationed at CPD headquarters, there is a greater disparity in the number of supervisors per officer that are assigned to the patrol bureau than there is across the Department as a whole, leading to an even greater burden on these patrol supervisors.

We recommend decreasing the officer-sergeant and sergeant-lieutenant ratios. Particularly at the officer-sergeant level, maintaining a healthy ratio of supervisors to subordinates is critical to ensuring proper supervision of each officer. The Department has in place a Performance Evaluation and Performance Recognition System (PRS/PES), and each supervisor is expected to regularly use this system to evaluate their direct reports, record discipline, and recognize good performance. The resulting officer histories are useful when making transfer, promotion, and discipline decisions. But the PRS/PES system is under-utilized

and does not fulfill its desired purpose, in part because frontline supervisors lack time to use it. Similarly, while the SPAR process – through which supervisors in an officer’s chain of command administer summary discipline for infractions too minor to warrant elevation to BIA or IPRA – is a useful tool for supervisors to monitor their subordinates’ conduct, using the SPAR process itself is labor intensive and time consuming. Because mentoring and coaching police officers, not to mention identifying and remedying misconduct, requires a substantial amount of supervisory time and effort, we recommend that there be no more than ten police officers per sergeant on every watch at each district.

Third, to ensure an adequate number of candidates for sergeant and lieutenant, we recommend that the Department administer promotional tests more regularly. At present, promotions to sergeant and lieutenant are being made from the results of a test administered in 2006 (although a more recent sergeant exam was administered, in two parts, in late 2013 and early 2014). We recommend that the Department administer promotional exams every four years. In addition, although test scores are important, and critical to ensuring transparency and confidence in the promotional process, taken alone, they are not the most reliable indicator of supervisory ability. Accordingly, when making promotional decisions, the Department should consider other objective criteria for identifying management skills, such as service as an FTO (for officers seeking promotion to sergeant) and service in a sergeant mentoring program or within BIA (for sergeants seeking promotion to lieutenant). So long as the Department relies on stated, objective criteria, it will maintain the transparency that is essential to avoid charges of favoritism.

Finally, we recommend that the Department improve supervisor training by offering courses in leadership to all sergeants, lieutenants, and captains on a regular basis. The

Department's Education and Training Division has made substantial strides on this front, having already developed and implemented several leadership courses. During our review, more than 1100 FTOs and supervisors received the Department-developed "True North" leadership course. This course teaches concepts necessary to successful leadership, including the need to know one's authentic self, to empower others to lead, and to establish trusting relationships. And, to ensure a sustainable and ongoing leadership program, the Department recently developed a second course that supplements the lessons learned in the True North course. We recommend that leadership courses be made available to all supervisory personnel. In addition, we recommend that the Department offer a course in "Progressive Coaching" to all police supervisors. In this course, which other major urban police departments have used to great effect, police supervisors engage in role playing to learn how to effectively manage and mentor subordinate officers through coaching, counseling, and disciplining. By offering Progressive Coaching and other leadership classes to all supervisors, the Department will improve the supervisors' engagement with their subordinates and help them to manage and lead more effectively.

**d. Evaluate Supervisors Based on Their Subordinates' Performance**

As explained above, the Department has a PRS/PES system in place, and the Department expects supervisors to routinely evaluate the performance of their subordinates. Currently, however, supervisors are not evaluated based on the performance of the officers who report to them, in part due to the lack of patrol squad structure. To bolster accountability, this should change. If there is evidence that a supervisor is robustly monitoring and appropriately disciplining subordinates, this should be recorded and considered when making promotion decisions. Likewise, where there is evidence of inadequate supervision (such as a pattern of

subordinate misconduct that the supervisor fails to identify or address), this should be documented and evaluated as well. The end goal here is to strive for rigorous but fair supervision of subordinates and to reward those supervisors who achieve this goal.

**e. Increase and Formalize District Command Review Meetings**

Our interviews with current and former police personnel demonstrated the importance of regular meetings between a district's senior officers and the frontline supervisors under their command. The individuals we interviewed observed that when frontline supervisors lack regular access to district command staff to discuss subordinate officer conduct and other issues, the districts tend to be reactionary rather than proactive in their approach to solving problems. Currently, however, there is no Department-wide requirement that each district's command staff meet with the frontline supervisors on a regular basis, which increases the risk that higher-level supervisors in a district are not informed of percolating issues (including possible misconduct) early on, when there is the greatest opportunity to address these issues.

Accordingly, we recommend that the Department formalize the district command review meeting schedule. First, the Department should encourage ad hoc meetings between district station supervisors (DSSs), or other members of district leadership, and the sergeants on their given shifts to discuss officer conduct and other patrol issues that may need to be escalated to the district commander or executive officer.<sup>6</sup> This will encourage frontline supervisors to bring any alleged officer misconduct to the immediate attention of the district's command staff, and, in turn, will give these senior officers an opportunity, in cases where the alleged misconduct is serious, to immediately meet with the accused officer's direct supervisor, thereby providing yet

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<sup>6</sup> The role of the district station supervisor was established in January 2012 at the same time that the Department discontinued the roles of district watch commander, district manager, and desk sergeant. DSSs are responsible for managing in-station operations, including personnel and material resources, and directing the work of watch supervisors, consistent with plans and strategies established by the district commander. DSSs are accountable for enforcing all laws and ordinances and the conduct and appearance of all on-duty subordinate personnel.

another means of encouraging robust supervision by holding supervisors accountable for the misconduct of their subordinates. In each district, there may be several DSSs who rotate in and out of the roll. Because there may be a different DSS from one day to the next, the Department should make clear that the onus falls (1) on each DSS to escalate issues brought to her attention and (2) across DSSs to jointly ensure that these meetings occur as needed but not so often as to be burdensome.

Second, the district commander and/or executive officer should meet monthly with DSSs and all sergeants under their supervision to discuss current issues, priorities, and management expectations. Third, the district commander and executive officer should meet quarterly with DSSs to establish goals, targets, and plans to achieve accountability in the district. These latter two meetings, especially, will help to align the goals and priorities of the Department's command staff and the frontline supervisors.

**4. Utilize Regular Training to Refresh and Recommit Officers on Procedural Justice, and Check for Warning Signs of Officer Misconduct**

In 2012, CPD's Education and Training Division introduced a Procedural Justice & Police Legitimacy course with the goal of providing it to all in-service officers by 2013. Policing based on procedural justice rests on the assumption that people form assessments of police legitimacy based on how officers exercise their authority, and, in particular, that when police are objective and respectful, they gain the trust of the citizenry. More than 9500 CPD personnel have been trained in Procedural Justice, and the Department is close to finalizing a second-phase course that builds on the principles of Procedural Justice and incorporates scenario-based components. While these are meaningful steps, continued training should reduce misconduct by reinforcing lessons learned. To this end, we recommend that the Department develop and implement a mandatory seven-hour refresher class and require that officers take it

every two years. The class should cover topics including, but not limited to, the Fourth Amendment, use of force, vehicle pursuits, discipline, and current hot topics. Moreover, because at present no one is responsible for ensuring compliance with required in-service training, we recommend that the Department's Audit Division be tasked with ensuring such compliance.

In addition, because a negative credit check can serve as an early warning sign of possible misconduct, the Department should perform a credit check on Department members assigned to the Organized Crime Division (OCD) every two years. Currently, Department members undergo a credit check before entering the OCD, so our recommendation would merely require that the Department expand on an initiative already in place. Finally, because we learned from members of the public that complainants about and witnesses to alleged instances of police misconduct can find it difficult to identify officers from dated photographs, we recommend that the Department require officers to update their photographs in the CPD system every five years.

#### **5. Explore the Feasibility and Effects of Equipping Officers with Body-worn Cameras**

Real-time recordings of incidents of alleged police misconduct may provide invaluable information to investigators. One means of acquiring such evidence is through the use of body-worn cameras. They are lightweight, water resistant, rugged, and typically capture video in full color. Their small size does not restrict an officer's range of movement. A 2014 report by the United States Department of Justice's Office of Community Oriented Policing Services (COPS Office) and the Police Executive Research Forum (PERF) described both the benefits of these devices and the challenges associated with them. This report, entitled "Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned," provides a good summary of recommended best practices and should be considered prior to adopting and implementing a body-worn camera program.

Among the benefits associated with body-worn cameras is the possibility of deterring police misconduct. The results of a recent field experiment in Rialto, California suggest that equipping officers with a body camera may reduce incidents of misconduct. The presence of a camera during a police-citizen encounter may also modulate the behavior of citizens and reduce the number of use-of-force complaints. In addition, use of cameras may allow complaints about police misconduct to be resolved more quickly, by providing clear and readily available evidence of what occurred. Cameras also are a means to preserve witness statements and other evidence that is not otherwise available to police officers focused on securing the scene or assisting victims, and thus they may assist with investigations. Finally, body-worn cameras provide a means for police supervisors to identify problem behavior, and for trainers to provide situational illustrations to modify and mold officer conduct.

While body-worn cameras have many potential benefits, they are not a fail-safe means of either discouraging misconduct or providing irrefutable evidence when misconduct is alleged. Body-worn cameras raise a number of challenges that must be considered and addressed before they are made a regular part of policing.

First, implementing a body-worn camera program presents financial challenges. Equipping all patrol and other officers who interact with the public face to face with body-worn cameras is a costly endeavor. Cameras and infrastructure to store data will have to be purchased, and space for collecting and maintaining video recordings at both headquarters and the districts will have to be designated. Moreover, given the consistently evolving technology and large outlay of expenses required, a long-term sustainment program should be developed.

Second, body-worn cameras present operational challenges. A number of questions will need to be answered about when the cameras should be used and what should be recorded. For

example, the Department will need to decide whether officers should turn the camera on at all times or only during service calls, and whether officers will have discretion to turn the camera off in circumstances where a victim or informant is hesitant to be recorded. The Department will also need to decide how it will store the data collected and for how long. We recommend that, unless a recording is needed as evidence, the data collected be destroyed after between 60 and 90 days.

Finally, there are legal challenges associated with body-worn cameras. Although the public may embrace body-worn cameras as a means of identifying and deterring police misconduct, use of these cameras raises a number of legal issues related to privacy and public disclosure laws. For examples, questions about who will have access to the data collected, and whether it must be disclosed pursuant to requests under the Illinois Freedom of Information Act, will have to be answered. In addition, implementation of any body-worn camera program will need to comply with Illinois laws addressing the consent required prior to recording another person.

In principle, we support the use of body-worn cameras. Like in-car cameras, they provide an additional source of data and, as discussed, they are a potential means of identifying and deterring police misconduct, as well as false allegations of misconduct. Given the financial, operational, and legal challenges body-worn cameras raise, however, we believe that CPD should pilot their use and otherwise carefully study their feasibility and effects before implementing them Department-wide.

**B. Improve the Disciplinary System to Make it More Certain, Timely, Transparent, and Efficient**

We next suggest improvements to the processes in place for addressing misconduct after it occurs. Because the discipline guidelines we describe above to discourage misconduct before

it happens also provide a means of making the disciplinary system more transparent and uniform, we reiterate that recommendation here. In addition, we provide the following recommendations, which we have organized by entity.

**1. Across Entities**

Several of our recommendations are directed at more than one of the entities within the disciplinary system. These recommendations include: (1) establishing an 18-month deadline for CPD (including BIA) investigations to be completed, with limited exceptions, and setting benchmarks for IPRA to complete its investigations within 24 months by 2016; (2) streamlining the appeals and grievance process; and (3) implementing a single case management system for use by IPRA, BIA, and the districts, and automating the review of findings and recommended punishments within this universal system.

**a. Establish Deadlines for Completing Investigations**

Historically, a subset of cases investigated by IPRA and the Department has dragged on for years. We acknowledge that there may be many reasons for this, including a lack of resources and complexity of investigations. Nevertheless, as explained in greater detail below, we believe that with process changes and additional resources, investigations can be completed in a more timely manner. Accordingly, we propose that investigations conducted by CPD, either by BIA or at the district level, be completed within eighteen months of the filing of the complaint, with narrow exceptions. Through more timely administration of discipline, CPD should be able to more effectively deter future misconduct and, in addition, will demonstrate to complainants and the broader community that the Department takes police misconduct seriously. Timely administration of discipline also will benefit accused officers, by allowing them to move forward with their lives and careers without the shadow of an open investigation hanging over them.

CPD already has made important strides on this front. The recently-negotiated collective bargaining agreements between the City and the bargaining units for CPD sergeants, captains, and lieutenants require for the first time that all disciplinary investigations (whether conducted by CPD or IPRA) be concluded within eighteen months of initiation, unless the Department can demonstrate to the arbitrator selected to resolve the merits of any grievance from the disciplinary decision that there was a reasonable basis for the investigation to take longer. The arbitrator may find a reasonable basis if, for example, (1) the accused Department member or a critical witness was unavailable, (2) the delay was attributable to the accused member or her attorney, (3) the matter under investigation is unusually complex, (4) new claims or new evidence arose in the course of the investigation that required investigation, and (5) there is or was a pending a criminal or civil investigation involving the matter under investigation. We recommend that the Department extend this requirement to all investigations conducted by CPD, whether by BIA or the districts. Approximately 90% of all complaints are lodged against police officers (rather than police supervisors), and BIA and the districts investigate more than 60% of all complaints. Accordingly, our recommendation should ensure timely resolution of the majority of complaints.

IPRA is subject to different constraints than CPD, however, and thus we would not extend the eighteen-month requirement to IPRA investigations. Some of IPRA's delay in closing cases is attributable to the backlog IPRA inherited when it was established in 2007. IPRA has made substantial strides toward reducing that backlog – in 2012, IPRA's backlog shrank for the first time, with more cases closed than opened, and in 2013 IPRA closed nearly 600 more cases than it opened, to bring its caseload to a 6-year low of approximately 1,300 at the start of 2014 – but work still remains to be done. In addition, complaints investigated by IPRA are different from complaints investigated by CPD: IPRA investigates some of the most serious

forms of police misconduct, meaning that its investigations often are more complex and time-consuming than CPD investigations, and, moreover, IPRA investigations tend to rely more on external witnesses, who can be difficult to locate or unwilling to cooperate, at least at the outset. Our recommended process improvements and additional resources should help IPRA further reduce its backlog and accelerate the timeframe for resolving cases, but we would not want IPRA to sacrifice thoroughness for speed, or for any officer who engaged in misconduct to evade discipline because IPRA was unable to complete its investigation in time.

In recognition of the unique constraints under which IPRA operates, we recommend that IPRA aspire to meet certain benchmarks over time, with a long-term goal of resolving all new complaints within 24 months. Currently, IPRA completes approximately 60% of its investigations within one year, and approximately 80% within 24 months. We recommend that IPRA seek, by the end of 2015, to complete 90% of its investigations within 18 months and 95% within 24 months. IPRA's further goal should be to complete 90% of its investigations within 12 months and all investigations within 24 months by the end of 2016.

**b. Simplify the Grievance and Appeal Process**

Officers traditionally have been provided with myriad opportunities to challenge a finding of misconduct and a recommendation regarding discipline. For example, if it was recommended that an officer be suspended for fifteen days or less, the officer could challenge the discipline through the Discipline Screening Program, pursuant to which the Department and the FOP (and IPRA, in cases investigated by IPRA) attempt to agree on a recommended punishment, which the officer may reject, appeal to the superintendent, and grieve or seek Police Board "paper" review. If a 16-30 day suspension was recommended, the officer could challenge the discipline through an appeal to the superintendent, followed by a Police Board paper review and

grievance, with appeal rights in state court. Any grievance could give rise to both mediation and arbitration. Suspensions of more than 30 days and discharges received a full Police Board hearing.<sup>7</sup>

As a result of the length of the appeals and grievance processes, and the many entities involved, uncertainty has surrounded the administration of discipline. In some cases, by the time that discipline was finally administered, the misconduct occurred so long ago that the discipline's efficacy may have been undermined.

The changes achieved pursuant to the recently negotiated collectively bargaining agreements should go a long way toward reducing the delay between a recommendation for and the implementation of discipline. The Discipline Screening Process and non-binding summary opinion process have been eliminated, and expedited arbitration is available for grievances challenging a recommended suspension of greater than 11 days. Perhaps most important, officers no longer may pursue more than one method of review: once they select a method for challenging the recommended discipline, that election becomes the exclusive review mechanism.

Going forward, in cases where IPRA or BIA recommends suspension of ten days or less, the officer may either accept the recommended penalty or challenge the recommendation through a streamlined, binding summary opinion process. If the recommended suspension is between 11 and 30 days, the officer has three options: she may (1) accept the penalty, (2) use the binding summary opinion process, or (3) file a grievance. (Only if the FOP declines to advance the grievance to arbitration may the officer elect Police Board review.) If IPRA or BIA recommends suspension between 31 and 365 days, the officer again has three options: (1) accept the penalty, (2) file a grievance, or (3) seek Police Board review. Again, unlike in the past, the method

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<sup>7</sup> We provide a more complete description of the accused officer's options for further review in Part IV of the Appendix, and a chart of those options as Exhibit C.

selected becomes the exclusive review mechanism, eliminating the multiple options for challenging a disciplinary recommendation in a single case.

We applaud these changes, which should help to ensure that when misconduct is identified, discipline is promptly and effectively administered. We would go one step further and, in non-separation cases, eliminate or, to the extent not possible because of union and administrative due process constraints, streamline Police Board review. We also recommend that both IPRA and BIA should place additional emphasis on mediation (plea bargaining) to resolve cases quickly and fairly. Here, again, recent contract negotiations produced favorable results: the prior agreement limited the use of mediation to the period prior to the accused officer giving a statement, but the new agreement includes no such limitation. Finally, we recommend offering education-based-discipline (EBD) in certain cases, and requiring officers who accept EBD to waive their rights to appeal and to file a grievance

**c. Implement a Single Off-the-Shelf Case Management System for Use by BIA, IPRA, and the Districts**

Currently, BIA, IPRA, and the districts each use a different and, in the case of BIA and the districts, out-of-date case management system to log and track complaints and investigations. Thus, cases investigated by BIA and IPRA are tracked in the CLEAR system from intake until an investigator is assigned. At that point, however, BIA switches to the CRMS system to document the cases BIA investigates. The districts document their investigations using a paper-based system, and then rely on BIA to enter that information into the CLEAR and CRMS systems. This use of distinct systems not only is inefficient, but it also makes it difficult to track and monitor the conduct of individual officers. To address these deficiencies, we recommend purchasing an off-the-shelf case management system for use by BIA, IPRA, and the districts.

To enhance its effectiveness, any case management system purchased should include certain elements. First, it should showcase information in a dashboard format to provide management the ability to identify issues and track trends. Second, the system should have the ability to track the progress of cases, including by issuing reminders when milestones are due to be met. This should extend through command channel review. For example, by providing a reminder that the ten-day limit for command channel review of disciplinary findings and recommended punishments is about to expire, the case management system will help ensure these reviews are completed in a timely manner. Third, the system should provide ready access to each officer's performance evaluations and disciplinary history. This will involve integrating the case management system with the PRS/PES system CPD supervisors use to evaluate their subordinates' performance. At the same time, the PRS/PES system should be updated to make it more user-friendly, including by allowing supervisors to enter feedback about officers outside their unit. Fourth, the system should include a process for electronically submitting SPARs. At present, SPARs are filed both digitally and on paper, which is redundant and wasteful. Using a single system will free up supervisors' time and make it easier to keep track of an officer's prior SPARs. Finally, the case management system should provide a platform to enable the exchange of communication in a consistent manner and provide appropriate access to necessary information.

Through a single, integrated case management system, the Department and IPRA will increase coordination among disciplinary bodies, reduce unnecessary paperwork, and eliminate a shortcoming of the current system – the inability to track an officer's conduct throughout her career. To ensure that any case management system purchased is utilized to its greatest effect,

moreover, we recommend that the Department and IPRA provide sufficient training on how to use the system.

## **2. Independent Police Review Authority**

Since 2007, some of the most serious allegations of police misconduct, including excessive force allegations, have been investigated by a civilian agency that operates independently from CPD. It was clear from our conversations with community leaders, however, that IPRA's independence from CPD is not widely known and, in addition, that IPRA's procedures are difficult to understand. Moreover, at its inception, IPRA inherited a large number of cases, which – on top of its new cases – has mired IPRA's investigators in a backlog that has taken years to resolve. As a result, our recommendations for IPRA center around making it more transparent, accessible, and credible to both police officers and individuals impacted by police misconduct, and to making IPRA's investigations more efficient, thus reducing the time between complaint and discipline. To accomplish these goals, we also recommend that IPRA's jurisdiction be adjusted to reduce its caseload and, in addition, that IPRA's resources be increased.

### **a. Increase IPRA's Visibility in the Community**

As the independent investigator of some of the most serious forms of police misconduct, IPRA should be accessible to residents and trusted by them to swiftly and fairly investigate misconduct. Even during our review, IPRA has taken a number of steps to increase its credibility with and accessibility to the community. IPRA created a permanent Community Advisory Board to provide counsel going forward; established a satellite office on Chicago's West Side to make IPRA's investigators more accessible to residents and make clear that residents do not need to go to a police station or interact with CPD personnel to file a complaint; improved its investigators' communications with

complainants about the status of their complaint; began hosting community meetings to explain how police misconduct is investigated; and revised its informational brochures to include a “Frequently Asked Questions” document that explains IPRA and its procedures in plain English. In addition, in a landmark reversal of past practice, the City announced that it will make internal investigation files into alleged police misconduct open to public scrutiny. These initiatives should raise public awareness about IPRA’s existence, independence, and services, and we urge that they be continued.

**b. IPRA Should No Longer Be Required to Investigate Claims in All Civil Litigation Settled by the City**

At present, IPRA conducts an investigation into the conduct underlying civil complaints alleging police misconduct any time that the City settles a case without a trial. This is a drain on IPRA’s resources: IPRA officials stated that lawsuit review occupies the investigative time of between one and two investigators each year. To reduce this demand on IPRA’s resources while making sure that no matter involving substantial allegations of police misconduct goes uninvestigated, we recommend that IPRA limit its lawsuit review to cases where either the chairman of the City Council’s Committee on Finance requests that IPRA conduct an investigation or IPRA’s chief administrator decides further investigation is warranted. This should free up investigators to focus on investigating complaints.

**c. Change IPRA’s Processes to Reduce the Length of Investigations**

All parties to the disciplinary system agree that it is optimal to have the shortest time possible between the incident and the conclusion of the disciplinary process. Although IPRA has made great strides toward reducing the backlog that it inherited when it was established (in the last eighteen months, for example, IPRA reduced its backlog by 51%), we have several recommendations that should further increase IPRA’s efficiency.

**(i) Enable IPRA to Close More Cases, No-Affidavit Cases Especially, More Quickly and to Take Action Against Complainants Who File False Complaints**

Our interviews showed that IPRA investigators and their counterparts at BIA expend substantial resources seeking affidavits from complainants, often without successfully securing a signed affidavit. In 2012, for example, IPRA and BIA closed more than 40% of all cases because they were not able to obtain an affidavit. We propose that IPRA and BIA adopt a standardized, 30-day process to obtain affidavits. This process is designed to ensure both that all complainants have ample opportunity to provide the affidavit that Illinois law requires, and that IPRA and BIA are able to act efficiently to close cases where no affidavit can be obtained.

At present, if the complainant files the complaint in person, intake personnel will attempt to obtain an affidavit that same day, if the complainant is willing. We recommend IPRA continue attempting to obtain an affidavit on the same day. If the complainant submits her complaint by telephone, intake personnel should explain the affidavit requirement and schedule an interview within the next few days to obtain the affidavit. If by day five no affidavit has been obtained, the investigator should call the complainant to set up a time to obtain the affidavit. If by day ten there still is no affidavit, the investigator should visit the complainant in person to obtain the affidavit. On day twenty, a certified letter should be sent to the complainant informing her that the investigation will be terminated if the affidavit is not obtained by day 30. On day 30, a final phone call should be placed to the complainant and the file closed if no affidavit has been obtained. If there are special circumstances that preclude the signing of an affidavit within 30 days, the investigator should be able to request an extension of time from his supervisor. Finally, the BIA's chief and IPRA's chief administrator, as appropriate, may decide that the investigation should proceed even in the absence of an affidavit if there is independent objective evidence that substantiates the allegation. Thus, our proposal should free investigators to work on live

complaints rather than chasing complainants who are not interested in pursuing the investigation or swearing to the claims set forth in the complaint but at the same time ensure that meritorious complaints are investigated.

Second, intake personnel should continue the practice of educating potential complainants about allegations that do not rise to the level of a rule violation. By making available approved educational documents to provide guidance to complainants and instructing intake personnel to err on the side of caution, any appearance of unfavorable treatment of complainants should be avoided.

Third, we recommend that in at least some cases, IPRA refer complainants who submit a false affidavit to the State's Attorney's Office for prosecution. Our interviews established that, in some instances, complainants knowingly make false allegations, for example, to discourage an officer witness from testifying in a criminal case. These false complaints are not only a burden on the accused officer; investigating them is a waste of IPRA's resources. Given the State's Attorney's existing caseload, she is unlikely to prosecute all false complainants. Thus, we recommend that only certain false complainants – those who file either multiple false complaints or a single, particularly egregious, false complaint – be referred to the State's Attorney and face consequences for their actions.

**(ii) Make IPRA's Intake Procedures and Investigations More Efficient**

Next, we recommend a number of changes to streamline IPRA's intake and investigation processes, and thus enable IPRA to more rapidly close cases. Based on our interviews with IPRA personnel, we observed two flaws in the current system: IPRA lacks a formal plan for investigators to prioritize their cases according to the severity and complexity of the allegations, and investigators sometimes engage in inefficient multitasking to balance the competing

demands of their heavy caseloads. To address these deficiencies, we recommend that IPRA adopt a tiered framework for cases within its jurisdiction, that IPRA supervisors use this framework to make case assignments according to the complexity of each case, and that supervisors then work with the assigned investigator to develop a step-by-step investigative plan with periodic deadlines for each case.

**d. Increase IPRA's Resources**

Compared to the civilian police disciplinary boards in other cities, IPRA's investigators carry high caseloads. We have two recommendations for reducing those caseloads and allowing investigators to work more efficiently.

First, IPRA should hire a second mediation attorney. In recent years, IPRA's use of mediation (or plea bargaining) to close cases quickly and fairly has increased exponentially: IPRA successfully mediated two cases in 2010, 15 in 2011, 61 in 2012, and 128 in 2013. Hiring an additional mediation attorney would allow IPRA to mediate more cases, and thus help IPRA to reduce its backlog by closing cases more quickly. To further encourage mediation, the accused officer should be allowed to enter into mediation both before and after the officer's interview. We understand that IPRA is currently in the process of hiring an additional mediation attorney, and we support this initiative.

Second, we applaud IPRA's efforts to increase its pool of investigators. At present, IPRA's budget allows for 54 investigators and 12 supervisors. During our review, IPRA converted five intake aid positions into investigator positions, raising its headcount to 59 investigators. Based on historic caseloads, these five additional investigators should be able to increase IPRA's case closure rate by approximately 200 cases per year.

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In short, through steps to reduce IPRA's caseload, streamline its intake procedures and investigations, and increase resources, IPRA will be able to reduce the time from complaint to resolution. We estimate that our recommended process improvements will increase IPRA's annual closure rate by between 140 and 320 cases, and adding five investigators will increase the closure rate by approximately 200 cases.

### **3. Chicago Police Department and the Bureau of Internal Affairs**

The challenge of extended case duration is not unique to IPRA. The time it takes for the Department and BIA, specifically, to bring a complaint to resolution is also far longer than it might be. We have a number of suggestions – in addition to the cross-entity recommendation we make above – for making BIA's disciplinary process more efficient, including by empowering BIA to transfer more complaints to district supervisors for resolution through the SPAR process, by extending the discipline available through the SPAR process from a maximum of three days' suspension to five days, and by increasing BIA's sergeant/lieutenant headcount. We also suggest that BIA increase its transparency by issuing an annual report similar to the quarterly report IPRA now issues.

#### **a. Empower BIA to Transfer More Cases to the Districts**

BIA currently handles a large number of operational and personnel violations that would be more appropriately resolved at the district level by the accused officer's direct supervisor. Transferring these cases from BIA to the districts would also be more efficient, because BIA brings the average case from complaint to resolution in 215 days, while in the districts a SPAR is assessed and summary punishment administered in only 142 days, on average.

BIA has proposed, and is in the process of, transferring a larger number of its cases to the districts, and we concur in BIA's recommendation that it be authorized to transfer the following

categories of violations: (1) minor on-duty operational and personnel violations; (2) non-bribery traffic violations; (3) violations of procedures pertaining to prisoners' property; and (4) weapon irregularities (not including weapons discharges). Not only are these violations often more appropriately handled by an accused officer's immediate supervisor, but expanding the districts' SPAR authority would allow BIA to focus on more serious matters by reducing the number of cases BIA handles by approximately 15% (or approximately 650 cases annually).<sup>8</sup> In recognition of the districts' expanded authority, the collective bargaining agreements should be renegotiated to allow the imposition of up to five (rather than three) days of suspension as summary punishment. However, BIA should continue to investigate violations that can result in one- to five-day suspensions but are more serious than the above infractions, such as complaints about searches and search warrants.

**b. Add to BIA's Resources**

Like IPRA, BIA would obtain significant benefits by augmenting its resources. First, BIA's headcount decreased between 2009, when it had 116 employees, and 2012, when it had 79 employees. In 2013, BIA requested that it be allowed to increase its headcount to 120, primarily by hiring more sergeants to conduct investigations, and this request was largely honored. Today, BIA's assigned headcount is 102, and includes 17 more sergeant investigators than in 2013. We support this change, and recommend that the Department continue to increase the number of BIA investigators. Not only will hiring more investigators enable BIA to complete investigations more quickly, but the use of sergeants as investigators will enable BIA to move police officers away from investigating their fellow officers. BIA should continue to use police officers in

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<sup>8</sup> A significant majority of the cases transferred would involve minor on-duty operational and personnel violations. Between 2008 and 2012 (that is, before BIA began transferring more cases to the districts), there were on average each year 541 operational and personnel violations, 47 non-bribery traffic violations, 45 prisoner property violations, and 18 weapons irregularities that we believe qualify for transfer to the districts.

support roles to efficiently handle its caseload, including to follow up with the districts regarding ongoing investigations.

Second, BIA historically has struggled to recruit officers and sergeants into its ranks because some Department members view assignment to BIA as career limiting or they do not desire to investigate fellow Department employees. To reduce the stigma associated with BIA, would-be detectives should be required to rotate through BIA, and CPD should create incentives for high-performing officers to work in BIA.

**c. Increase BIA's Transparency**

Each quarter, IPRA prepares and makes available to the public a report detailing the numbers of complaints opened, closed, and pending; whether the closed complaints were sustained; the number of complaints referred to other agencies and the identity of those agencies; and the number of complaints filed in each district and against each individual officer in each district (without identifying the officers). We recommend that BIA prepare and release a similar report, perhaps on an annual (or even a quarterly) basis. By releasing this information, BIA would increase transparency, and also would put Department members on notice regarding the number and types of cases that are investigated and disciplined, which we believe will improve officer conduct.

**4. Police Board**

To streamline the appeals process, we recommend that the jurisdiction of the Police Board be adjusted to limit its reviewing authority to cases involving the most serious allegations of police misconduct. The Police Board should continue to provide full hearings and decisions in separation cases, but the Board should not be an avenue of appeal for officers to contest their suspensions. Instead, as explained above, a single binding track of appeals within the Department should provide the only means for officers to contest discipline. We also

recommend lengthening the time frame for admitting evidence of an officer's prior misconduct from five to ten years, following the Federal Rules of Evidence. The current limitation interferes with the Department's ability to bring a comprehensive case to the Police Board.

In addition, consistent with our recommendation that the Department adopt discipline guidelines, we recommend that the Board continue to act as arbiter between the superintendent and IPRA's chief administrator when they disagree on discipline. However, the Board would become involved in these disagreements only in cases where the superintendent and the general administrator disagree on the applicable guideline level.

#### **IV. CONCLUSION**

Complaints about misconduct by Chicago police officers are investigated, and discipline is administered, through a complex system comprised of a number of different entities and actors governed by myriad constraints. Based on our comprehensive and independent review, we have presented recommendations that we believe will both help prevent misconduct before it happens and improve the system for addressing the misconduct that does occur.

## APPENDIX

### OVERVIEW OF THE PRESENT DISCIPLINARY SYSTEM

The disciplinary system as it existed during the course of our review provided the context for our recommendations. As explained in our report, however, the system is not static: even during the course of our study, improvements were made that we would have recommended. The following thus provides a description of the disciplinary system as it existed during the time in which we prepared our recommendations.

#### I. INTRODUCTION

The Chicago Police Department's disciplinary system involves three entities, each created at a different time and for a different purpose: the Department itself, including the Bureau of Internal Affairs (BIA); the Independent Police Review Authority (IPRA); and the Police Board. State statute and municipal ordinances define the authority of IPRA and the Police Board. The collective bargaining agreements between the City and Department members also dictate how allegations of misconduct are investigated and discipline is imposed.

Each year, there are on average 9,000 complaints logged against CPD members.<sup>9</sup> IPRA investigates approximately 30% of these complaints, while BIA investigates approximately 40% and transfers the remaining 30% to the accused member's district for investigation and

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<sup>9</sup> A "Log Number" is assigned to every incident involving a Department member that is reported to the Department and subject to investigation. When a Log Number is converted, it is classified as a "Complaint Register" (CR) number. If a CR number investigation results in a sustained finding, that finding will be reported in the Department member's disciplinary history. Log Number investigations also may subsequently be classified as an "EO" (an extraordinary incident, e.g., a death in custody, a suicide in custody, or an attempted suicide in custody); an "Info" (an incident that has not been converted into a Compliant Register number due to the reporting party's failure to assigned a sworn affidavit); a "Notification" (an incident where a sworn Department member discharges a firearm at a person and the person is not injured or killed; a weapon discharge incident involving the destruction of an animal; an Oleoresin Capsicum discharge; the field deployment of a Taser; the use of a chemical-dispensing, smoke-dispensing, or distraction device; or another miscellaneous incident); or a "U" (an incident wherein a sworn Department member discharges a firearm and another person is injured or killed, or wherein a sworn Department member suffers a self-inflicted gunshot wound).

disposition. See Exhibit A. As of 2012 (the most recent year for which data was available at the time of our analysis), IPRA takes on average 328 days to resolve a complaint, BIA averages 215 days, and the districts average 142 days. See Exhibit A. In part, these times reflect the relative complexity of the complaints handled by each entity: the districts generally handle routine operational and administrative matters; IPRA handles use of force investigations, which by their nature tend to involve external parties; and BIA focuses primarily on corruption, misconduct, and severe operational issues. Each entity uses different systems to log and track complaints and investigations: IPRA uses the Citizen Law Enforcement Analysis and Reporting (CLEAR) system, BIA uses the CLEAR system and CRMS, and the districts use a combination of automated and paper-based systems.<sup>10</sup>

## **II. THE INDEPENDENT POLICE REVIEW AUTHORITY**

In 2007, then-Mayor Richard M. Daley and the Chicago City Council created IPRA in response to concerns about how the Department was investigating allegations of police misconduct. IPRA replaced the Office of Professional Standards (OPS) and operates independently from the Department. IPRA serves two core functions: (1) IPRA receives and registers all complaints of misconduct against Department members and assigns them to the proper entity (IPRA itself, BIA, or the districts) for investigation and disposition, and (2) IPRA investigates specific categories of complaints and recommends discipline in those cases. IPRA's chief administrator serves as its chief executive officer and is appointed by the mayor, subject to City Council approval.

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<sup>10</sup> Because IPRA was established in 2007, it is unsurprising that it uses a different tracking system than the other entities. As explained in the report, however, the absence of a universal tracking system prevents easy access to an officer's complete disciplinary history.

On receiving a complaint about misconduct by a Department member (whether lodged by a member of the public, the City of Chicago's Law Department, or by someone within CPD), IPRA gives the complaint Complaint Register number and logs it into the CLEAR system.<sup>11</sup> IPRA then decides whether to investigate the complaint itself or, if the complaint does not fall within IPRA's jurisdiction, to transfer the complaint to the Department for investigation. Pursuant to its enabling ordinance, IPRA must investigate all complaints in the following categories: (1) domestic violence, excessive force, coercion, or verbal abuse directed at a person based on that person's actual or perceived race, color, sex, religion, national origin, sexual orientation, or gender identity; (2) discharge of an officer's firearm, stun gun, or Taser in a manner that potentially could strike an individual; and (3) death or injury sustained by a person while in police custody or where an extraordinary or unusual occurrence occurs in a lockup facility.<sup>12</sup> IPRA forwards nearly all other complaints to CPD, where they are investigated either by BIA or at the district level. When a complaint alleges multiple categories of allegations, IPRA retains the entire complaint if one allegation is within its jurisdiction.

When IPRA was established, it inherited more than 1,000 open cases from OPS, its predecessor organization. In addition, IPRA opens between 2,500 and 3,200 new cases each year. From its inception, therefore, IPRA was saddled with a backlog of cases, and it lacked sufficient tools and resources to address both existing cases and new complaints. Since 2011, however, IPRA has taken a number of steps to make its investigations proceed more efficiently,

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<sup>11</sup> Our mandate was limited to – and our recommendations center on – improving the disciplinary process after complaints are received. We observe, however, that the process for receiving complaints could be improved as well. IPRA's existence is not widely known among the public. As a result, many members of the public believe that complaints must be filed at the police department, and at least some are likely to be reluctant to go to a police station to complain about police misconduct. Thus, as discussed in the report, IPRA should consider publicizing IPRA's existence and its role as the recipient of all complaints.

<sup>12</sup> IPRA has interpreted this provision to require IPRA to investigate any discharge of a weapon, including a Taser, whether or not the discharge could strike an individual.

including training staff, replacing obsolete infrastructure, and mediating cases, and IPRA has successfully reduced both the time it takes to complete an investigation as well as its backlog of existing cases. Notably, in 2012, IPRA's backlog shrank for the first time, with more cases closed than opened. See Exhibit B. More profoundly, in 2013 IPRA closed nearly 600 more cases than it opened to bring its caseload to a six-year low of approximately 1,300 open cases at the start of 2014. See Exhibit B.

Under state law, IPRA is required in most cases to obtain a sworn affidavit from the complainant averring that the complaint is true. State law does not require an affidavit where the complainant is employed by CPD or IPRA, or the complaint involves allegations of criminal conduct, a violation of CPD's medical policy, or a violation of the City's residency requirement. Even absent an affidavit, moreover, an investigation may go forward without one if both BIA's chief and the IPRA's chief administrator agree that the evidence presented warrants additional investigation, and either the chief or the chief administrator as appropriate completes a sworn affidavit to that effect. Based on data analyzed, IPRA and BIA close between 40% and 60% of their investigations because they cannot obtain an affidavit. Both entities, and IPRA in particular, spend considerable time and resources trying to obtain affidavits from complainants.

IPRA's enabling ordinance provides that if IPRA does not complete an investigation within six months, IPRA's chief administrator must notify the Mayor's Office, the City Council's Committee on Police and Fire, the complainant, and the accused officer of the nature of the complaint and the reasons for IPRA's failure to complete the investigation within six months. Similarly, for CPD-led investigations, if the investigation takes longer than 30 days, the assigned investigator must submit a progress report and seek approval for an extension of time from his commanding officer.

If IPRA sustains a complaint, its chief administrator may recommend discipline to the police superintendent. If he does, the superintendent has 90 days to respond or the discipline is deemed accepted. The superintendent is free to impose more severe discipline than the chief administrator recommends; however, if the superintendent wants to impose a lesser level of discipline (or no discipline at all), she must explain in her response letter why she diminished or rejected the chief administrator's recommendation. The superintendent and the chief administrator must meet within ten days of IPRA's receipt of the response letter to discuss the superintendent's reasons for imposing a different level of discipline (or no discipline at all) and to seek agreement on the proper level of discipline. If the superintendent and chief administrator cannot agree, the chief administrator refers the matter to the Police Board, where the superintendent has the burden of overcoming the chief administrator's recommendation. The Police Board then assembles a three-person panel to review the case and decide whether the superintendent is justified in departing from the chief administrator's original recommendation.

At the conclusion of each IPRA investigation, the assigned investigator prepares a summary report that includes the number assigned to the investigation; the name of all officers involved; the officers' injuries (if any); the name of all private individuals involved and their injuries (if any); a description (e.g., shots fired) and summary of the incident, including its date, time, and location; the details of the investigation; and the investigator's findings and conclusion. Under the Illinois Freedom of Information Act, IPRA's summary reports for closed investigations are available to the public, although certain information in the reports (such as personal and private information) may be withheld. In addition, each quarter, IPRA prepares a report for the Mayor's Office, the City Council's Committee on Police and Fire, the Office of the City Clerk, and the Legislative Reference Bureau detailing the numbers of complaints opened,

closed, and pending; whether the closed complaints were sustained; the number of complaints referred to other agencies and the identity of those agencies; and the number of complaints filed in each district and against each individual officer in each district (without identifying the officers). IPRA's quarterly reports are also published on its website and otherwise made available to the public.

### **III. THE CHICAGO POLICE DEPARTMENT**

IPRA transfers alleged incidents that are not within its legislative jurisdiction to CPD's Bureau of Internal Affairs. BIA, in turn, investigates complaints involving allegations of misconduct that carry more serious consequences for the accused officer, the Department, or the public. BIA transfers complaints involving less serious allegations (such as minor operational issues) to the accused officer's unit supervisor or to a district commander for investigation.

Each incident logged by IPRA and referred to BIA has already been assigned a Log Number. Some incidents are brought to CPD's attention other than by IPRA, such as DUIs and drug or substance abuse allegations. BIA gives these allegations a Log Number at the outset, but will assign a Complaint Register number if BIA subsequently concludes that a full disciplinary investigation is warranted.

#### **A. Investigation by BIA**

In cases where BIA decides to investigate rather than transfer the complaint, BIA supervisors first assign an investigator to the case. The investigator, in turn, must: contact the complainant and any witnesses to obtain their statements; question CPD members other than the accused who may have knowledge of the alleged misconduct; and obtain any additional material evidence, such as police and medical reports, videotapes, audiotapes, and forensic evidence. (At present, BIA does not have subpoena power.) The investigator also will question the accused officer in cases where the complainant has provided a sworn affidavit (or an exception to the

sworn affidavit requirement applies, including because BIA's chief and IPRA's chief administrator have agreed to an affidavit override). Investigations must be completed as soon as possible, and if an investigation will take longer than 30 days, the investigator must submit a progress report to her commanding officer and seek an extension of time.

After completing the investigation, the investigator will issue a finding of "sustained," "not sustained," "unfounded," or "exonerated." A finding of "sustained" means the complaint was supported by sufficient evidence to justify disciplinary action. "Not sustained" means the evidence was insufficient to either prove or disprove the complaint. "Unfounded" means the facts revealed by the investigation do not support the complaint (e.g., the complained-of conduct did not occur). And "exonerated" means the complained-of conduct occurred but the accused officer's actions were proper under the circumstances.

On determining that a complaint is unfounded, exonerated, or not sustained, the investigator must prepare a final investigation report called a summary report digest. If the investigator sustains one or more allegations of misconduct, the investigator will obtain the officer's complimentary history and disciplinary history. The investigator's supervisor then considers this information and makes a recommendation regarding discipline. Under the applicable collective bargaining agreements, however, the supervisor cannot recommend additional training. In all cases—unfounded, exonerated, not sustained, and sustained—the investigator must submit the final investigation report to her commanding officer, or the commanding officer's designee, who will review the investigation and submit it to command channel review.

## **B. Command Channel Review**

Following BIA's or IPRA's issuance of findings and recommendation of discipline, a command channel review occurs. First, the top-level exempt command staff member in the

accused officer's chain of command (e.g., a unit commander) reviews the final investigation report for its adequacy and timeliness, the soundness of the investigator's findings and conclusions, and the appropriateness of any disciplinary recommendation. This first command staff member may then reject the report and order further investigation, disapprove the findings and/or recommendation, or approve the findings and recommendation. In addition, if the investigator issues a sustained finding, and the command channel reviewer determines that this finding indicates culpability on the part of supervisory personnel for the violation that gave rise to the initial investigation, the command channel reviewer must initiate a separate investigation of the supervisory personnel by obtaining a separate Log Number.

Upon completion of command channel review by the first exempt command staff member, the final investigation report is reviewed by a second, higher-ranked exempt command staff member in the accused officer's chain of command (e.g., a deputy chief). If the report involves any finding other than a sustained finding, and the two command staff members concur, the report does not go through an additional level of review, unless it involves one of the special circumstances discussed below. The report is then returned to BIA or IPRA as appropriate. BIA's assistant deputy superintendent or IPRA's chief administrator reviews the report, and approves the finding. Then, the first deputy superintendent or chief administrator notifies the officer of the finding.

Even when the two command staff members concur, if the report involves a sustained finding, the report must be reviewed further and submitted up the chain of command to the bureau deputy superintendent. Upon review of the report by the bureau deputy superintendent, the report is submitted to IPRA or BIA as appropriate. After considering any comments of the command channel reviewers, IPRA's chief administrator or BIA's assistant deputy

superintendent may approve or disapprove the finding and increase or decrease the recommended discipline. The chief administrator or assistant deputy superintendent notifies the officer of the finding and recommended discipline.

If, however, the second command staff member does not agree with the first command staff member's determination, a third review will be done. BIA will identify a third exempt command staff member to review the report.

Finally, CPD's bureau deputy superintendent reviews all final investigation reports where: (1) a second-level command channel review exempt member is not available in the accused member's chain of command; (2) suspension of 16 or more days is recommended; (3) the complaint asserts that the accused member engaged in criminal conduct; (4) the complaint includes an allegation that was, or could have been, made to the Equal Employment Opportunity officer; (5) the accused is an exempt member; (6) the accused is assigned to a unit under the Office of the Superintendent; or (7) the investigation is resubmitted through command channel review after an initial non-concurrence.

### **C. Investigation at the District Level**

BIA transfers less serious complaints to the districts for resolution within the accused officer's chain of command. There are 34 categories of these transgressions, ranging from violating medical roll procedure to tardiness in reporting for duty. Available punishments range from verbal notification to a three-day suspension (but cannot include training). After conducting the investigation, the designated supervisor initiates summary punishment by preparing a summary punishment action request (SPAR) explaining the incident, the accused officer's record, and the recommended penalty. These reports are maintained digitally and on paper. The supervisor also must satisfy the requirements of any applicable collective bargaining agreement, including by providing the accused officer with a copy of all investigatory reports

and statements concerning the investigation. The accused officer then must choose between accepting the recommended penalty or rejecting it and requesting a summary punishment action/penalty appeal hearing, or, in some cases, filing a grievance. (The grievance process is described in Appendix IV.B.) If the accused officer wishes an appeal hearing, she must make her request before the end of her next tour of duty or within 96 hours, whichever is shorter.

If the accused officer accepts the recommended punishment, her unit commander must review the SPAR and, if she approves the SPAR, submit it into the automated SPAR system. If the accused officer rejects the recommended punishment and requests a summary punishment action/penalty appeal hearing, that hearing will be conducted by the unit commander who will review all relevant facts with the accused and render a decision – including an explanation of her reasons for accepting or altering the initial recommendation – before the end of the hearing. If the accused is still dissatisfied, she may appeal the secondary finding by requesting a second hearing, again by the end of her next tour of duty or within 96 hours, whichever is shorter. If she requests another hearing, a higher-ranking staff member in the accused’s chain of command will conduct the hearing. If the accused requests a further hearing, the SPAR is forwarded directly to BIA, where the report will be reviewed and an appropriate command staff member will be designated to conduct a third hearing. That there are three levels of potential appeal for these administrative decisions speaks volumes about the status quo.

#### **IV. APPEALING AND GRIEVING DISCIPLINARY DECISIONS**

After IPRA or BIA recommends punishment, the accused officer has a range of options depending on the duration of the recommended punishment. Although the police bargaining agreements were recently amended to limit and streamline the options for challenging a disciplinary recommendation, traditionally these options have afforded officers an opportunity to significantly delay or prevent implementation of punishment. In 2012 (the most recent year for

which data was available at the time of our analysis), the average case took 1,029 days, or almost three years, to reach a final disposition following the filing of a grievance. Below, we describe the opportunities for challenging a disciplinary recommendation that used to be available, as well as the changes realized through recent contract negotiations.

**A. Appeals Available Based on Duration of Punishment**

According to the Department's special order governing summary punishment, officers may challenge summary punishments; specifically, after summary punishment has been administered three times within a twelve-month period, an officer who wishes to contest the application of summary punishment on a fourth occasion within the last twelve months may contest the fourth and any succeeding application of summary punishment by a challenge through the Complaint Register process or grievance procedure. The recently negotiated collective bargaining agreements do not change this process.

In cases where BIA or IPRA recommends a suspension of 15 days or less, the officer could, under the prior collective bargaining agreements, appeal that recommendation through the Discipline Screening Program (DSP). In DSP appeals, the Department and the Fraternal Order of Police (FOP) would meet and attempt to agree on a punishment. In IPRA cases, an IPRA representative also attended the meeting, and any agreement was subject to the approval of IPRA's chief administrator. If agreement was reached, and if the officer accepted the recommended punishment, the officer signed a waiver of her right to use the grievance procedure. The recommendation was then sent to BIA's assistant deputy superintendent to implement. If the Department and FOP failed to reach an agreement or agreed but the officer rejected their recommendation, the superintendent would resolve the disagreement. The superintendent could decrease, but not increase, the recommended punishment. If the officer disagreed with the superintendent's recommendation, the officer could grieve the

superintendent's decision. If the superintendent recommended a six- to fifteen-day suspension, the officer could ask the Police Board to review the superintendent's recommendation, as we explain in Appendix V.B.

In cases where BIA or IPRA recommends punishment between 15 and 30 days, the officer had four options. First, the officer could accept the recommended punishment, which was forwarded to the superintendent to impose. The superintendent, in turn, could increase or decrease the recommended punishment. If the superintendent increased the recommended punishment, the officer could appeal the punishment to the Police Board or through the grievance procedure. Second, the accused officer could appeal the recommended punishment to the superintendent by filing a written report and offering new or additional evidence. The superintendent then decided upon and imposed a punishment, and the officer, in turn, could grieve the superintendent's decision. Third, the officer could use the grievance procedure. Fourth, the officer could obtain Police Board review. If the officer disagreed with the punishment recommended by the Police Board, she could then also use the grievance procedure. In addition, if the officer chose the second, third, or fourth options and was dissatisfied with the result, the officer could then pursue additional, alternate methods of review.

The officer had the same four options in cases where BIA or IPRA recommended suspension between 31 and 365 days, although the grievance process and proceedings before the Police Board were somewhat different, as we explain in Appendix IV.B and Appendix V. Finally, the Police Board must review every case in which either discharge or suspension for more than one year is the recommended punishment.

As a result of the recent contract negotiations, the Discipline Screening Process and direct appeal to the Superintendent have been eliminated, and the other options for challenging a

disciplinary recommendation have been modified. Going forward, in cases where IPRA or BIA recommends suspension of ten days or less, the officer may either accept the recommended penalty or challenge the recommendation through a streamlined, binding summary opinion process. If the recommended suspension is between 11 and 30 days, the officer has three options: she may (1) accept the penalty, (2) use the binding summary opinion process, or (3) file a grievance. (Only if the FOP declines to advance the grievance to arbitration may the officer elect Police Board review.) If IPRA or BIA recommends suspension between 31 and 365 days, the officer again has three options: (1) accept the penalty, (2) file a grievance, or (3) seek Police Board review. Perhaps most important, officers no longer may pursue more than one method of review: once they select a method for challenging the recommended discipline, that election becomes the exclusive review mechanism.

#### **B. The Grievance Procedure**

Under both the prior and current collective bargaining agreements, the grievance procedure consists of four steps. First, the officer submits the grievance to her immediate supervisor within the shorter of seven working days or 35 calendar days of the events giving rise to the grievance. Second, the immediate supervisor forwards the grievance to the unit's commanding officer. The two then discuss the issue with the accused officer in an attempt to resolve the issue outside of the formal grievance process. If this process fails, or if the complaint is of a certain nature, such as one alleging discriminatory treatment based on gender, age, or race, the unit's commanding officer makes a recommendation regarding punishment and forwards the recommendation to the Department's Management and Labor Affairs Section (MLAS). Third, if either the accused officer or the FOP is dissatisfied with the commanding officer's recommendation, either the FOP on behalf of the officer or MLAS, or both may request that the case be mediated. If mediation is requested, the FOP and MLAS split the cost. Fourth, if

mediation is unsuccessful, either party may demand arbitration. There are two forms of arbitration: full and expedited. Under the full arbitration procedure, a neutral third party is chosen to resolve the dispute, and the arbitrator's decision is binding (meaning the officer serves any punishment ordered by the arbitrator immediately). A recommended punishment of 31 to 365 days is only eligible for full arbitration.

For cases involving suspensions of 30 days or less, the FOP may choose expedited (or fast-track) arbitration as an alternative to full arbitration. Under the prior bargaining agreements, cases submitted for expedited arbitration were first screened using the summary opinion process. The parties selected one arbitrator, who reviewed the relevant materials and recommended a punishment. The parties could agree to accept the summary opinion, but the summary opinion was not binding. If either party rejected the summary opinion, the case was submitted to a different arbitrator for expedited arbitration, under rules agreed upon by the FOP and the Department. The second arbitrator's recommended punishment became binding. Thus, in cases where the FOP chose expedited arbitration, the officer would not serve any punishment ordered until either both parties accepted the first arbitrator's recommendation or the second arbitrator reached a binding determination. Under the new contracts, by contrast, the non-binding summary opinion process has been revised to result in a binding determination, and is available as an option for the disposition of cases involving suspensions of up to 30 days. Further, an expedited (and binding) arbitration procedure is available for grievances challenging a recommended suspension greater than 11 days.

## **V. THE CHICAGO POLICE BOARD**

The Chicago Police Board is an independent body made up of nine private citizens, appointed by the Mayor with the City Council's consent. In addition to resolving disciplinary disputes between the police superintendent and IPRA's chief administrator, the Police Board also

serves as an avenue of appeal and review of cases involving serious police misconduct; considers applications, conducts interviews, and submits to the Mayor a list of three candidates for the superintendent's position when that position is vacant; and adopts the rules and regulations governing the Department.

**A. Discharge and Suspension for More Than 30 Days: the Hearing Process**

If the superintendent wishes to discharge a Department member or suspend him for more than one year, the superintendent must file charges against the officer with the Police Board and the member is automatically entitled to a Board hearing. A member who has been suspended for a period of 31 days to one year is not automatically entitled to a hearing, but she may request one. The superintendent must then file charges with the Board, and the same hearing process follows.

A Police Board hearing is similar to a trial. After the superintendent files charges, the case is assigned to a hearing officer, who sets an initial status date. Generally, the Department member obtains an attorney, and the City's Law Department represents the superintendent. Both parties engage in discovery and otherwise prepare for an adversarial evidentiary hearing. A hearing officer presides over the hearing much like a judge, and traditional legal rules of evidence apply. The superintendent has the burden of proving the charges against the accused officer by a preponderance of the evidence, and the officer is innocent until proven guilty. The hearing is open to the public, a court reporter transcribes the proceedings, and witness testimony is videotaped. The transcript and the videotaped testimony are then sent to the Police Board members for their review.

Meeting in executive session (closed to all but the Board members and staff), the Board first determines if the accused officer is guilty. If the Board finds the officer guilty, the Board determines the appropriate penalty by examining the officer's history, both complimentary and

disciplinary. The Board then issues a written decision, notifies the officer and the superintendent, and publishes the decision on the Board's website. The time from start to finish for Police Board review can be sizeable; for example, separation cases that the Police Board reviews take an average of six months.

#### **B. Suspensions of Between Six and 30 Days**

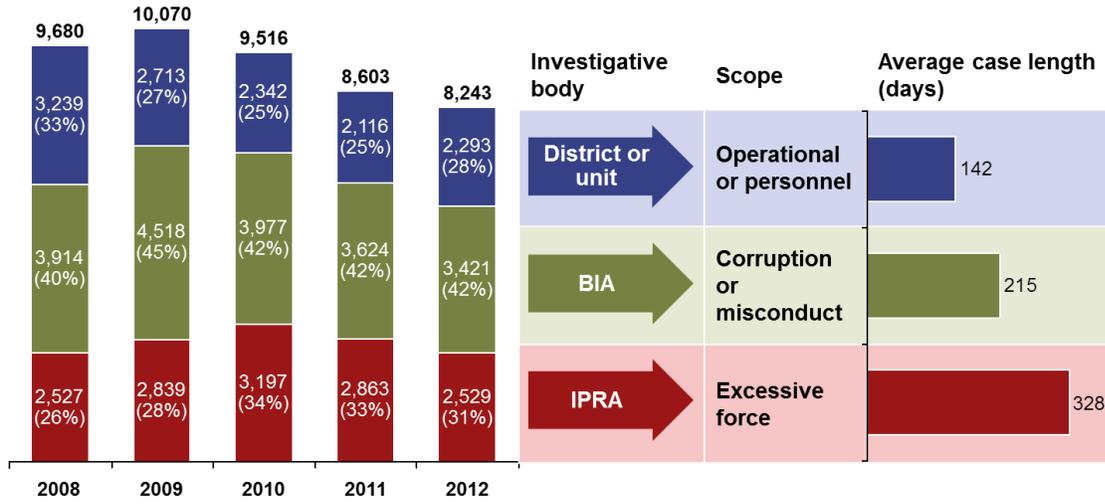
Department members suspended for a period of between six and 30 days may also request that the Police Board review their suspension. This review not as involved as a Police Board hearing, but it still requires Board participation. The accused officer submits a written statement and any supporting documents to the Board; a hearing officer prepares a written report based on the officer's statement, the Complaint Register investigation file, and any rebuttal from the superintendent or IPRA; and the Board receives the hearing officer's written report, as well as an oral report at the Board's monthly meeting. Based on this information, the Board decides whether to sustain some or all of the allegations and, if necessary, determines the penalty. In choosing a penalty, the Board cannot exceed – but may reduce – the penalty chosen by the superintendent. The Board then issues a written decision, which it sends to both the officer and the superintendent.

#### **C. Appealing Police Board Decisions**

If either an accused officer or the superintendent disagrees with a decision of the Police Board, she may appeal by filing a petition for administrative review in the Circuit Court of Cook County. Pursuant to the Administrative Review Law, the circuit court's decision is appealable to the Illinois Appellate Court and then, through a successful petition for leave to appeal, to the Illinois Supreme Court. As explained above, the accused officer can also grieve the decision of the Police Board.

## EXHIBIT A

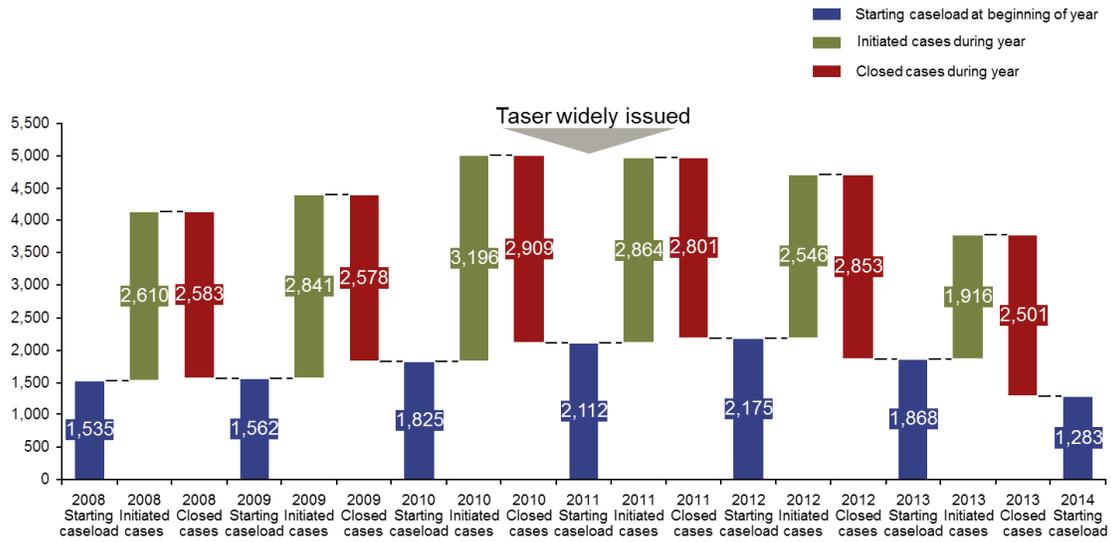
Exhibit A  
Cases by Investigative Body



Notes: BIA is Bureau of Internal Affairs. IPRA is Independent Police Review Authority. Percentages may not resolve due to rounding.  
Sources: BIA data—complaint intake, close data, A.T. Kearney analysis

## EXHIBIT B

Exhibit B  
IPRA Caseload 2008–2013



Sources: Independent Police Review Authority; A.T. Kearney analysis

## EXHIBIT C

### Exhibit C Current Appeal and Grievance Options

Recommended discipline	Discipline screening program	Superintendent review	Police Board		Grievance			County or state court review
			Paper review	Full hearing	Summary opinion	Settlement conference	Arbitration	
0- to 5-day suspension	X	X			X	X	X	X
6- to 15-day suspension	X	X	X		X	X	X	X
16- to 30-day suspension		X	X		X	X	X	X
31- to 365-day suspension		X		X			X	X
Separation		X		X				X

Sources: Chicago Police Department interviews, Fraternal Order of Police collective bargaining agreement, Police Board annual reports; A.T. Kearney analysis