



ROGER BALDWIN FOUNDATION
OF ACLU, INC.

Illinois

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July 15, 2022

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Christopher G. Wells
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Dear Counsel and Monitor Hickey:

We write on behalf of the Coalition to comment on the revised Chicago Police Department (“CPD”) General Orders G02-01 (Protection of Human Rights) and G02-04 (Prohibition Regarding Racial Profiling and Other Bias-Based Policing). These policies fail to provide Chicago’s communities with sufficient protection from biased and racist police practices. But before we can begin to comment on these inadequate policies, we must again raise a grave concern.

Contrary to the requirements of the Consent Decree (¶ 52), CPD developed these policies without meaningful engagement with community members and community organizations “with relevant knowledge and experience.” In particular, CPD failed to obtain sufficient input from the communities most affected by police violence and bias during the formative stages of policy development. The Coalition identified CPD’s community engagement failures in its January 17, 2022 letter and at the February 8, 2022 “Deliberative Dialogue,” and urged CPD to rescind the draft policies and launch a community engagement process similar to the one used for the Use of Force Policy Suite. Rather than following the Coalition’s recommendation or attempting *any* meaningful community engagement, CPD released the at-issue policies.

In preparing these policies, CPD has neither meaningfully sought nor incorporated input from impacted communities. CPD relied on a mere handful of one-sided community events—*after* CPD had already drafted the policies—which lacked any feedback loop and did not engage a representative cross-section of Chicago, among other deficiencies. For example, at the December 14, 2021 “Community Conversation” on the Human Rights and Biased Policing policies, there were fewer than

15 members of the public present in a city of roughly 2.7 million residents. During this Community Conversation, Deputy Director of Community Policing Mike Milstein told attendees that CPD would release a public report about the changes that CPD would make to the policies based on the community's concerns. CPD never did.

The February 8, 2022 Deliberative Dialogue with the Coalition similarly did not allow for meaningful community input. CPD provided very little substantive engagement with the Coalition's concerns. Following the Deliberative Dialogue, CPD never explained which of the Coalition's recommendations it was accepting or rejecting and why. Mr. Milstein stated that CPD would revise the policies based on the Coalition's feedback, share revised draft policies with the Coalition, and arrange a meeting to discuss any additional feedback on the revised policies. CPD never took any of these steps.

In response to CPD's inaction and silence, the ACLU of Illinois on behalf of the Coalition sent a FOIA request for CPD's notes from the Deliberative Dialogue, so that the Coalition could assess whether CPD accurately understood and recorded the Coalition's concerns. CPD responded that it "could not locate any responsive records." See CPD Notice of Response to FOIA Request, FOIA File No. P759743 (July 8, 2022) (attached). This means CPD either lost or destroyed its meeting notes, or did not take any. Either possibility betrays profound disregard for the Coalition's input.

On June 13, 2022, CPD released the current drafts of the policies and opened a 15-day period for public comment. Between the February 8 Deliberative Dialogue and the June 13 release of these policy drafts, CPD never offered to meet with the Coalition again, nor did it provide any revised drafts for the Coalition's review and feedback. Based on the Coalition's review of the June 13 versions, CPD has addressed few of the Coalition's concerns and adopted few of its recommendations. In all, CPD appears to have adopted only three of the thirteen recommendations in the Coalition's January 17, 2022 letter. CPD has never explained why it rejected the remainder.

Further limiting community input on the policies, CPD closed the public comment portal (on CPD's website) for the Human Rights policy on the morning of June 29, 2022, even though the comment period was supposed to be open through the end of that day. This was the *second* time of which we are aware that CPD has prematurely closed a public comment portal on a draft CPD policy in just the last few months. The premature closure likely confused, frustrated, and disheartened community members who planned to comment on the final day of the comment period—having relied on CPD's assurance that the portal would be open that day.

Given that CPD has failed to conduct meaningful community engagement, the feedback below is preliminary and includes only initial recommendations and concerns about CPD's Human Rights and Biased Policing policies. At a minimum, these policies must:

- Prohibit Chicago police from targeting for policing any particular communities, events, and/or places based on the race or ethnicity of the people in that community, event, or place.
- Make sure that Chicago police supervisors and officers are trained to know that even if an officer has "probable cause" or "reasonable suspicion," it does not mean the officer's action is free of bias.

- Remove the reference to “observed behaviors” in the Biased Policing Policy’s definition of “Reasonable Articulate Suspicion.” It wrongly suggests that officers may stop a person because of a physical characteristic in combination with some other undefined behavior.
- Add protections specific to gender bias, sexual assault, and LGBTQ+ bias.
- Stop biased policing based on any protected characteristic listed in the Consent Decree governing the Chicago Police, including gender expression, socio-economic class, and incarceration status.
- Require officers to give people visual aids and cards explaining their rights and other relevant information in multiple languages as needed to help with language comprehension.
- Describe in detail the requirement for free language interpretation services, including interpretation when officers issue *Miranda* warnings.
- Require Chicago police to provide reasonable accommodations to people with disabilities to allow for effective communication.
- Stop officers from retaliating against people who come forward after experiencing or witnessing biased policing.
- Make sure that reviews of the Human Rights and Biased Policing policies and related procedures and trainings happen every year and are shared with the public.

To meet CPD’s community engagement obligation to seek input from community members and organizations most impacted by police violence and bias, we reiterate that CPD should rescind these draft policies and launch a focused community engagement process similar to the one used for the Use of Force Policy Suite.

Sincerely,

Amanda Antholt
Sheila Bedi
Alexandra Block
Vanessa del Valle
Craig Futterman
Michelle García
Joshua Levin
James Mooney

Attorneys for the Coalition



Lori E. Lightfoot
Mayor

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David O. Brown
Superintendent of Police

July 8, 2022

Via Email:

James Mooney
ACLU

jmooney@aclu-il.org

RE: NOTICE OF RESPONSE TO FOIA REQUEST
FOIA FILE NO.: P759743

Dear James Mooney:

The Chicago Police Department (CPD) is in receipt of your Freedom of Information Act (FOIA) request, received June 23, 2022 for the following:

"Under the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq., I submit this FOIA request on behalf of the Roger Baldwin Foundation of ACLU, Inc. The Roger Baldwin Foundation seeks the following records the Chicago Police Department (CPD) created or collected regarding its draft Human Rights and Biased Policing policies (General Orders G02-01 and G02-04):

All meeting notes created or collected by CPD in connection with the February 8, 2022 Deliberative Dialogue between CPD and the Consent Decree Coalition regarding the draft policies on Human Rights and Biased Policing."

Your request was reviewed by the undersigned in collaboration with the Department's Risk Management Unit and Office of Legal Affairs. A search of CPD records was conducted utilizing the provided search parameters. Please be advised that CPD could not locate any responsive records to your request.

If I can be of further assistance, please contact me at the following address:

Chicago Police Department
Attention: Freedom of Information
Office of Legal Affairs, Unit 114
3510 S. Michigan Avenue
Chicago, IL 60653
foia@chicagopolice.org

You have a right of review by the Illinois Attorney General's Public Access Counselor, who can be contacted at 500 S. Second St., Springfield, IL 62706 or by telephone at 877-299-3642. You may also seek

judicial review in the Circuit Court of Cook County under 5 ILCS 140/11.

Sincerely,

A. Marlan
Freedom of Information Act Officer
Chicago Police Department
Office of Legal Affairs, Unit 114
3510 S. Michigan Ave.
Chicago, IL 60653