

Transforming the CPD: Consent Decree Requirements

Prepared by *Campbell v. City of Chicago* Plaintiffs

The State of Illinois and City of Chicago released a proposed consent decree regarding the Chicago Police Department. The proposed decree is incomplete and lacks critical provisions in order to provide meaningful protections against police violence and bias. The final consent decree must include the following:

- 1. Ensure transparency, public accountability and provide community oversight of CPD.** The Consent Decree must explicitly provide the community with the opportunity to provide feedback on plans, analyses and reports related to CPD operations and all of these items must be made public. The Decree must also require the creation of a democratically elected civilian police oversight council. Further, CPD must be required to make public comprehensive data related to each police misconduct complaint, use of force, arrest, and other law enforcement activity implicated by the consent decree.
- 2. Eliminate unnecessary hostile police-community interactions by reducing low-level, pretextual, and discriminatory arrests and diverting persons from the criminal legal system.** Rather than funneling people into the criminal-legal system, CPD must require that officers receive supervisory authority prior to making minor (often pre-textual) arrests, and prohibit trolling (escalating incidents at the end of a shift). The Decree should also require CPD to engage in best efforts to create diversion partnerships, including restorative justice and community mediation. These efforts will help decrease racially discriminatory policing and reduce the number of minor incidents that escalate into uses of force.
- 3. Ensure that people harmed by CPD and their families receive support and information.** CPD must provide accurate information on the whereabouts of people injured as a result of police action, and CPD must immediately contact an injured person's next of kin and/or emergency contact. The City must provide police-violence survivors and their families with psychosocial supportive services independent from CPD.
- 4. Strengthen protections against unlawful use of force by mandating de-escalation; restricting foot pursuits, lethal force and the use of Tasers; and ensuring accountability.**
 - **Limit exceptions to mandatory de-escalation:** The decree authorizes officers to take action (or refrain from action) when "safe and feasible." This term should be defined to ensure that de-escalation is the rule and not the exception.
 - **Ensure that officers are not penalized for using de-escalation tactics:** Officers should not be penalized for taking sufficient time to resolve an incident without using force.
 - **Prohibit officers from escalating incidents:** Officers must be prohibited from using tactics that escalate an incident, including but not limited to taunting, humiliating or threatening individuals and using racial or gendered slurs.
 - **Prohibit the un-holstering of firearms unless lethal force may become necessary.** Officers must not un-holster and display a firearm unless there is an objectively reasonable belief that lethal force may become necessary.
 - **Require reporting every time an officer points a gun or Taser or observes a use of force:** CPD has to file a report each time an officer points a gun or Taser at a

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person and each CPD member who observes a use of force must file a separate report.

- **Require CPD to provide individuals in custody with access to a telephone within one hour of arrest to contact an attorney and/or family members.** While the proposed decree required CPD to post the phone numbers for free legal assistance, it is meaningless if CPD does not give individuals prompt access to phones to call an attorney. Attorney access is a critical remedy to prevent and address police abuse of persons in custody.
- **Ensure that officers who engage in patterns of police abuse are identified, investigated and terminated.**

5. **Impartial policing—meaningfully address the police violence and misconduct targeted at Black people, women, Latinx people and people with disabilities:** The proposed decree does not contain any data-driven efforts to identify and root out bias, or address gender- or disability-bias in policing. CPD should develop and implement, with input from the Monitor and the community, a comprehensive strategic plan to eliminate racial profiling and discriminatory policing, including an express prohibition on racial profiling. Community feedback must be incorporated as to all policies related to impartial policing.
6. **Gender:** COPA's jurisdiction must be expanded to encompass sexual assault, not just misconduct. CPD must protect people who are gender-non-conforming from harassment and transgender people from invasive searches, and CPD policy on sexual misconduct should be defined clearly and adhere to professionally-accepted standards. The Monitor—with community input—must conduct an assessment of CPD policy and practice to determine impact on women and girls.
7. **Disability:** Use of force training should include the importance of considering whether a subject may be noncompliant due to disability, a medical condition, behavioral health crisis, etc., and CPD must not assess dangerousness based on an individual's disability.
8. **Protect the rights of Children and Youth, including in Schools:** CPD should not station officers in schools. But to the extent that CPD officers continue to be assigned to schools, the decree must ensure that it addresses the school-to-prison pipeline, including by: mandated de-escalation tactics for school officers, prohibitions on using handcuffs and force in schools except in exigent circumstances, a prohibition on carrying firearms, a duty *not* to intervene in incidents on school grounds (absent a real and immediate threat), a prohibition on interviewing and interrogating youth on school grounds, and a prohibition on collecting law enforcement data on youth in schools. In addition, Taser use in schools should be prohibited except when deadly force would otherwise be necessary, and parents and guardians must be notified immediately if their children are arrested, on or off school grounds.
9. **Ensure that CPD hires officers who reflect Chicago's diversity and can police in a manner consistent with the requirements of the Decree.** Require that CPD recruit a

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diverse police force that, through extensive testing and evaluations, has demonstrated the ability to police in a way that is non-biased, where officers are capable of de-escalating encounters with community members and using diversion resources.

10. **Develop and implement officer performance metrics based on measures of non-biased and least intrusive policing, diversion and de-escalation.** Provide incentives to officers who refuse to use excessive force, and those who de-escalate and solve problems without resorting to arrest. Make promotions dependent on these variables.