

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

STATE OF ILLINOIS,

Plaintiff,

v.

CITY OF CHICAGO,

Defendant.

Case No. 17-cv-6260

Hon. Robert M. Dow Jr.

**THE COALITION’S MOTION TO ENFORCE THE CONSENT DECREE  
CONCERNING CPD’S EXECUTION OF SEARCH WARRANTS AND HOME RAIDS**

**INTRODUCTION**

The Chicago Police Department’s (CPD’s) on-going pattern of excessive force, traumatization and abuse of women, children and families, and failure to properly supervise and hold accountable officers in the execution of search warrants and raids of homes in Black and Brown communities violates numerous Consent Decree provisions and requires judicial enforcement.

The Consent Decree is rooted in community demands for justice and accountability for police violence—specifically the widespread demands developed after the City of Chicago was forced to release the video of CPD Officer Jason Van Dyke murdering Laquan McDonald. The City attempted to prevent the public release of that video, which depicted the murder of a Black teenager at the hands of a CPD officer, in an effort to conceal the shooting. Only after the video was made public in late 2015 did the involved CPD officers face any consequences for their actions. The Consent Decree contains provisions crafted to remedy the systemic CPD failures

exemplified by Laquan McDonald’s murder and the attempted cover-up.<sup>1</sup> In its 2019 Order approving the entry of the Decree, this Court described it as an “important step forward in the City of Chicago’s ongoing efforts to repair the damaged relationship between its police department and members of the community whom the department serves and protects.”<sup>2</sup>

Yet, almost two years after the entry of this Consent Decree, the CPD was again caught on tape brutalizing a Black Chicagoan and violating her Fourth Amendment rights. And, once again, the City attempted to obstruct the public release of the video of CPD violence—this time depicting CPD’s 2019 raid of Anjanette Young’s home.<sup>3</sup> Ms. Young is a Black social worker with no criminal record. Invading her home, CPD officers found her naked, pointed their guns at her, handcuffed her, and refused to heed her insistent, terrified pleas that the officers were in the wrong place.<sup>4</sup> CPD officers were in fact in the wrong place.

The Young video was made public on December 14, 2020, and it was only then that the City placed involved officers on desk duty—despite the fact that Mayor Lori Lightfoot had known

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<sup>1</sup> See Mem. Op. and Order Approving Proposed Consent Decree, Dkt. No. 702 at 2 (summarizing allegations against CPD: “[T]he City’s failure to effectively train, supervise, and support law enforcement officers and the City’s failure to establish reliable programs to detect and deter officer misconduct and administer effective discipline. . . these failures have created profound mistrust between many Chicago communities and CPD which reached its most recent flashpoint in late November 2015, following the release of a video tape depicting the fatal shooting of Laquan McDonald, a 17 year old African American by a CPD officer.”).

<sup>2</sup> *Id.* at 10.

<sup>3</sup> In an echo of the scandal that gave rise to this Consent Decree, the City once again attempted to prevent public dissemination of the incident—denying Freedom of Information Act (FOIA) requests from Ms. Young and CBS2. Then, once Ms. Young received the video through discovery, the City filed an emergency motion to enjoin CBS2 from broadcasting it, which the Court denied. See Megan Hickey, *Anjanette Young Incident Fits in with Clear and Distinct Pattern of Wrong Police Raids*, CBS2 NEWS (Dec. 16, 2020), <https://chicago.cbslocal.com/2020/12/16/anjanette-young-incident-fits-in-with-clear-and-distinct-pattern-of-wrong-police-raids/>; see also *Young v. City of Chicago et al.*, Case No. 19-cv-5312, Dkt. No. 38 (enjoinment motion) (N.D. Ill. Dec. 14, 2020) and Dkt. No. 41 (Court order denying motion to enjoin) (N.D. Ill. Dec. 14, 2020).

<sup>4</sup> See Peter Nickeas, *Behind the Mistaken Raid by Chicago Police on an Innocent Social Worker’s Home*, CNN (Dec. 20, 2020), <https://www.cnn.com/2020/12/19/us/chicago-police-mistaken-raid/index.html>.

about the raid since November 2019.<sup>5</sup> While Mayor Lightfoot has described the raid as “wrong” and “unacceptable,” City attorneys have simultaneously and vigorously defended the officers’ actions in response to Ms. Young’s civil rights lawsuit, seeking to dismiss the case altogether.<sup>6</sup>

The horrific violation of Ms. Young’s rights during a wrongful raid, and the City’s subsequent concealment of its officers’ actions, is not an anomaly. As described in Section I, *infra*, it is one egregious example in a series of illegal, violent raids conducted by CPD over past years, for which CPD has failed to hold a single officer to account.

The Coalition attempted to engage the City in negotiations to end CPD’s unconscionable home raid practices long before they led to the present political crisis and widespread calls for change.<sup>7</sup> Since August 5, 2020, the Coalition repeatedly requested that the City work with it to negotiate a resolution to CPD’s systematic wrongful raids. As has the Illinois Attorney General.

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<sup>5</sup> See Gregory Pratt and John Byrne, *Cops Involved in Anjanette Young Raid Placed on Desk Duty; Lightfoot says Black People Nationwide ‘Feel Angry and Feel Violated’*, CHI. TRIBUNE (Dec. 21, 2020), <https://www.chicagotribune.com/politics/ct-lightfoot-anjanette-young-update-20201221-ufy6kzkh2ng47c5k65yypwtiq4-story.html>; Gregory Pratt, *Mayor Lightfoot was told by staff in November 2019 that Anjanette Young raid was ‘pretty bad,’* CHI. TRIBUNE (Dec. 30, 2020), <https://www.chicagotribune.com/politics/ct-lightfoot-anjanette-young-raid-emails-20201230-dhnc67ikorawdhm5a2xw7s4x7u-story.html>; see also City of Chicago Department of the Mayor, *Compilation of Emails* (hereinafter “Emails”) (Dec. 30, 2020), <https://www.chicago.gov/content/dam/city/depts/mayor/statementsanddocuments/EMAILS.pdf> (On November 11, 2019, Mayor Lightfoot’s Deputy Mayor, Susan Lee, emailed the Mayor’s Communications Director that she had told the mayor about the raid, referring to it as “a bad incident”).

<sup>6</sup> See Pratt and Byrne, *Cops Involved in Anjanette Young Raid Placed on Desk Duty*, *supra* note 5; see also Michelle Gallardo, *Chicago’s Top Attorney Resigns Amid Botched Police Raid Fallout*, ABC7 (Dec. 20, 2020), <https://abc7chicago.com/chicago-police-anjanette-young-mark-flessner-raid/8929408/>; Mitchell Aremntrot, *Lightfoot, Anjanette Young Meet for ‘Very Candid’ Conversation about Botched CPD Raid*, Chi. Sun-Times (Dec. 31, 2020), <https://chicago.suntimes.com/city-hall/2020/12/31/22208691/anjanette-young-lightfoot-meeting-city-hall-botched-raid-video-chicago-police>; *Young v. City of Chicago et al.*, Case No. 19-cv-5312, Dkt. No. 23 (N.D. Ill. Jan. 24, 2020) (Defendants’ joint motion to dismiss the case in its entirety for failure to state a claim).

<sup>7</sup> See Amanda Vinicky, *Traumatized by Wrongful Police Raid, Anjanette Young Takes Legal Action*, WTTW (Dec. 16, 2020), <https://news.wttw.com/2020/12/16/traumatized-wrongful-police-raid-anjanette-young-takes-legal-action>; Michelle Gallardo, Eric Horng, and Alexis McAdams, *Chicago City Council Holds Hearing on Botched CPD Raid Tuesday*, ABC7 NEWS (Dec. 22, 2020), <https://abc7chicago.com/chicago-police-anjanette-young-mark-flessner-raid/8972264/>.

But the City has refused to respond. Instead, it chose to cover up yet another video of CPD abusing a Black Chicagoan to avoid long overdue change.

### **COURT INTERVENTION IS REQUIRED TO EFFECTUATE COMPLIANCE**

The City's home raid-related violations and its failure to respond to the Coalition's correspondence are consistent with the City's pattern of shirking its Consent Decree obligations, particularly those provisions that most directly impact Black and Brown communities. The City has missed or ignored countless deadlines.<sup>8</sup> Meanwhile, the CPD has continued the very use of force practices that led to the creation of the Consent Decree in the first place. For instance, during the summer of 2020, CPD responded to protesters with brutal force, systematically violating at least twelve provisions of this Consent Decree. CPD officers used unjustified lethal force against protesters in the form of head strikes and retaliated against people recording their actions—including journalists and other bystanders.<sup>9</sup>

The City and CPD have also failed to comply with Consent Decree obligations regarding community engagement. The Independent Monitor recommended that the City and CPD convene “work groups” to meet its community engagement Consent Decree obligations. The work groups were comprised of broad cross sections of Chicagoans who volunteered their time and expertise to work collaboratively with the CPD on policy issues relating to police in schools and use of force.

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<sup>8</sup> The June 2020 Monitoring Report stated that the City and CPD missed 52 of 74 deadlines, including the mandate that CPD create adequate policies and procedures for use of force, impartial policing, and crisis intervention, and that it revise relevant use of force and accountability policies. *See* Independent Monitoring Report 2, Dkt. No. 844 (N.D. Ill. Jun. 18, 2020), available at [https://cpdmonitoringteam.com/wp-content/uploads/2020/06/2020\\_06\\_18-Independent-Monitoring-Report-2-filed.pdf](https://cpdmonitoringteam.com/wp-content/uploads/2020/06/2020_06_18-Independent-Monitoring-Report-2-filed.pdf).

<sup>9</sup> *See* Dkt. No. 860 (Order Setting Listening Sessions and Written Comment Period On the City Of Chicago's and the Chicago Police Department's Responses To Protests and Unrest Under the Consent Decree).

CPD unilaterally dismantled the first work group and all but ignored the recommendations of the other.<sup>10</sup>

CPD also continues to engage in racially-disparate policing. The Independent Monitor’s statistically representative survey of Chicagoans revealed widespread racial disparities in police interactions and an overall poor opinion of the CPD.<sup>11</sup> According to the survey results, 44% of Black Chicagoans who participated in the poll give CPD a “poor” or “very poor” rating on CPD’s use of the appropriate amount of force. Young Black men reported being stopped in a car by the CPD six times more than other groups and reported having a CPD officer point a gun at them in the past year 20 times more than white respondents. Fewer than half of Chicagoans (of all races) rated the CPD as doing a “good” or “very good” job of giving fair treatment to religious minorities (38% of respondents), people with disabilities (48% of respondents), and members of the LGBTQI community (39% of respondents).

CPD’s pattern of ignoring Consent Decree mandates, combined with its repeated refusals to accept the Coalition’s entreaties to resolve this matter informally, demonstrate that without intervention from this Court, it will continue to violate the Consent Decree and harm Chicago communities—particularly Black and Brown communities. For these reasons and those described in detail below, the Coalition respectfully requests that the Court immediately convene a structured settlement process to remedy the CPD’s violation of Consent Decree provisions related to home raid-related violations.

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<sup>10</sup> See, e.g., Contributor, *A Public Letter to Mayor Lightfoot: A Call for Leadership*, CHI. SUN-TIMES (Oct. 15, 2020), <https://chicago.suntimes.com/2020/10/15/21518757/police-reform-use-force-chicago-mayor-ori-lightfoot>; see Letter from Coalition to City of Chicago, re: “Problems with Working Group on Cops in Schools” (Jul. 17, 2020) (attached hereto as Ex. A).

<sup>11</sup> See 2019-20 Community Survey, Dkt. No. 885.

Further, the violations detailed below implicate City Council's obligations regarding the Consent Decree provisions that are relevant to home raids and accountability (outlined below). Thus, the Coalition also requests an order requiring City Council to report to the Court on its progress related to these provisions.

Should these settlement efforts fail, the Coalition respectfully asks that this Court schedule at the earliest possible date an evidentiary hearing regarding the CPD's home raid-related violations of the Consent Decree and the sanctions appropriate to remedy each violation.

## **ARGUMENT**

### **I. CPD IS SYSTEMICALLY VIOLATING THE CONSENT DECREE BY ITS HOME RAID POLICIES AND PRACTICES.**

#### **A. Specific Provisions in the Consent Decree are Relevant Here.**

The Consent Decree requires CPD to deliver police services in a manner that (1) fully complies with the Constitution and laws of the United States and the State of Illinois, (2) respects the rights of the people of Chicago, (3) builds trust between officers and the communities they serve, and (4) promotes community and officer safety. In accordance with the Decree, CPD is required to update its policies and practices to reflect its commitments to procedural justice, de-escalation, impartial policing, and community policing. Despite these requirements, the City and CPD's home raid-related policies and practices fail to abide by the following provisions of the Consent Decree.

*Use of Force.* Paragraph 156 of the Decree mandates that CPD implement use of force policies and training, supervision, and accountability systems that require officers to act in a manner consistent with the sanctity of human life, and with a high degree of ethics, professionalism, and respect for the public. Officers must only use force that is objectively

reasonable, necessary, and proportional in relation to the totality of the circumstances.<sup>12</sup> Further, the Decree requires that officers employ de-escalation techniques to prevent or reduce the need for force.<sup>13</sup> Additionally, CPD must ensure that officers are held accountable, consistent with complaint and disciplinary policies, for use of force that is not objectively reasonable, necessary, and proportional under the totality of the circumstances, or that otherwise violates law and policy.<sup>14</sup> In practice, as detailed below, officers continue to inflict unreasonable and excessive force when conducting residential raids, engage in unnecessary destruction of real and personal property, and fail to de-escalate force. These violations are particularly egregious because they occur within the sanctity of a home and often in the presence of children and their caregivers.

*Use of Body Cameras.* The Decree's body-camera provisions require officers to activate their cameras during all law enforcement-related activities that occur while on duty, continue recording until the conclusion of the incident, and face mandatory discipline, training, or other remedial action if they do not comply with this policy.<sup>15</sup> However, the CPD has failed to equip many of the units that regularly conduct these raids, such as SWAT and area-wide or city-wide gang and narcotics enforcement teams, with body cameras, while the officers who do have body cameras fail to wear, activate, and properly use them.<sup>16</sup> In the context of this motion, there continue

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<sup>12</sup> Consent Decree, ¶ 156.

<sup>13</sup> *Id.* ¶¶ 156, 161.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* ¶¶ 238–39.

<sup>16</sup> See Don Babwin, *Lack of Body Cameras Fuels Suspicion in Chicago Shooting*, AP (Aug. 11, 2020), <https://apnews.com/article/shootings-police-chicago-crime-u-s-news-428c2fba22b418280ef3c07acf4bc39c>; Samah Assad, Christopher Hacker, Dave Savini, *Left in the Dark*, CBS2 NEWS (Nov. 15, 2020), <https://storymaps.arcgis.com/stories/3603ef8cc492488c847cffbe03ad0f1d>.

to be incidents in which police supervisors instruct officers to turn off their cameras to avoid being recorded during abusive raids.<sup>17</sup>

***Training and Interactions with Youth.*** Contrary to paragraphs 32 and 37(d) of the Decree, which require CPD to adopt policies and training to ensure officers use developmentally appropriate responses to, and in interactions with, youth and children, CPD has failed to train officers to plan raids with the goal of protecting any children at the location and to schedule home raids at times when children are least likely to be present. CPD has also failed to prohibit its officers from pointing guns at and handcuffing children, abusing their family members in their presence, and treating young children as implicated adults during the execution of warrants.

***Community Policing.*** One of the Decree's guiding principles is to integrate community policing practices into all CPD operations.<sup>18</sup> The Decree mandates that CPD work systemically toward achieving strong community partnerships and positive interactions between police and members of the public.<sup>19</sup> CPD's current search warrant execution and investigation practices, which fail to require that officers engage in even the simple step of verifying residential addresses prior to executing a warrant or to ensure against excessive force in the course of warrant execution, traumatize families and particularly young children. This directly undermines community trust in CPD, as well as public perceptions of legitimacy and procedural justice, and breaches the foundational community-oriented philosophy that underlies the Decree.

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<sup>17</sup> See, e.g., Dave Savini, Michele Youngerman, Samah Assad, *Key Body Camera Footage Missing After Chicago Police Officers Raid Wrong Homes, Point Guns at Children*, CBS2 NEWS (May 4, 2019) <https://chicago.cbslocal.com/2019/05/04/key-body-camera-footage-missing-after-chicago-police-officers-raid-wrong-homes-point-guns-at-children/>.

<sup>18</sup> Consent Decree ¶ 9.

<sup>19</sup> *Id.* ¶ 8.



**Impartial Policing.** CPD’s discriminatory practices with respect to residential raids also contravene the guiding principles of the Decree’s directives with respect to Impartial Policing, which require officers to “treat all persons with the courtesy and dignity which is inherently due every person as a human being,” and to conduct all operations fairly and without bias.<sup>20</sup> The vast majority of CPD’s “negative” raids—those that fail to result in any arrest—target families in Black or Brown neighborhoods. The five neighborhoods with the greatest number of these raids are Englewood, Austin, North Lawndale, Garfield Park, and Humboldt Park—all predominantly Black or Brown and poor.<sup>21</sup> Similarly, the neighborhoods with the highest percentage of negative raids as compared to the total number of executed search warrants are also Black or Brown and poor.<sup>22</sup> The neighborhoods with the lowest number of negative raids are all overwhelmingly white and wealthy.<sup>23</sup>

**Accountability.** The CPD and the City are required to implement a “robust and well-functioning accountability system in which CPD members are held to the highest standards of

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<sup>20</sup> *Id.* ¶¶ 49-50.

<sup>21</sup> See Dave Savini, Samah Assad, Michele Youngerman, ‘They Had the Guns Pointed at Me’: Another Chicago Family Wrongly Raided, Just 1 Month after Police Created Policy to Stop Bad Raids, CBS2 NEWS (July 17, 2020), <https://chicago.cbslocal.com/they-had-the-guns-pointed-at-me-another-chicago-family-wrongly-raided-just-1-month-after-police-created-policy-to-stop-bad-raids/>; see also Dave Savini, Samah Assad, Michele Youngerman, Rebecca McCann, [Un]warranted, CBS2 NEWS (May 18, 2020), <https://storymaps.arcgis.com/stories/63ce5770e1ed43bea99d1d8274b94f91> (reporting on CBS 2 data analysis of CPD search warrants data).

<sup>22</sup> See *id.*

<sup>23</sup> The top three neighborhoods with the most search warrants executed are Englewood (96% black population; median household income \$24k), Austin (88% black population; median household income \$33k), and North Lawndale (90% black population; median household income \$25k). In contrast, the neighborhoods with the fewest search warrants executed include Printers Row, Museum Campus, Magnificent Mile, Millennium Park, Edison Park, Grant Park, and Wrigleyville (50% or more white population; median income \$95k or more). All of these neighborhoods had zero search warrants executed in the 2016-19 period, as analyzed by CBS. See Savini, Assad, Youngerman, McCann, [Un]warranted, *supra* note 21.

integrity.”<sup>24</sup> The City, and through its Civilian Office of Police Accountability (COPA), is required to “thoroughly, fairly, timely and efficiently” investigate complaints.<sup>25</sup> COPA is required to brief City officials—including members of City Council—when it is unable to complete an investigation within 180 days.<sup>26</sup> Yet, COPA failed to investigate the home raid of Ms. Young’s home—and those of several others—in a timely manner. Ms. Young’s home was invaded in February 2019 but COPA’s investigation was not initiated until November of that year, once a civil lawsuit was filed. The investigation has still not yet been completed, a delay that is far from unusual for the investigative authority.<sup>27</sup> Upon information and belief, despite the existence of extensive video demonstrating that CPD officers who participate in home raids frequently violate numerous CPD policies, COPA has failed to issue any affirmative findings concerning these violations.

Moreover, the City is required to use best efforts to ensure that an independent entity has jurisdiction to conduct administrative investigations of sexual misconduct, which includes behavior “by a CPD member that would likely be construed as lewd, lascivious, (or) inappropriate.”<sup>28</sup> City Council must act to pass an ordinance in order to make this jurisdictional change to ensure that COPA has authority to address sexual misconduct, which is beyond its

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<sup>24</sup> Consent Decree ¶ 420.

<sup>25</sup> *Id.* ¶ 423.

<sup>26</sup> *Id.* ¶ 473.

<sup>27</sup> See Gallardo, Horng and McAdams, *Chicago City Council Holds Hearing on Botched CPD Raid Tuesday*, *supra* note 7; Claudia Morell, *Aldermen Grill Chicago Police Brass and Oversight Leaders about the Botched Anjanette Young Raid*, WBEZ (Dec. 22, 2020), <https://www.wbez.org/stories/aldermen-grill-chicago-police-brass-and-oversight-leaders-about-the-botched-anjanette-young-raid/4588439b-cd1f-4dec-8b52-a080da26235c>.

<sup>28</sup> Consent Decree ¶ 782.

currently enumerated powers and duties.<sup>29</sup> CPD's treatment of Ms. Young, who was forced to stand unclothed in front of male officers, meets the clear definition of sexual misconduct.

**B. CPD's Home-Raid Policies and Practices Violate these Provisions.**

Notwithstanding the existence of a binding Consent Decree and repeated lawsuits challenging CPD execution of home raids, CPD has continued to allow its officers to terrorize children and families in residential raids without fear of consequence, and primarily in Black and Brown communities. According to CPD data obtained by CBS News, CPD conducted over 6,800 residential raids pursuant to warrants between January 2016 and mid-2019.<sup>30</sup> Nearly 3,000, or 43%, of those raids failed to result in an arrest. The top ten neighborhoods with the most search warrants executed are also those with majority Black and/or Latinx populations and are some of the poorest in Chicago.<sup>31</sup> Furthermore, since roughly one-third of all Chicago households include children under 18 years old, a conservative estimate suggests that far more than two thousand children have been victims of CPD home raids in the past three years. Despite the pattern of abuse toward children and their families in these raids, CPD has failed to track, monitor, or hold officers to account for their actions.

*Excessive force and aggression toward children and their families in the execution of search warrants.* A pattern of cases illustrates that CPD search warrant affiants do little to independently investigate and verify that the address for the intended target provided by the informant is accurate and current, making the homes of innocent families the sites of the kinds of

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<sup>29</sup> See Chicago, Illinois, Municipal Code ch. 2-78-120 (governing COPA's powers and duties), <http://www.chicagocopa.org/wp-content/uploads/2016/07/COPA-Ordinance.pdf>.

<sup>30</sup> See Savini, Assad, Youngerman, McCann, *[Un]warranted*, *supra* note 21.

<sup>31</sup> See *id.*

police violence that the Decree was designed to prevent.<sup>32</sup> Chicago police affiants do not perform basic surveillance or investigation, such as reviewing utility records, verifying that the target is not in jail or prison, or checking investigative databases like Accurint. CPD does not require that officers executing search warrants investigate whether children either live in the residence or are likely to be present during the raid. It does not train its officers on dealing with the presence of children while executing search warrants. And although CPD's search warrant policies include some reasonable provisions, such as requiring independent corroboration of anonymous tips, officers' repeated violations of these requirements demonstrate that the policies are effectively meaningless, because supervisors do nothing to ensure that they are followed. Similarly, although CPD policy generally requires officers to wait a reasonable time after knocking to allow a resident to open the door to their home, case after case documented by news affiliate CBS reveals officers breaking into homes contemporaneously with any knock. In addition, the policies are plainly inadequate on their face, as discussed below.<sup>33</sup>

As a result, officers continue to abuse children and their families in conducting residential raids in the same manner as they did prior to the entry of the Decree. This is made clear not only by the Anjanette Young case, but by the scores of civil lawsuits that have been filed against CPD and its officers in recent years, a number of which are described below.<sup>34</sup>

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<sup>32</sup> The Decree does not currently include provisions that explicitly address improving the quality of investigations leading to search warrants, a deficit that has perpetuated the patterns of excessive force against families and children documented by the United States Department of Justice. We recommend that the City agree to modify the Decree to remedy this deficiency.

<sup>33</sup> See *Deficiencies in CPD Search Warrant Policy*, discussed in Section IIB, *infra*.

<sup>34</sup> See Samah Assad, Dave Savini, *Another Family Files Lawsuit After Chicago Police Raid Wrong Home, Point Guns at 4-Year-Old*, CBS2 News (Jun. 11, 2020), <https://chicago.cbslocal.com/2020/06/11/another-family-files-lawsuit-after-chicago-police-raid-wrong-home-point-guns-at-4-year-old/> (describing at least 12 "wrong raid" lawsuits filed in past two years against Chicago police officers).

On January 29, 2015, four years before the Decree was entered, brothers Jaden Fields, Jeremy and Justin Harris (ages eleven, six, and four, respectively), and their cousin Nasir Norman (age eleven) were doing homework and playing video games in the front room of their home. Suddenly, without warning, a team of Chicago police SWAT and plainclothes officers broke into the back door of their apartment, threw flashbang grenades inside, and screamed, cursed, and pointed assault rifles at the children. The search warrant's actual target, Derec Bell, not only did not live in the apartment, but, according to CPD's criminal database (CLEAR)—which the officers had failed to consult—was serving a twenty-year prison sentence 200 miles away.<sup>35</sup>

In 2017, officers executed an invalid search warrant for the wrong apartment and repeatedly pointed guns directly at the Mendez family's five- and nine-year-old children, ordering them to get down on the ground, screaming and using explicit language, while they cried and pleaded for the officers not to shoot their father. Even after learning they were in the wrong apartment, officers continued the search, ultimately finding nothing and making no arrests. The children remain deeply traumatized as a result of the search.<sup>36</sup>

In August 2018, just a few months before the Decree was finalized, an armed SWAT team set off loud flashbang grenades outside the home of Ebony Tate and broke open the front door of her apartment without knocking or presenting a search warrant. The officers pointed assault rifles at Ms. Tate, her four young children, and her 55-year-old mother, and then searched her apartment

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<sup>35</sup> See *Blassingame v. City of Chicago*, Case No. 19-cv-07287, Dkt. No. 67 (Second Amended Compl.) (N.D. Ill. Jun. 19, 2020). For more information on this wrong raid see <https://chicago.cbslocal.com/2019/11/05/another-wrong-cpd-raid-blassingame/>.

<sup>36</sup> *Mendez v. City of Chicago*, Case No. 18-cv-05560, Dkt. No. 125 (Fourth Amended Compl.) (N.D. Ill. Sept. 26, 2019). For video footage, see <https://chicago.cbslocal.com/2019/10/03/chicago-police-officers-questioned-on-video-for-lawsuit-about-raiding-wrong-home/>.

for over an hour while forcing Ms. Tate and her family to sit on the running board of the SWAT truck in various states of undress.<sup>37</sup> The officers found nothing during the search.

After the fruitless search, one of the officers brought Ms. Tate back into her home and gave her a copy of the search warrant for “Javale Bell” at her address. Tate replied that she had never seen Bell before, prompting another officer to respond, “I guess we got the wrong house.” As it turned out, the officers had secured two simultaneous search warrants for two different buildings based on the same information provided by a confidential informant. Though aware of this inconsistent information, the officers pursued and executed duplicate search warrants in disregard of the safety and dignity of Ms. Tate and her family.<sup>38</sup>

In 2019, CPD officers raided a family’s home during their four-year-old child’s birthday party. The officers pointed guns at the family (including at the four-year-old and his seven-year-old sister), handcuffed the adults, shouted profanity and insults, and left the child’s birthday cake on the floor. The actual target of the search warrant had not lived at the residence for five years. The children now suffer from serious emotional distress, including symptoms of PTSD, as a result of the incident.<sup>39</sup>

On February 8, 2019, a month after the entry of the Decree, a team of CPD officers raided Krystal Archie’s apartment, where Ms. Archie’s fourteen-, eleven-, and seven-year-old children were home. The deeply-disturbing body camera footage shows officers pointing heavy artillery at

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<sup>37</sup> For video footage of the raid, including an interview with Ms. Tate, see <https://chicago.cbslocal.com/2020/03/06/sgt-anthony-bruno-body-cams-turned-off-chicago-police-during-wrong-raid/>.

<sup>38</sup> See *Tate v. City of Chicago*, Case No. 18-cv-7439, 2019 WL 2173802 (N.D. Ill. May 20, 2019).

<sup>39</sup> See *Bures v. City of Chicago*, Case No. 19-cv-02040, Dkt. No. 65 (Second Amended Compl.) (N.D. Ill. Nov. 25, 2019). Video footage of the raid can be viewed at <https://chicago.cbslocal.com/2019/03/25/chicago-police-wrong-raid-birthday-party-4-year-old/>.

the children's faces and heads as they order them to the floor. The children are sobbing in terror and begging the officers not to shoot them.<sup>40</sup> The officers are seen in the video yelling explicit language, ransacking the family's home, and interrogating the terrified children without a guardian present.<sup>41</sup> Officers made thoughtless and cruel jokes as they rifled through Ms. Archie's home and needlessly damaged the family's personal property. The raid yielded no contraband. The children remain emotionally scarred and traumatized from the incident.<sup>42</sup>

In the early morning hours of March 25, 2019, CPD officers again targeted the wrong address and raided the home of a mother and her three children, who had been sound asleep when CPD burst in. During the raid, Chicago police detained the adults for hours, and handcuffed the family's eight-year-old son and forced him to stand alone outside in freezing rain for over 35 minutes while officers tore through the family's home. Officers used profanity and insults during the search. They also used an explosive device to blow a hole in the family's second floor ceiling, destroyed the family's personal effects, and confiscated the children's possessions. The officers found no contraband and made no arrests. The children suffered serious emotional trauma as a result of the incident.<sup>43</sup>

On February 26, 2020, approximately 15 plain-clothes officers (some wearing "Ninja" masks) broke into Sharon Lyons' home with rifles, flashlights, and machine guns, and without

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<sup>40</sup> See Dave Savini, 'Please Do Not Shoot Me: Body Camera Shows Chicago Police Officers Interrogating, Pointing Guns at Children During Wrong Raid', CBS2 NEWS (Feb. 6, 2020), <https://chicago.cbslocal.com/2020/02/06/wrong-raid-chicago-police-guns-pointed-at-children/>.

<sup>41</sup> See *id.* for video footage of this deeply disturbing raid.

<sup>42</sup> See *Archie v. City of Chicago*, Case No. 19-cv-04838, Dkt. No. 125 (Third Amended Compl.) (N.D. Ill. Oct. 19, 2020). For video footage, see <https://chicago.cbslocal.com/2020/02/06/wrong-raid-chicago-police-guns-pointed-at-children/>.

<sup>43</sup> See *Wilson v. City of Chicago*, Case No. 19-cv-03550, Dkt. No. 1 (Compl.) (N.D. Ill. May 29, 2019). For video footage, see <https://chicago.cbslocal.com/2019/05/28/another-family-says-chicago-police-pointed-guns-at-children-during-raid-handcuffed-8-year-old/>.

announcing their identity as police. The officers pointed guns in the faces of Ms. Lyons, her three adult sons, and her four-year-old granddaughter. One of Ms. Lyons's adult sons has autism and a learning disability. He cried and became hysterical when the officers pointed guns at him. The search ultimately yielded no arrests and no contraband. The officers left Ms. Lyons' home with a broken door and locks, leaving her family traumatized and vulnerable to crime.<sup>44</sup>

The night of February 27, 2020, another group of mostly plain-clothed officers used a battering ram to break into the home and conduct a night-time raid of an innocent Iraqi American/Latinx family. Officers pointed guns at a 70-year-old grandmother and her 4-year-old granddaughter in her lap, as the grandmother was reciting her night-time prayers before bed. When the little girl's mother, Jasmine Vale, went toward the room to check on her daughter, an officer turned and pointed the barrel of his long gun within a foot of Jasmine's face. The officers cursed and shouted at the family as they held them at gunpoint for ten minutes. As the officers continued to train their guns on the grandmother, mother, and child, other officers ransacked the family's apartment, broke their furniture, and made cruel comments about their home. The officers left the family shaking in fear at about one in the morning, amongst the rubble of their broken belongings and broken front door. The suspect sought in the raid actually resided in California.<sup>45</sup>

***Absence of accountability.*** CPD's patterns of pursuing poorly substantiated search warrants, raiding incorrect residential addresses, engaging in excessive use of force during raids, and effecting property destruction during the execution of warrants are not recent developments;

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<sup>44</sup> See *Lyons v. City of Chicago*, Case No. 1:20-cv-03412, Dkt. No. 27 (Amended Compl.) (N.D. Ill. Sept. 18, 2020). For video footage, see <https://chicago.cbslocal.com/they-had-the-guns-pointed-at-me-another-chicago-family-wrongly-raided-just-1-month-after-police-created-policy-to-stop-bad-raids/>.

<sup>45</sup> See *Vale v. City of Chicago*, Case No. 20-cv-5037, Dkt. No. 37 (Amended Compl.) (N.D. Ill. Dec. 18, 2020). For video footage, see <https://chicago.cbslocal.com/2020/08/27/family-sues-chicago-police-after-officers-raid-home-in-search-of-suspect-who-actually-lived-in-california/>.



they have persisted for decades.<sup>46</sup> CBS News' analysis of CPD data paints a portrait of police impunity. For example, the thirteen officers who authored the largest number of affidavits in support of search warrants that resulted in negative raids between 2016 and 2019 have amassed 448 police misconduct complaints.<sup>47</sup> Of those complaints, 118 (26%) were for illegal searches.<sup>48</sup> Only two of those 118 complaints (less than 2%) were sustained and they resulted in minimal discipline—a single day suspension and a reprimand.<sup>49</sup> The same twelve officers responsible for

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<sup>46</sup> See, e.g., *Jacobs v. City of Chicago*, 215 F. 3d 758 (7th Cir. 2000) (CPD officers conducted search of apartment in multi-unit building pursuant to a warrant that incorrectly identified the building as a single-family residence; officers detained an apartment resident for three hours during a search of his apartment for alleged drug activity, without having probable cause to know that resident was involved in the drug activity); *Cooper v. Dailey*, 2010 WL 1415986 (N.D. Ill. March 31, 2010) (CPD officers searched an apartment with canine units despite awareness that targets of the search warrant, based on anonymous tip, were not present and the residents did not know anyone by that name); *Draine v. Bauman*, 708 F. Supp. 2d 693 (N.D. Ill. April 16, 2010) (CPD officers broke into a homeowner's residence using a battering ram, ransacked the home and stole numerous items, and left it unlocked after the search, which did not reveal evidence of a crime; the officer procuring the search warrant relied on the statement of an unidentified person, who was in custody in another district, who claimed to have bought drugs for more than a year from a person, whose real name he did not know, and from a house whose address he could not specify); *Leon v. City of Chicago*, 2011 WL 4738532 (N.D. Ill. Oct. 3, 2011) (CPD officers obtained a warrant to search the residence of plaintiff's next-door neighbor, but searched plaintiff's home instead, used a sledgehammer to breach the rear door of plaintiff's residence, drew guns and pointed them at the family's children, and ransacked the apartment before realizing they were in the incorrect home and departing); *Guzman v. City of Chicago*, 689 F. 3d 740 (7th Cir. 2012) (CPD officer failed to call off search once he learned that house was not single-family residence, as described in warrant, in that it contained a real estate office, it was not possible to get to the rest of the house from office, and there was a separate door for the first-floor apartment—where the target of the search lived; officer violated the second-floor resident's Fourth Amendment rights by forcing open the second-floor apartment door with a crowbar, entering with guns drawn, and forcing the pregnant resident, who was not the intended target of the search, to lie down on floor); *Russell, III et al v City of Chicago, et al.*, Case No. 10-cv-00525, Dkt. No. 56 (N.D. Ill, Aug. 18, 2011) (CPD officers raided an apartment, traumatized two teenage boys, shot and killed family dog, and found no record of criminal activity); see also David Heinzmann, *Family gets \$333,00 for 2009 raid in which cops killed dog*, Chi. Tribune (Aug. 19, 2011), <https://www.chicagotribune.com/news/ct-xpm-2011-08-19-ct-met-police-shoot-dog-20110819-story.html>.

<sup>47</sup> See Samah Assad, *Compilation of CBS 2 data analysis of Chicago Police search warrants*, CBS2 News (Jun. 10, 2020), available at [https://chicago.cbslocal.com/wp-content/uploads/sites/15116062/2020/06/6\\_10-Updated-SW-data-findings.docx](https://chicago.cbslocal.com/wp-content/uploads/sites/15116062/2020/06/6_10-Updated-SW-data-findings.docx) (hereinafter, "CBS Data Compilation"); see also Savini, Assad, Youngerman, McCann, *[Un]warranted*, *supra* note 21.

<sup>48</sup> See CBS Data Compilation, *supra* note 47.

<sup>49</sup> See *id.*

the most negative raids accumulated 87 excessive force complaints.<sup>50</sup> None of the complaints led to any discipline by CPD. To date, CPD has failed to discipline any officer for their conduct during any of the abusive raids that have been reported by CBS and the subject of extensive federal litigation.<sup>51</sup>

Furthermore, as detailed in Section IA, *supra*, COPA is complicit in these failures of police accountability. Long delays in investigations, and failures to investigate altogether, have allowed officers to continue to conduct raids and searches that clearly violate CPD policy. The agency has also prevented public dissemination of information about such misconduct. In Ms. Young's case, it was COPA that requested that she be denied access to the incriminating body camera video via FOIA, citing its on-going "investigation."<sup>52</sup> And while Ms. Young's case is a key example of COPA's deficiencies, it is only emblematic of a larger pattern of failed oversight, which has been well-documented by the Office of the Inspector General (OIG) over the past six months.<sup>53</sup>

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<sup>50</sup> See Dave Savini, Michele Youngerman, Samah Assad, *Attorneys Demand Chicago Police Stop Its 'Abusive' Search Warrant Tactics, Or They'll Take CPD to Federal Court*, CBS2 News (Aug. 6, 2020), <https://chicago.cbslocal.com/2020/08/06/attorneys-demand-chicago-police-stop-its-abusive-search-warrant-tactics-or-theyll-take-cpd-to-federal-court/>.

<sup>51</sup> See *id.*; see also Savini, Assad, Youngerman, McCann, *[Un]warranted*, *supra* note 21.

<sup>52</sup> See Emails, *supra* note 5, at 44-46.

<sup>53</sup> See, e.g., OIG, *Evaluation of the Use of the Affidavit Override in Disciplinary Investigation of Chicago Police Department Members* (Dec. 2020), <https://igchicago.org/wp-content/uploads/2020/12/OIG-Evaluation-of-the-Use-of-the-Affidavit-Override-in-Disciplinary-Investigations-of-CPD-Members.pdf> (finding COPA improperly closed investigations of police misconduct supported by evidence for lack of affidavit); OIG, *Advisory Concerning the Civilian Office of Police Accountability's Practice of Administratively Terminating Disciplinary Investigations* (Sept. 2020), <https://igchicago.org/wp-content/uploads/2020/09/OIG-Advisory-Concerning-COPAs-Practice-of-Administratively-Terminating-Disciplinary-Investigations.pdf> (finding COPA regularly misused and misapplied "administrative termination" to conclude disciplinary investigation); OIG, *Review of Compliance with the City of Chicago's Use of Force Incidents* (Sept. 15, 2020), <https://igchicago.org/2020/09/15/oig-review-of-compliance-with-the-city-of-chicagos-video-release-policy-for-use-of-force-incidents/> (finding COPA regularly failed to post videos of incidents under investigations within 60 days).

***Deficiencies in CPD’s search warrant policy.*** In an apparent response to the damning publicity generated by the CBS investigation and repeated civil right lawsuits, CPD revised its search warrant policy in early January 2020 to include language related to the treatment of children and the use of body cameras when executing search warrants.<sup>54</sup> However, these revisions failed to cure the deficiencies in the policies. CPD added a mere 19 words to its warrants policy with respect to police interactions with children, requiring officers in the presence of children to “maintain a sensitive approach and use due care to safeguard the emotional and physical well-being to minimize trauma.”<sup>55</sup> The revisions offer vague guidance at best. Significantly, they fail to require or prohibit any particular conduct, such as pointing weapons at young children. Also problematic, the policy has little say about protecting the safety of the people (often children) who are living with or in close proximity to the target of a warrant.

***Deficiencies in CPD’s new search warrant training.*** The Department also provided an updated search warrant training to officers in January and February 2020. The training also remains inadequate with respect to safeguarding children from unnecessary trauma, and fails to emphasize how critical it is for officers to adhere stringently to the body camera policy.

***CPD’s deviations from national best practices regarding officer interaction with children.*** CPD’s policy regarding youth interactions falls short of best practices advocated by the International Association of Chiefs of Police (“IACP”), and deviates from similar policies adopted by other cities. CPD’s deviations are especially significant with respect to circumstances involving

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<sup>54</sup> Chicago Police Department Special Order S04-19, *Search Warrants* (Jan. 3, 2020), available at <http://directives.chicagopolice.org/directives/data/a7a57be2-12a76ce1-24512-a76c-e6f5e256f0ef4e84.pdf?hl=true>.

<sup>55</sup> *Id.* at 9.

the arrest of a parent in a child's presence, a situation particularly likely to inflict lasting psychological trauma, as past cases have shown.

The IACP recommends that departments nationwide implement specific policies to improve interagency coordination, officer training, pre-arrest planning, documentation, and follow-up to minimize trauma to children following a parent's arrest.<sup>56</sup> Strategies for Youth, a national policy and training organization focusing on improving interactions between police and youth, recommends that officers utilize a developmentally-appropriate, trauma-informed approach when interacting with children by considering the children's age, the reason for the search or the parent's arrest, and the children's emotional response.<sup>57</sup>

Other major cities are in accord. San Francisco's police department issued a General Order specifically addressing officer interactions with children when arresting a parent, which requires officers to be aware of items that may suggest the presence of children when entering a home and to give parents opportunities to reassure children and explain what is happening.<sup>58</sup> Indianapolis's

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<sup>56</sup> International Association of Chiefs of Police, *Safeguarding Children of Arrested Parents* 8-18 (August 2014), <https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/IACP-SafeguardingChildren.pdf>. See also Connecticut Center for Effective Practice, *A Collaborative Model to Support Children Following a Caregiver's Arrest: Responding to Children of Arrested Parents Together (REACT)*, (September 2012), <https://strategiesforyouth.org/sfysite/wp-content/uploads/2014/09/CHDI-Arrest-Protocol-CT-Inst.-for-Mun-Reg-Policy.pdf>.

<sup>57</sup> See Lisa H. Thurau, *First, Do No Harm: Model Policies for Law Enforcement Agencies When Arresting Parents in the Presence of Children*, USDOJ Office of Justice Programs Diagnostic Center, [http://strategiesforyouth.org/sitefiles/wp-content/uploads/2012/09/First\\_Do\\_No\\_Harm\\_Report.pdf](http://strategiesforyouth.org/sitefiles/wp-content/uploads/2012/09/First_Do_No_Harm_Report.pdf).

<sup>58</sup> San Francisco Police Department General Order, *Children of Arrested Parents* (May 7, 2014), <https://www.sanfranciscopolice.org/sites/default/files/2018-11/DGO7.04%20Children%20of%20Arrested%20Parents.pdf> (last visited Jan. 13, 2021). Also in California, Fresno's police department created a Children Exposed to Domestic Violence response team, designed to provide services that go beyond those typically provided by patrol, such as developing a connection to the family, identifying needs and providing referrals to services. The Fresno department also implements policies aimed specifically at mitigating the trauma of exposure to parental arrest. See A. Rosewater and K. Moore, *Addressing Domestic Violence, Child Safety and Well-being: Collaborative Strategies for California Families* 28-29 (2010), available at <https://www.courts.ca.gov/documents/DVReport2010V3.pdf>.

policy outlines a detailed protocol for interacting with social services agencies, like Child Protective Services, at the scene of a search or arrest, and is geared toward minimizing trauma resulting from these types of police interactions.<sup>59</sup> Several police departments use the Responding to Children of Arrested Parents Together (REACT) model, which seeks to minimize traumatic stress in children, provides training and resources for law enforcement, and improves collaboration between law enforcement, mental health, and child welfare systems to more effectively deliver services to children in cases where parents are arrested.<sup>60</sup>

## **II. THE COALITION HAS UNDERTAKEN SUBSTANTIAL EFFORTS TO RESOLVE HOME RAID-RELATED CONSENT DECREE VIOLATIONS IN ACCORDANCE WITH ITS ENFORCEMENT AUTHORITY.**

### **A. The Coalition Retains Enforcement Authority Under the Consent Decree.**

The Coalition is comprised of the plaintiff organizations in two lawsuits seeking to end CPD's long-term failure to curtail the widespread violence that police have inflicted on Chicagoans, which especially impacts people of color and people with disabilities. Dkt. 703, ¶ 709(b) (identifying the Coalition founders as the plaintiff organizations in *Campbell v. City of Chicago*, Case No. 17-cv-4467 (N.D. Ill.), which challenged CPD's pattern of use of force under the Fourth Amendment and racially biased policing, and *Communities United v. City of Chicago*, Case No. 17-cv-7151 (N.D. Ill.), which challenged CPD's pattern of use of force under the Fourth

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<sup>59</sup> Indianapolis Metropolitan Police Department General Order 1.18, Child in Need of Services (CHINS) (Jan. 1, 2007), <https://strategiesforyouth.org/sitefiles/wp-content/uploads/2014/10/IMPD.pdf> (last visited Jan. 11, 2021).

<sup>60</sup> Manchester Police Department Policy, Chapter 9, Section 12, \_Mentally Ill or Gravely Disabled Individuals, Crisis Intervention Model Team (CIT), and REACT Model (December 2013), <https://strategiesforyouth.org/sitefiles/wp-content/uploads/2014/09/manchester-REACT-policy.pdf> (last visited Jan. 11, 2021). For a longer discussion of model practices for law enforcement agencies when arresting parents in the presence of children, see Thureau, *First, Do No Harm*, *supra* note 57.

Amendment and sought to end the impact of police violence on people with disabilities and, in particular, at the intersection of race and disability).

In March 2018, the Coalition, the City, and the OAG entered into a Memorandum of Agreement (MOA).<sup>61</sup> The MOA confirmed that the organizational plaintiffs in both lawsuits had formed a Coalition “committed to monitoring, enforcing, and educating the community about the consent decree” being negotiated by the City and OAG (¶ 1); defined how the *Communities United* plaintiffs and the *Campbell* organizational plaintiffs (“Coalition Founders”) would propose terms for the consent decree as it was being negotiated (¶¶ 2, 6); and promised that the City and OAG would include terms in their decree to make it enforceable by the Coalition (¶¶ 12-13). In exchange, the organizational plaintiffs dismissed their injunctive claims against the City.<sup>62</sup> Both lawsuits ended soon after with settlements that reflected that the organizational plaintiffs, through the Coalition, had the right to enforce the Consent Decree.<sup>63</sup>

The Coalition met its obligations under the MOA prior to the entry of the final decree. The final Consent Decree, entered on January 31, 2019, included the language negotiated in the MOA granting the Coalition the power to enforce the Consent Decree.<sup>64</sup>

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<sup>61</sup> See MOA, attached as Ex. D to Pl.’s Opp’n to Mot. to Intervene, Dkt. No. 73-1.

<sup>62</sup> See *Communities United v. City of Chicago*, Case No. 17-cv-7151, Dkt. No. 76 (N.D. Ill. 2017) (stipulation of dismissal); *Campbell v. City of Chicago*, Case No. 17-cv-4467, Dkt. No. 197 (N.D. Ill. 2017) (same).

<sup>63</sup> See *Communities United v. City of Chicago*, Case No. 17-cv-7151, Dkt. No. 76-1 (N.D. Ill. 2017) (settling litigation in consideration for Consent Decree enforcement rights); *Campbell v. City of Chicago*, Case No. 17-cv-4467, Dkt. 196 (N.D. Ill. 2017) (same).

<sup>64</sup> See Consent Decree ¶¶ 669, 709.

**B. The Coalition and the OAG Provided the City Ample Notice of its Home Raid Violations and Now the Cure Period Has Lapsed.**

Pursuant to Consent Decree paragraph 709, the Coalition first provided the City with notice of the CPD home raid-related Consent Decree violations on August 5, 2020. The Coalition expressed a desire to “work together to solve” the documented violations. *See* Ex. B (August 5, 2020 Letter from Coalition to City). In various August and September 2020 calls between counsel for the City and attorneys for the Coalition, the City confirmed receipt of the letter, and stated that a written response would be forthcoming.

On September 25, 2020, the OAG sent a letter to the City requesting that it “comprehensively address the detailed concerns raised by the Coalition,” and noted that the OAG “echoes” the Coalition’s concerns and is “disturbed by the ongoing and well-documented accounts of CPD raids involving mistaken addresses, incorrect information, excessive force, verbal abuse, pointing guns directly at young children and their parents and accounts of disrespect . . . that disproportionately affect Black, Brown and economically disadvantaged neighborhoods.” *See* Ex. C (Sept. 25, 2020 Letter from OAG to City). The OAG similarly asked the City to schedule a time to meet with the Coalition, IMT, and OAG “to discuss the Coalition’s detailed proposals.” *Id.* The City did not respond. Over a period of months, Coalition counsel made repeated oral inquiries to counsel for the City concerning its intent to respond to and engage with the parties on the issue. Counsel for the City indicated that it preferred to respond in writing before meeting. Months after the 90-day cure period contemplated by the Consent Decree ended, the City has refused to respond in writing, or indeed, in *any* substantive way, to the Coalition’s August 2020 letter.

Accordingly, on December 16, 2020, Coalition counsel sent an email to counsel for the City requesting “a firm date by which you will respond and commit to meeting and working with us to implement long overdue remedies to avoid unnecessary additional trauma, injuries, and even

deaths inflicted upon Chicago families.” *See* Ex. D (Dec. 16, 2020 Email from Craig Futterman to Tyeesha Dixon and Allan Slagel). Another month has passed, and the City has yet to even acknowledge the email. For over five months, the City has ignored multiple requests by the Coalition and OAG to collaborate on a resolution to home raid-related Consent Decree violations. Even when the raid of Ms. Young’s home and the City’s attempts to prevent the release of the raid video made international headlines, the City refused to engage with the Coalition on this matter.

Given the City’s obfuscation and the on-going violations by CPD officers, the Coalition is left with no option but to seek the intervention of this Court.

**III. THIS COURT MAY USE ITS ENFORCEMENT AUTHORITY TO BRING THE CITY INTO COMPLIANCE.**

This Court has broad authority to require that CPD take specific action to effectuate the Consent Decree’s terms. Federal courts are not reduced to approving consent decrees and hoping for compliance. “Once entered, that decree may be enforced.” *Frew ex rel. Frew v. Hawkins*, 540 U.S. 431, 432 (2004) (upholding the constitutionality of a consent decree governing the operations of a Texas State agency); *see also Shakman v. City of Chicago*, 426 F.3d 925, 931 (7th Cir. 2005) (“A party may not simply ignore a consent decree”); *Jones-El v. Berge*, 374 F.3d 541, 545 (7th Cir. 2004). When a defendant violates a consent decree, “the court has the power to issue any order necessary to enforce the decree, including an order to pay.” *Wis. Hosp. Ass’n. v. Reivitz*, 820 F. 2d 863, 868 (7th Cir. 1987).

This Court has discretion to fashion an appropriate remedy to bring the City into compliance through a supplemental order for injunctive relief or contempt proceedings. *See Wis. Hosp. Ass’n*, 820 F.2d at 868; *see also South Suburban Hous. Ctr. v. Berry*, 186 F.3d 851, 854 (7th Cir. 1999) (recognizing that a district court has “broad discretion to fashion an award” for civil contempt sanctions in action to enforce consent decree pertaining to alleged unfair real estate



practices); *Duran v. Elrod*, 713 F.2d 292, 297 (7th Cir. 1983) (stating that the district court has broad discretionary power in shaping remedy to enforce consent decree in jail conditions case).

At this time, the Coalition merely seeks an expedited process supervised by this Court and involving the City, CPD, and the OAG to determine whether a mutually agreeable resolution of this dispute is feasible. If such a process cannot produce a remedy, however, the Coalition will request that the Court enter an order sanctioning CPD by requiring it to issue and implement policies and processes that are necessary to cure the continuing constitutional violations.

While the Consent Decree's provisions governing use of force and police interactions with the community do not specifically refer to home raids, remedies specific to these policies and practices are necessary to address the violations of the Decree and federal law. Courts overseeing policing consent decrees frequently enter orders requiring defendants to implement policies and procedures that are not explicitly set forth by the consent decree terms, but that nonetheless are necessary in order to effectuate the decree's purpose. *See Floyd v. City of New York*, 959 F. Supp. 2d 668, 688-91 (S.D.N.Y. 2013) (ordering the NYPD to record civilian interactions); *United States v. City of Seattle*, No. C12-1282JLR, 2018 WL 6304761, at \*3 (W.D. Wash. Dec. 3, 2018) (court overseeing policing consent decree entered an order to show cause after the department decided to "reinstate an officer who had violated three provisions of the [Seattle Police Department's] use-of-force policies when he punched a handcuffed subject in the face while she was sitting in a patrol car" and where the City rejected a proposed ordinance related to police accountability); *McElrath v. Goodwin*, 713 F.Supp. 299, 305 (E.D. Ark. 1988) (ordering that "a neutral person should conduct a training program as to the use of and the meaning of the Consent Decree . . . [because] [i]t [did] not appear to the court that the training given to the CAPS Officers was adequate").

Courts also retain the right to order sanctions in the form of mandated compliance. Recently, after finding Memphis police violated a consent decree relating to unlawful surveillance, the district court imposed sanctions requiring the police department to: “(1) revise its departmental policies to include a definition of ‘political intelligence’; (2) establish a training program . . . ; (3) create an approval process for investigations into unlawful conduct that may incidentally result in the gathering or collection of political intelligence . . . ; (4) create and submit to the Court guidelines for officers on the use of social media searches and social media collators in compliance with the Decree; and (5) submit a periodic list of all search terms entered into social media by MPD officers.” *ACLU of Tennessee, Inc. v. City of Memphis, Tennessee*, No. 2:17-cv-02120-JPM-jay, 2020 WL 5630418, at \*2 (W.D. Tenn. Sept. 21, 2020); *see also Cintron v. Vaughn*, No. 3:69-cv-13578, 2007 WL 4240856, at \*1 (D. Conn. Nov. 29, 2007) (adopting sanctions established by special master after police department violated consent decree prohibiting racially discriminatory policing); *United States v. Police Dep’t of City of Balt.*, 303 F. Supp. 3d 376, 377 (D. Md. 2018) (while monitoring compliance with consent decree over the Baltimore Police Department, court ordered: “[I]t has become apparent to the Court that acquisition and activation of such a modern technology platform (hardware, software, training and personnel to operate the same) is a critical undertaking of the reform process without which most of the other promised reforms will be impossible. Accordingly, although the topic of technological reform has not yet been the focus of a monthly Subject Matter Conference, it is of such fundamental importance as to warrant immediate and continuing attention by the parties and the Monitor.”).

This Court undeniably has the authority to enter an order requiring CPD to comply with the terms of this Consent Decree summarized here, and to end its ongoing, systematic abuse of Chicagoans during home raids. Nevertheless, the Coalition is hopeful that with clear guidance

from the Court, this matter can instead be resolved expeditiously through structured settlement negotiations. Should that process fail, the Coalition reserves the right to modify this motion and request an evidentiary hearing as soon as possible, in accordance with this pleading.

### CONCLUSION

For these reasons, the Coalition respectfully moves this Court to enter and continue this Motion to Enforce and to require the City Defendants—including but not limited to representatives of the Mayor’s Office—to participate in structured settlement negotiations before this Court with Coalition Members, their Counsel and the OAG. The Coalition further requests an order requiring City Council to report to the Court on its progress related to the Consent Decree provisions related to home raids, as identified above. Finally, should settlement efforts fail, the Coalition requests that this Court schedule at the earliest possible date an evidentiary hearing regarding CPD’s home raid-related violations of the Consent Decree and the sanctions appropriate to remedy each violation.<sup>65</sup>

Respectfully submitted,

/s/ Sheila A. Bedi  
Counsel for the Coalition

/s/ Craig B. Futterman

Date: January 13, 2021

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<sup>65</sup> The Coalition reserves the right to request expedited discovery prior to any evidentiary hearing.

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July 17, 2020

VIA EMAIL

Maggie Hickey  
Independent Monitor  
Schiff Hardin LLP  
233 South Wacker Drive, Suite 7100  
Chicago, IL 60606

**Re: Problems with Working Group on Cops in Schools**

Dear Maggie,

We write to share our deep concerns regarding the City's handling of the working group on police in schools. The Coalition worked with the City in good faith for more than four months in an effort to create a working group on police in schools that would provide for meaningful community input, including the input of young people and those most affected by policing in schools. In turn, the City insisted on a rushed process with a short timeline, resisted the inclusion of youth on the working group, scheduled and canceled meetings without notice, and presumed that the working group would conclude that police should be in schools. Last week, the City unilaterally "paused" the working group, purportedly in light of "evolving conversations" on police in schools. This "pause" occurred after community members spent hundreds of collective hours trying to move the group forward in a consensus-based process, and just when an Advisory Board (made up of members appointed by the City and the Coalition) was slated to select members of the working group. Ironically, the City cited the working group process in both City Council and the School Board hearings, identifying the process as one that would lead to meaningful changes the City's police in schools program.

Below is a timeline summarizing the City's repeated miscommunications and unwillingness to work in partnership with the Coalition on the police in schools working group:

- **In late March:** the City presents the Coalition with two options for the focus of the second official working group: community policing or police in schools. Coalition members begin engaging the broader communities they represent to staff those groups.
- **5/13/2020:** The City unilaterally decides to move forward with only the working group on police in schools, wasting the Coalition's efforts on the community policing outreach. The City also tells the Coalition that the working group on police in schools must operate on an expedited timeline in order for the City to digest community input prior to the start of the 2020-2021 school year.

- **5/13/2020 & 5/15/2020:** In two meetings, the Coalition raises concerns about the City's proposed timeline (under which working group members would be selected in a matter of weeks and the final policy crafted by early August), explaining that it is too rapid to allow for true community engagement. The City maintains that the schedule is necessary to ensure that community feedback can be incorporated into the final CPD policy and, more to the point, so that officers could be trained appropriately in advance of the school year.
- **6/5/2020:** The Coalition sends an email to the City agreeing to collaborate in the working group if certain conditions, like youth involvement and Coalition members selecting the working group members, are met.
- **6/12/2020:** After the Coalition and City attorneys meet, they agree that the Advisory Board will be tasked with deciding how best to incorporate youth in the Group, along with selecting the members. The City also agreed that the Advisory Board could have equal numbers of City and Coalition members.
- **6/12/2020:** The Coalition emails the City, agreeing to participate in the police in schools working group process and providing the names of Coalition members willing to serve on the Advisory Board.
- **6/15/2020:** The City emails the Advisory Board members unilaterally scheduling a three-hour meeting on 6/17/2020, stating that the Advisory Board would select members of the Working Group at that time. At that point, the City had not yet provided the Advisory Board with any information regarding the applicants.
- **6/17/2020:** The City cancels the meeting with less than four hours' notice, explaining that it is still gathering applicant information.
- **6/17/2020:** The Coalition, in an email to the City, asks for the working group applications and other documents needed to evaluate candidates and asks the City to schedule meetings collaboratively in the future.
- **6/17/2020:** The City responds that it will send applicant information once the date for the Advisory Board's selection meeting is finalized and will do its best to seek Board members' availability prior to scheduling meetings in the future. In this email, the City also highlights that the original timeline had the working group beginning the following week, and the revised schedule would need to keep as close as possible to the original, so that officers could be trained before the school year began.
- **6/18/2020:** The City for the second time unilaterally sets a meeting, this time with one business day's notice. The City states that it will share applicant information that day via an Excel spreadsheet containing anonymized demographic information. The City had not consulted with the Advisory Board about the information it wished to use to select members before making the spreadsheet.

- **6/18/2020:** The City does not send the excel spreadsheet containing applicant information as promised.
- **6/19/2020, Juneteenth (known by the City as being observed by several Advisory Board members):** The City sends the Excel spreadsheet and a letter directing the Advisory Board to select working group members with a selection method chosen by the City without input from the Advisory Board or Coalition. The City has still not sent unredacted applicant information or the full applications as requested by Coalition counsel in its 6/17/2020 email.
- **6/19/2020:** The City follows up several hours after its initial email stating unequivocally and without explanation that the Advisory Board should not select any applicants under the age of 18, despite the City's previous agreement to allow the Advisory Board to make that determination based on urging from the Coalition.
- **6/22/2020:** The Advisory Board meets. Coalition representatives reiterate their concerns regarding the City's unilateral scheduling, directives on selection criteria, and statements against youth participating on the working group. The members note that they are unable to actually select the Working Group members given the City's position against youth involvement. The members – including most of the City's own appointees – reiterate the critical importance of youth involvement in the working group.

During the meeting, the voting members of the Advisory Board make several consensus-based decisions about the selection process, including that the Coalition will appoint four of its members to the working group outside of the application process. The Board also votes to select 16 working group members from the applicant pool (rounding out the 20 total members with the 4 Coalition appointees), to exclude applicants who indicated law enforcement affiliation, and to select five alternate members in the event that selected members need to resign. At the end of the meeting, the Advisory Board members agree to send their selections to the City by close of business on 6/24, and to meet again at a mutually agreeable time on 6/26 to review members' selections and to finalize the working group membership.

This process requires the City to clarify its stance on youth participation (which it promises to do by 6/23) and to send to the Advisory Board members the full set of selection ballots before the 6/26 meeting.

- **6/23/2020:** The City does not clarify its stance on youth participation and sends no explanation of its failure to do so.
- **6/26/2020:** The Advisory Board meets. The Advisory Board has not received the completed working group member ballots from the City, and thus cannot select the working group members. The City – through a neutral facilitator who has no decision-making authority – reiterates its position that youth cannot participate in the working group, again without response to the Board members' concerns. The members of the Advisory Board – including the City's own appointees – state that youth participation is

non-negotiable. Members make a third attempt to schedule a selection meeting, this time for Tuesday, 6/30.

- **6/29/2020:** At 7:53 p.m., without explanation, the City cancels the Advisory Board meeting set for the following day, noting that it will work the following day to reschedule the meeting.
- **6/30/2020:** The City does not contact Advisory Board members to reschedule the selection meeting. It still does not provide an explanation of why it cancelled yet another meeting.
- **7/1/2020:** An Advisory Board member and Counsel for the Coalition emails the City asking for information about a rescheduled meeting and asking why the previous meeting was cancelled. This email receives no response.
- **7/2/2020:** Representatives for the City, including Dep. Supt. Barbara West and CPS Chief of Safety Jadine Chou repeatedly herald the police in schools working group during a Joint Committee hearing on the topic before City Council. They do not explain that the working group has not even been selected yet or that the City had cancelled the majority of the meetings relating to the group – incorrectly leading City Council members to believe that community voices were being heard through the Consent Decree process. They also make no reference to the City’s conduct in sidelining the Advisory Board in the working group decision-making process. Chief Chou, who is a member of the Advisory Board, is aware of the City’s conduct during this process.
- **7/8/2020:** The City sends an email to “pause” the Working Group, apparently due to “evolving conversations about CPD officers assigned to CPS schools” and a desire to “consult with the IMT as how to best move forward with working group structure and recommendations.” No further explanation is provided.

By its actions, the City has revealed itself to be unwilling to participate in the community engagement process that it so enthusiastically touts in public and legislative fora. Now more than ever, the City should be working to increase its connection to communities who are engaged in the public debate over the appropriateness of police officers in schools. As the broader conversation has evolved toward a community consensus that police should *not* be staffed in our schools, the City has repeatedly frustrated efforts to move forward with the working group. The City’s actions indicate that it is not interested in meaningfully engaging with community members whose viewpoints may differ from the City’s, but instead seeks to limit community engagement to members who will provide the City with cover for its predetermined decisions. As a result of the City’s unilateral decision to halt the police in schools working group, hundreds of people who sought to have their viewpoints heard (either through the Coalition representatives in the group, or by applying to join the group themselves) have been silenced. This moment and the Consent Decree call for the exact opposite.

We request that you take public note of the City’s actions in considering its compliance for the next IMR, and that you work with the Coalition to create logistical guidelines for any future working groups. The City’s conduct has damaged the legitimacy of the Consent Decree, and an



appropriate response is not only called for, but essential to the viability of any community engagement efforts going forward.

Very truly yours,

/s/ Elizabeth Jordan

Staff Attorney,  
ACLU of Illinois

/s/ Alexa Van Brunt

Roderick and Solange MacArthur Justice Center  
Northwestern Pritzker School of Law

/s/ Craig Futterman

Mandel Legal Aid Clinic,  
University of Chicago Law School

/s/ Sheila Bedi

Roderick and Solange MacArthur Justice Center  
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*On behalf of the Coalition*

cc: Shareese Pryor  
Chris Wells  
Alicia Weber  
Tyeesha Dixon  
Allan Slagel

**From:** [Craig B. Futterman](#)  
**To:** [Tyeesha Dixon \(tyeesha.dixon@cityofchicago.org\)](#); [Slagel, Allan T.](#)  
**Cc:** [Margaret Hickey \(MHickey@schiffhardin.com\)](#); [Joe Ferguson - Inspector General, Chicago \(JoeFerguson1@ChicagoInspectorGeneral.org\)](#); [Pryor, Shareese](#); [Wells, Christopher](#); [Weber, Alicia](#); [awenzloff@atg.state.il.us](#); [Sheila A Bedi](#); [Alexa Van Brunt](#); [Vanessa del Valle](#); [Karen Sheley](#); [Rachel Murphy \(RMurphy@aclu-il.org\)](#); [Elizabeth Jordan](#); [Amanda Anholt](#)  
**Subject:** CPD Home Raids  
**Date:** Wednesday, August 5, 2020 10:22:08 AM  
**Attachments:** [2020.08.05 Coalition Letter re CPD Raids.pdf](#)

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Dear All,

Please see attached letter.

I hope that this is something that we can all work together to solve.

Sincerely,

Craig

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*Craig B. Futterman*  
*Clinical Professor of Law*  
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August 5, 2020

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*Re: CPD Home Raids*

Dear Tyeesha and Allan,

We write this letter on behalf of the Coalition, pursuant to paragraph 709 of the Consent Decree, to remedy the Chicago Police Department's ongoing pattern of excessive force, continued traumatization of children and families, and failures of accountability and supervision in the execution of warrants and raids of family homes in Black and Brown communities—practices that run contrary to the core mission of the Consent Decree.

As CBS 2 Chicago has documented, CPD regularly raids the wrong homes, fails to investigate information provided by informants to ensure that officers target the correct addresses, and fails to assess whether children reside in the homes or take precautions to avoid traumatizing children. When entering family homes, officers typically break down the door and charge into the living space with guns drawn, startling everyone present. They point their assault rifles and handguns directly at young children and their parents; they handcuff children in front of their parents, and parents in front of their children; they subject family members to excessive and unwarranted force and verbal abuse; and they treat Black and Brown families with a basic lack of respect for their humanity. After taking and breaking personal items, including children's toys, CPD leaves families unprotected, with broken doors and locks, exposed and vulnerable to further violence and theft.

The CPD has refused to track or document, much less analyze, the reasons for negative search warrants (“wrong raids”),<sup>1</sup> including raids in which the target of the raid does not live at the address, thereby ensuring the continuation of its unconstitutional practices. For decades, community members have made misconduct complaints about these incidents, but they are rarely if ever sustained.

The recent killing of Breonna Taylor in a similar raid by police in Louisville and the worldwide protests that have followed dramatize all that is stake—the lives and safety of Black and Brown families. Accordingly, we request that you work with the Coalition, along with the Attorney General and Monitor, to revise policies and training, hold officers accountable for violations, and document and monitor the execution of residential warrants to ensure compliance with the Constitution and Decree.

The Coalition also joins the national call to prohibit no-knock raids in Chicago, because they unjustifiably put the lives of families and police officers at risk and make family homes sites of unnecessary police violence. Family members, awakened and frightened by unannounced armed intruders in the middle of the night, have every right and reason to defend their homes and loved ones. And armed police raiders are equally likely to view those same family members as a threat to their lives. There is no greater recipe for disaster for all involved.

### **Relevant Provisions in the Consent Decree**

The City, in the Consent Decree, committed to delivering police services in a manner that (1) fully complies with the Constitution and laws of the United States and the State of Illinois, (2) respects the rights of the people of Chicago, (3) builds trust between officers and the communities they serve, and (4) promotes community and officer safety. In accordance with the Decree, CPD is required to update its policies and practices to reflect its commitments to procedural justice, de-escalation, impartial policing, and community policing.

*Use of Force.* Paragraph 156 of the Decree mandates that CPD implement use of force policies and training, supervision, and accountability systems that require officers to act in a manner consistent with the sanctity of human life, and with a high degree of ethics, professionalism, and respect for the public. Officers must only use force that is objectively reasonable, necessary, and proportional in relation to the totality of the circumstances.<sup>2</sup> Further, the Decree requires that officers must employ de-escalation techniques to prevent or reduce the need for force.<sup>3</sup> In practice, however, officers continue to inflict unreasonable and excessive

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<sup>1</sup> A negative search warrant is one that fails to result in an arrest upon execution of a raid.

<sup>2</sup> Consent Decree, ¶ 156.

<sup>3</sup> Consent Decree at ¶¶ 156, 161.

force when conducting residential raids, engage in unnecessary destruction of real and personal property, and fail to de-escalate force in the presence of children and their caregivers.

*Use of Body Cameras.* The Decree's body-camera provisions require officers to activate their cameras during all law enforcement-related activities that occur while on duty, continue recording until the conclusion of the incident, and face mandatory discipline, training, or other remedial action if they do not comply with this policy.<sup>4</sup> However, the CPD has failed to equip many of the units that regularly conduct these raids, such as SWAT and area-wide or city-wide gang and narcotics enforcement teams, with body cameras. In addition, the officers who have body cameras fail to wear, activate, and properly use them. Indeed, there continue to be incidents in which police supervisors instruct officers to turn off their cameras to avoid being recorded during negative raids.<sup>5</sup>

*Training and Interactions with Youth.* Contrary to paragraphs 32 and 37(d) of the Decree, which require CPD to adopt policies and training to ensure officers use developmentally appropriate responses to, and interactions with, youth and children, CPD has failed to train officers to plan raids with the goal of protecting any children at the location and to schedule raids at times when children are least likely to be present. CPD has also failed to prohibit its officers from pointing guns at and handcuffing innocent children, abusing their family members in their presence, and treating young children as implicated adults during the execution of search warrants.

*Community Policing.* One of the Decree's guiding principles is to integrate community policing practices into all CPD operations.<sup>6</sup> The Decree mandates that CPD work on a systemic basis toward strong community partnerships and positive interactions between police and members of the public.<sup>7</sup> CPD's current search warrant execution and investigation practices, which fail to require even the simple step of verifying residential addresses prior to executing a search warrant, traumatizes families and particularly young children. This directly undermines community trust in CPD, public perceptions of legitimacy and procedural justice, and breaches the foundational community-oriented philosophy that underlies the Decree.

*Impartial Policing.* CPD's discriminatory practices with respect to residential raids also contravene the guiding principles of the Decree's directives with respect to Impartial Policing, which require officers to "treat all persons with the courtesy and dignity which is inherently due

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<sup>4</sup> *Id.* at ¶¶ 238–39.

<sup>5</sup> *See, e.g.,* <https://chicago.cbslocal.com/2019/05/04/key-body-camera-footage-missing-after-chicago-police-officers-raid-wrong-homes-point-guns-at-children/>.

<sup>6</sup> *Id.* at ¶ 9.

<sup>7</sup> *Id.* at ¶ 8.

every person as a human being,” and to conduct all operations fairly and without bias.<sup>8</sup> The vast majority of CPD’s negative raids target families in Black or Brown neighborhoods. The five neighborhoods with the greatest number of negative raids are Englewood, Austin, North Lawndale, Garfield Park, and Humboldt Park—all predominately Black or Brown, and poor. Similarly, the neighborhoods with the greatest percentage of negative raids as compared to their total number of search warrants are also Black or Brown and poor. The neighborhoods with the lowest number of negative raids are all overwhelmingly white and wealthy.<sup>9</sup>

### **CPD’s Ongoing Pattern of Abusive Practices in Investigating and Executing Warrants and Interacting with Children**

Notwithstanding the Consent Decree and repeated lawsuits, CPD has allowed its officers to terrorize children and families in residential raids without fear of consequence. According to CPD data obtained by CBS, CPD conducted over 6,800 residential raids pursuant to warrants between January 2016 and mid-2019.<sup>10</sup> Nearly 3,000 of those raids, or 43%, failed to result in an arrest. The top ten neighborhoods with the most search warrants executed are also those with majority Black and/or Latinx populations. These neighborhoods are also some of the poorest in Chicago.<sup>11</sup> Roughly one-third of all Chicago households include children under 18 years old. A conservative estimate indicates that far more than a thousand children have been victims of CPD home raids in the past three years. Despite the pattern of abuse toward children and their families in these raids, CPD has failed to track, monitor, or hold officers to account for their actions.

*Excessive force and aggression toward children and their families in execution of search warrants.* A pattern of cases illustrates that CPD search warrant affiants do little to independently investigate and verify that the address for the intended target provided by the informant is accurate and current, making the homes of innocent families the sites of the kinds of police violence that the Decree was designed to prevent.<sup>12</sup> Chicago police affiants do not perform

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<sup>8</sup> *Id.* at ¶¶ 49–50.

<sup>9</sup> The top three neighborhoods with the most search warrants executed are Englewood (96% black population; median household income \$24k), Austin (88% black population; median household income \$33k), and North Lawndale (90% black population; median household income \$25k). In contrast, the neighborhoods with the fewest search warrants executed include Printers Row, Museum Campus, Magnificent Mile, Millennium Park, Edison Park, Grant Park, and Wrigleyville (50% or more white population; median income \$95k or more). All of these neighborhoods had zero search warrants executed in the 2016-19 period analyzed by CBS. *See* <https://storymaps.arcgis.com/stories/63ce5770e1ed43bea99d1d8274b94f91>.

<sup>10</sup> CBS 2 data analysis of Chicago Police search warrants Excel spreadsheet, available at <https://storymaps.arcgis.com/stories/63ce5770e1ed43bea99d1d8274b94f91>.

<sup>11</sup> *See id.*

<sup>12</sup> The Decree does not currently include provisions that specifically address improving the quality of investigations leading to search warrants, which has perpetuated the patterns of excessive force against families and children documented by the U.S. Department of Justice. We recommend that the City agree to modify the Decree to remedy this deficiency.

basic surveillance or investigation, such as checking utility records, verifying that the target is not in jail or prison, or checking databases like Accurint. CPD does not require officers executing search warrants to investigate whether children live in the residence or will be present, nor does it train officers on dealing with the presence of children while executing search warrants. And, although CPD's search warrant policies include some reasonable provisions such as requiring independent corroboration of anonymous tips, officers' repeated violations of these requirements demonstrate that the policies are meaningless if supervisors do nothing to ensure that officers follow these policies. Similarly, although CPD policy generally requires officers to wait a reasonable time after knocking to allow a family to open the door, case after case documented by CBS reveals officers breaking into homes virtually contemporaneous with any knock. In addition, the policies are inadequate on their face.<sup>13</sup>

As a result, officers continue to abuse children and their families in residential raids in the same manner as before the Decree. On January 29, 2015, four years before the Decree, brothers Jaden Fields, Jeremy and Justin Harris (ages eleven, six, and four, respectively) and their cousin Nasir Norman (age eleven) were doing homework and playing video games in the front room of their home. Suddenly, without warning, a team of Chicago police SWAT and plainclothes officers broke into the back door of their apartment; threw flashbang grenades inside; and screamed, cursed, and pointed assault rifles at the children. The search warrant's actual target, Derec Bell, not only did not live in the apartment, but, according to CPD's criminal database (which the officers had failed to consult), was serving a twenty-year prison sentence 200 miles away.<sup>14</sup>

In August 2018, just a few months before the Decree was finalized, an armed SWAT team set off loud flashbang grenades outside the home of Ebony Tate and broke open the front door of her apartment without knocking or presenting a search warrant. The officers pointed assault rifles at Ms. Tate, her four young children, and her 55-year-old mother, and then searched her apartment for over an hour while forcing Ms. Tate and her family to sit on the running board of the SWAT truck in various states of undress.<sup>15</sup> The officers found nothing.

After the fruitless search, one of the officers brought Ms. Tate back into her home and gave her a copy of the search warrant for "Javale Bell" at her address. Tate replied that she had never seen Bell before, prompting another officer to respond, "I guess we got the wrong house." As it turned out, the officers had secured two simultaneous search warrants for two different buildings based on the same information provided by a confidential informant. Despite their

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<sup>13</sup> See *Deficiencies in CPD Search Warrant Policy*, *infra*.

<sup>14</sup> [Blassingame v. City of Chicago](https://chicago.cbslocal.com/2019/11/05/another-wrong-cpd-raid-blassingame/), 1:19-cv-07287 (N.D. Ill. Jan. 28, 2020); for more information on this wrong raid see <https://chicago.cbslocal.com/2019/11/05/another-wrong-cpd-raid-blassingame/>.

<sup>15</sup> For video footage of the raid and an interview with Ms. Tate, see <https://chicago.cbslocal.com/2020/03/06/sgt-anthony-bruno-body-cams-turned-off-chicago-police-during-wrong-raid/>.

awareness of this inconsistent information, the officers pursued and executed duplicate search warrants in disregard of the safety and dignity of Ms. Tate's family.<sup>16</sup>

In Bures, CPD officers raided a family's home during their four-year-old child's birthday party. The officers pointed guns at the family, shouted profanity and insults, and left the child's birthday cake on the floor. In reality, the actual target of the search warrant had not lived at the residence for five years.<sup>17</sup> In Young, officers raided a woman's home and handcuffed her while she was naked, refusing to let her put clothes on—all based on a vague tip with no corroboration of the informant's claims.<sup>18</sup> In Mendez, officers executed an invalid search warrant for the wrong apartment and repeatedly pointed guns directly at the family's five- and nine-year-old children while they cried and pleaded for the officers not to shoot their father.<sup>19</sup>

On February 8, 2019, a month after the entry of the Decree, a team of CPD officers similarly raided Krystal Archie's apartment, ordered Ms. Archie's fourteen-, eleven-, and seven-year-old children to the floor, and pointed assault weapons at their faces and heads. Officers made thoughtless and cruel jokes as they rifled through Ms. Archie's home and needlessly damaged the family's personal property. The raid yielded no contraband whatsoever.<sup>20</sup>

In the early morning hours of March 25, 2019, CPD officers again targeted the wrong address and raided yet another home of a mother and her children who had been sound asleep when CPD burst in. During the raid, Chicago police handcuffed the family's eight-year-old son and forced him to stand alone outside in freezing rain for 35 to 40 minutes while officers tore through the family's home.<sup>21</sup>

On February 26, 2020, around 15 plain-clothes officers (some wearing "Ninja" masks) broke into Sharon Lyons's home with rifles, flashlights, and machine guns, without announcing their identity as police. The officers pointed guns in the faces of Ms. Lyons, her three adult sons, and her four-year-old granddaughter Lillie. One of Ms. Lyons's adult sons is autistic and has a

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<sup>16</sup> Tate v. City of Chicago, 2019 WL 2173802 (N.D. Ill. May 20, 2019).

<sup>17</sup> Bures v. City of Chicago, 1:19-cv-02040 (N.D. Ill. Mar. 26, 2019). Video footage of the raid can be viewed at <https://chicago.cbslocal.com/2019/03/25/chicago-police-wrong-raid-birthday-party-4-year-old/>.

<sup>18</sup> Young v. City of Chicago, 1:19-cv-05312 (N.D. Ill. Aug. 6, 2019). For more information on this wrong raid, see <https://chicago.cbslocal.com/2019/11/12/innocent-woman-chicago-police-handcuffed-me-while-i-was-naked-during-wrong-raid/>.

<sup>19</sup> Mendez v. City of Chicago, 1:18-cv-05560 (N.D. Ill. Aug. 15, 2018). For video footage, see <https://chicago.cbslocal.com/2019/10/03/chicago-police-officers-questioned-on-video-for-lawsuit-about-raiding-wrong-home/>.

<sup>20</sup> Archie v. City of Chicago, 19-cv-04838 (N.D. Ill. July 19, 2019). For video footage, see <https://chicago.cbslocal.com/2019/07/19/wrong-raids-chicago-police-krystal-archie-family-federal-lawsuit/>.

<sup>21</sup> Wilson v. City of Chicago, 1:19-cv-03550 (N.D. Ill. May 29, 2019). For video footage, see <https://chicago.cbslocal.com/2019/05/28/another-family-says-chicago-police-pointed-guns-at-children-during-raid-handcuffed-8-year-old/>.



learning disability. He cried and became hysterical when the officers pointed guns at him because he did not understand what was happening. The search ultimately yielded no arrests and no contraband. The officers left Ms. Lyons' home with a broken door and locks, leaving her family vulnerable to crime.<sup>22</sup>

A day later, another group of mostly plain-clothed officers used a battering ram to break into the home and conduct a night-time raid of an innocent Iraqi American/Latinx family. Officers pointed guns at a 70-year-old grandmother and her 4-year-old granddaughter in her lap, as the grandmother was reciting her night-time prayers before bed. When the little girl's mother went toward the room to check on her daughter, an officer turned and pointed the barrel of his long gun within a foot of her mother's face. The officers cursed and shouted at the family as they held them at gunpoint for ten minutes. As the officers continued to train their guns on the grandmother, mother, and child, other officers tore apart the family's apartment, broke their furniture, and made nasty comments about their home. The officers left the family shaking in fear around one in the morning amongst the rubble of their broken belongings and broken front door.

*Absence of accountability.* This pattern of poorly substantiated search warrants, raids of incorrect residential addresses, excessive use of force, and property destruction during the execution of warrants is not a recent development; it has been going on for decades.<sup>23</sup> CBS analysis of CPD data paints a portrait of police impunity. For example, the twelve officers who

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<sup>22</sup> Lyons v. City of Chicago, 1:20-cv-03412 (N.D. Ill. Jun. 11, 2020). For video footage, see <https://chicago.cbslocal.com/they-had-the-guns-pointed-at-me-another-chicago-family-wrongly-raided-just-1-month-after-police-created-policy-to-stop-bad-raids/>.

<sup>23</sup> See, e.g., Jacobs v. City of Chicago, 215 F. 3d 758 (7th Cir. 2000) (CPD officers conducted search of apartment in multi-unit building pursuant to a warrant that incorrectly identified building as a single family residence; officers detained one of the apartment residents for three hours during a search of his apartment for alleged drug activity, without having probable cause to know that resident was involved in the drug activity); Cooper v. Dailey, 2010 WL 1415986 (N.D. Ill. March 31, 2010) (CPD officers searched apartment with canine units despite awareness that targets of the search warrant, based on anonymous tip, were not present and the residents did not know anyone by that name); Draine v. Bauman, 708 F. Supp. 2d 693 (N.D. Ill. April 16, 2010) (CPD officers broke into a homeowner's residence using a battering ram, ransacked the home and stole numerous items, and left it unlocked after the search, which did not reveal evidence of a crime; the officer procuring the search warrant relied on the statement of an unidentified person, who was in custody in another district, who claimed to have bought drugs for more than a year from a person, whose real name he did not know, and from a house whose address he could not specify); Leon v. City of Chicago, 2011 WL 4738532 (N.D. Ill. Oct. 3, 2011) (CPD officers obtained a warrant to search the residence of plaintiff's next-door neighbor, but searched plaintiff's home instead; used a sledgehammer to breach the rear door of plaintiff's residence, drew guns and pointed them at the family's children, and ransacked the apartment before realizing they were in the incorrect home and departing); Guzman v. City of Chicago, 689 F. 3d 740 (7th Cir. 2012) (CPD officer failed to call off search, once he learned that house was not single-family residence, as described in warrant, in that it contained a real estate office, it was not possible to get to the rest of the house from office, and there was a separate door for the first-floor apartment (where the target of the search lived); officer violated the second-floor resident's Fourth Amendment rights by forcing open the second-floor apartment door with a crowbar, entering with guns drawn, and forcing the pregnant resident, who was not the intended target of the search, to lie down on the floor).

authored the most affidavits in support of the search warrants that resulted in negative raids between 2016 and 2019 amassed 446 misconduct complaints. Of those complaints, 118 were for illegal searches. Only two of those 118 complaints were sustained and resulted in minimal discipline—a single day suspension and a reprimand. The same twelve officers responsible for the most negative raids accumulated 88 brutality complaints. None led to any discipline by CPD. To date, CPD has failed to discipline any officer for their conduct during any of the abusive raids reported by CBS.<sup>24</sup>

*Deficiencies in CPD’s search warrant policy.* In an apparent response to the damning publicity generated by the CBS investigation and repeated civil right lawsuits, CPD revised its search warrant policy in early January 2020 to include language related to the treatment of children and the use of body cameras when executing search warrants.<sup>25</sup> However, these revisions fail to cure the deficiencies in the prior policies. CPD added 19 words to its warrants policy with respect to police interactions with children, requiring officers in the presence of children to “maintain a sensitive approach and use due care to safeguard the emotional and physical well-being to minimize trauma.”<sup>26</sup> The revisions offer vague guidance at best; they fail to require or prohibit any particular conduct such as refraining from pointing weapons at young children.

*Deficiencies in CPD’s new search warrant training.* The Department also provided an updated search warrant training to officers in January and February 2020.<sup>27</sup> While the training is a step in the right direction, it remains inadequate with respect to safeguarding children from unnecessary trauma. The training also fails to emphasize the critical nature of adhering stringently to the body camera policy. Equally problematic, the policy defines “safety” primarily in terms of officer wellness, as opposed to the safety of the people (often children) who are living with or in close proximity to the target of a warrant.

*Failure to measure up to other departments’ policies nationwide regarding officer interaction with children.* CPD’s policy regarding youth interactions falls short of policies in other cities, as well as those advocated by the International Association of Chiefs of Police (IACP). This is especially the case with respect to circumstances involving the arrest of a parent in a child’s presence, a situation particularly likely to inflict lasting psychological trauma.

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<sup>24</sup> See Dave Savini, Samah Assad, Michele Youngerman, *Another Chicago Family Wrongly Raided, just 1 Month after Police Created Policy to Stop Bad Raids*, (July 17, 2020) at <https://chicago.cbslocal.com/they-had-the-guns-pointed-at-me-another-chicago-family-wrongly-raided-just-1-month-after-police-created-policy-to-stop-bad-raids/>; Dave Savini, Samah Assad, Michele Youngerman, Rebecca McCann, [Un]warranted (May 18, 2020), at <https://storymaps.arcgis.com/stories/63ce5770e1ed43bea99d1d8274b94f91>.

<sup>25</sup> Chicago Police Department Special Order S04-19, *Search Warrants*, Jan. 3, 2020, available at <http://directives.chicagopolice.org/directives/data/a7a57be2-12a76ce1-24512-a76c-e6f5e256f0ef4e84.pdf?hl=true>.

<sup>26</sup> *Id.* at 9.

<sup>27</sup> “Chicago Police Departments and Search Warrants in the 21<sup>st</sup> Century: Protecting You by Training You.”

For example, San Francisco's police department issued a General Order specifically addressing officer interactions with children when arresting a parent, which requires officers to be aware of items that may suggest the presence of children when entering a home and give parents opportunities to reassure children and explain what is happening.<sup>28</sup> Indianapolis's policy outlines detailed protocol for potential interactions with social services agencies like Child Protective Services at the scene of a search or arrest, geared toward minimizing trauma resulting from these types of police interactions.<sup>29</sup> In Connecticut, Manchester and Waterbury police use the Responding to Children of Arrested Parents Together (REACT) model, which seeks to minimize traumatic stress in children, provides training and resources for law enforcement, and improves collaboration between law enforcement, mental health, and child welfare systems to more effectively deliver services to children in cases where parents are arrested.<sup>30</sup> The IACP recommends that departments nationwide implement specific policies to improve interagency coordination, officer training, pre-arrest planning, documentation, and follow-up to minimize trauma to children following a parent's arrest.<sup>31</sup> Strategies for Youth, a national policy and training organization focusing on improving interactions between police and youth, recommends that officers utilize a developmentally-appropriate, trauma-informed approach when interacting with children by considering the children's age, the reason for the search or the parent's arrest, and the children's emotional response.<sup>32</sup>

## Necessary Remedies

CPD has failed to embrace the spirit and guiding principles of the Decree. To remedy this, we demand that CPD ban the use of no-knock warrants. In addition, CPD must:

- modify its policies, training, and supervisory practices for obtaining and executing residential search warrants;

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<sup>28</sup> San Francisco Police Department General Order, Children of Arrested Parents (May 7, 2014). Also in California, Fresno's police department created a Children Exposed to Domestic Violence team, designed to provide services that go beyond those typically provided by patrol, such as developing a connection to the family, identifying needs and providing referrals to services. The Fresno department also implements policies aimed specifically at mitigating the trauma of exposure to parental arrest.

<sup>29</sup> Indianapolis Metropolitan Police Department General Order 1.18, Child in Need of Services (CHINS) (Jan. 1, 2007).

<sup>30</sup> Manchester Police Department Policy, Chapter 9, Section 12, Mentally Ill or Gravely Disabled Individuals, Crisis Intervention Model Team (CIT), and REACT Model (December 2013). For a longer discussion of model practices for law enforcement agencies when arresting parents in the presence of children, see Lisa H. Thureau, First, Do No Harm: Model Policies for Law Enforcement Agencies When Arresting Parents in the Presence of Children, USDOJ Office of Justice Programs Diagnostic Center.

<sup>31</sup> International Association of Chiefs of Police Report, Safeguarding Children of Arrested Parents (August 2014). See also Connecticut Center for Effective Practice, A Collaborative Model to Support Children Following a Caregiver's Arrest: Responding to Children of Arrested Parents Together (REACT), September 2012.

<sup>32</sup> Strategies for Youth Protocol Recommendations, available at [https://strategiesforyouth.org/sitefiles/wp-content/uploads/2012/09/First\\_Do\\_No\\_Harm\\_Report.pdf](https://strategiesforyouth.org/sitefiles/wp-content/uploads/2012/09/First_Do_No_Harm_Report.pdf).

- record and publish additional data about each warrant and its execution;
- hold officers and supervisors who violate these policies strictly accountable for their conduct, including through discipline and/or termination; and
- subject these practices to close monitoring by the Independent Monitor, Attorney General, and Coalition.

*Search warrant policy and training.* CPD must modify its search warrant policy and training to improve the accuracy of residential search warrants and raids, ensure developmentally-informed interactions with children to minimize trauma, and increase accountability for officers. We demand that the City immediately begin work with the Coalition to:

- (1) Implement best-practices training for officers charged with investigating and executing warrants.
- (2) Require affiants to perform limited surveillance of the target address and apartment number in order to verify that the target's address and apartment number provided by the informant are accurate and current.
- (3) Prohibit officer affiants from relying solely on informants' representations of the target's address and apartment number and require officers to independently verify and corroborate this information with at least one additional, non-informant source.
- (4) Require affiants to use CPD's Accurant account to check the address and apartment number provided by the informant.
- (5) Require affiants to report in their applications for search warrants:
  - i) the specific, independent investigation and limited surveillance that the affiant undertook to verify that the address and apartment number given by the informant are accurate and current, and
  - ii) whether the affiant actually verified the address and apartment number given by the informant.
- (6) Require supervisory approval of all complaints for search warrants before they are submitted to the State's Attorney and Court.
- (7) Before approving a complaint for search warrant, require the CPD unit supervisor to ascertain:
  - i) the specific, independent investigation and limited surveillance that the affiant undertook to verify that the target's address and apartment number given by the informant are accurate and current, and
  - ii) whether the affiant actually verified the target's address and apartment number provided by the informant.

*Interactions with children.* CPD must modify policies to add provisions specifically geared toward safeguarding children from trauma, including the following:

- (1) Require officers, before presenting an application for a residential search warrant to an issuing judge, to conduct a reasonable investigation to determine whether children reside in the home and when they are least likely to be present and to document this in their application to the judge.
- (2) Require officers executing a search warrant to make reasonable efforts to determine *ex ante* whether the subject of the search or arrest has children and whether they will be present.
- (3) Require officers responding to a dispatch call to request that the dispatcher inquire and inform whether children are present on the scene.
- (4) Require officers, when entering a residence in order to execute a search or arrest warrant, to inquire promptly whether children are in the residence and where they may be found.
- (5) Require officers executing a search warrant in a residence where children reside to plan the method of entry in a manner that is least likely to traumatize children. Require officers to select mechanisms of force and developmentally-appropriate language that are least likely to traumatize children physically and psychologically.
- (6) Prohibit officers from pointing firearms at, handcuffing, or restraining young children.
- (7) Prohibit officers from pointing firearms at, handcuffing, or restraining parents or close relatives of children in the children's presence, barring exceptional circumstances in which there is an imminent risk of death or great bodily harm.
- (8) Prohibit officers from cursing, threatening, name-calling, mocking, making jokes and sarcastic comments, using disdainful tones, and using other derogatory or dehumanizing language when executing a residential search warrant, especially in the presence of children.

*Officer training for interactions with children and youth.* We demand that CPD implement a training program for both new recruits and in-service officers specifically geared toward interactions with children, including on the policies highlighted above. This training should educate officers about implementing developmentally-appropriate, trauma-informed approaches for all interactions with children and youth, including tactics for recognizing trauma symptoms and acknowledging the role trauma plays in the lives of children and youths. Training should include members of interagency teams, with the objective of enabling all members of interagency teams who may interact with children to understand the impact of trauma on brain development and behavior; the importance of recognizing and responding appropriately to traumatized behaviors; the practice of de-escalation skills to avoid escalating interactions and traumatizing children, youth and family members; and the ways that history, race and gender affect community perceptions of police in Chicago.

*Policies specifically addressing protocol for officer interaction with children when arresting a parent.* We demand that CPD work with the Coalition to develop and implement a policy that directly address officer interaction with children when arresting a parent. The policy

should be targeted toward minimizing trauma to children resulting from the arrest of the parent. The policy must include the following provisions:

- (1) Require officers to employ a developmentally-appropriate, trauma-informed approach when interacting with children while arresting a parent.
- (2) Require officers to make the arrest of a parent or caretaker, including handcuffing and questioning, in a location away from the child's sight and hearing, unless doing so would create an imminent threat to the safety of others.
- (3) Require officers to give children a chance to speak with arrested parents, give parents the opportunity to explain and reassure their children, or offer children an age-appropriate explanation of what is happening to the parent, , unless doing so would create an imminent threat to the safety of others.
- (4) Prohibit officers from interrogating or questioning children during home raids, barring exceptional circumstances in which asking a child a few limited questions is necessary to protect the safety of the people present in the home.
- (5) Require officers to make arrangements for the care of dependent children subsequent to the parent's arrest, consistent with the parent's or caretaker's direction, unless officers have probable cause to believe that the children are abused or neglected. If so, officers should call for the assistance of DCFS.
- (6) Prohibit officers from leaving the scene of an arrest until children are in the care of an appropriate caregiver. When a child is not present but the arrested parent is responsible for his or her care, the officer must allow the arrested parent to make arrangements for the care of his or her child.
- (7) Following a parental arrest, require officers to, where possible, provide referrals to child, family and youth services to help mitigate potential subsequent trauma.

*Policies requiring comprehensive tracking and monitoring of search and arrest warrant data.* CPD must implement rigorous documentation requirements for the execution of search and arrest warrants and maintain a database regarding the same. This will allow for comprehensive and accurate data regarding the reasons for negative search warrants, the officers most frequently involved in negative search warrants, and the geographic areas where negative warrants are most frequently executed. CPD must also report this data to the Monitor to ensure accountability and compliance with the Consent Decree.

- (1) Require officers to document and track "negative" search warrants (e.g., that the target was not present or did not reside there) and supervisors to assess and document with the affiant officer the reasons for the negative result.
- (2) Require CPD to maintain records of which officers conducted negative warrants, in order to track individual officers and informants with repeated negative warrants and take appropriate remedial and/or disciplinary actions.
- (3) Require officers who execute residential search warrants to prepare a damage report prior to departing the premises in order to document all property that officers damaged during

the course of entering and searching the residence. Hold CPD officers accountable for immediately securing the home subsequent to the search and repairing any resulting damage.

- (4) Require all officers to wear and activate body cameras when executing a residential search or arrest warrant. All officers conducting law enforcement-related activities or who are reasonably expected to have law enforcement-related contact with civilians must be issued body-worn cameras.<sup>33</sup> There should be no exemptions from the body-worn camera mandate, and there should be strict discipline, including a permanent bar from the participation in the execution of search warrants, for every officer who fails to activate his or her camera before entry or deactivates his or her camera without permission from a supervisor at any point before the end of the entire encounter.
- (5) In the event of parental arrest, require officers to provide documentation of the arrestee's children and their subsequent care arrangements in the arrest report. The documentation shall include at minimum: the identity, age, and biographical information of the child involved (whether or not present); any special need (such as medical or mental health conditions); the identities, addresses, and contact information for any actual or potential caregivers; names and contact information of any representatives from child welfare service agencies or other partner organizations involved in the incident; the final placement determination for the child; and any information that indicates the need for follow-up to ensure the child's future safety and well-being.
- (6) Improve documentation requirements regarding children. Require officers who conduct a residential search or make an arrest in a residence to note in the incident/arrest report the existence of a child, whether present or not. Require CPD to track and compile data regarding the number of children affected by a parent's arrest and where they were subsequently placed.
- (7) Require CPD to provide documents, data, and video footage that relate to the planning and execution of each residential warrant to the Monitor, the Attorney General, and the Coalition to enable them to monitor CPD use of force and treatment of children and their caretakers in CPD raids of people's homes. Annually, require CPD to map the locations of all executed warrants, including the location of negative warrants.

As is all too clear from the worldwide protests following continued unjustified killings of Black people by police, including the shooting of Breonna Taylor in her home in Louisville following a raid that bears striking similarities to raids in Chicago documented throughout this letter, the costs of doing nothing are unconscionable. Superintendent Brown announced that he recognized ongoing deficiencies in CPD policies, practices, and monitoring that have led to these wrong raids, and welcomed the opportunity to work with the community to improve. Please let us know when we can meet to discuss the implementation of these remedies.

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<sup>33</sup> See BWC Policy Statement, [ACLU](#) (Mar. 6, 2020).

Sincerely,

/s/ Craig B. Futterman  
Mandel Legal Aid Clinic  
University of Chicago Law School

/s/ Sheila A. Bedi  
Bluhm Legal Clinic  
Northwestern Pritzker School of Law

/s/ Karen Sheley  
Director,  
ACLU of Illinois Police Practices Project

*On behalf of the Coalition*

Cc: Maggie Hickey  
Chris Wells  
Shareese Pryor  
Alicia Weber  
Aaron Wenzloff  
Joe Ferguson





**OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS**

**KWAME RAOUL  
ATTORNEY GENERAL**

September 25, 2020

**SENT VIA EMAIL**

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**Re: CPD Home Raids**

Dear Ms. Dixon,

The Office of the Illinois Attorney General (“OAG”) asks the City and the Chicago Police Department (“CPD”) to comprehensively address the detailed concerns raised by the Coalition in its August 5, 2020 letter (“Letter”) concerning CPD’s policies and practices in executing warrants and home raids. The OAG echoes these concerns both as the plaintiff in *State of Illinois v. City of Chicago*, 17-cv-6260 (N.D. Ill.), and more generally as the chief legal advocate for the health and well-being of Illinois residents.

Under the Consent Decree, the City has committed to ensuring that CPD serves “all of the people of Chicago in a manner that fully complies with the Constitution and laws of the United States and the State of Illinois, respects the rights of all of the people of Chicago, builds trust between officers and the communities they serve, and promotes community and officer safety.”<sup>1</sup> The right to be secure in one’s home is at the core of the Fourth Amendment. There is scarcely a more violent invasion of that right than to have police officers break into a home based on bad information and hold a family, including young children, at gunpoint. The OAG is disturbed by the ongoing and well-documented accounts of CPD raids involving mistaken addresses, incorrect information, excessive force, verbal abuse, pointing guns directly at young children and their parents, and

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<sup>1</sup> Consent Decree, ¶ 6.

accounts of disrespect and avoidable escalation against Chicago families in their own homes. These issues are exacerbated by evidence that they disproportionately affect Black, Brown, and economically disadvantaged neighborhoods.<sup>2</sup>

As CPD implements the Consent Decree's wide-ranging reforms, it must address the systemic problems identified by the Coalition that lead to "wrong raids" by CPD officers.<sup>3</sup> CPD is obligated to create "clear policy, training, and supervisory direction...to provide police services in a manner that promotes community trust ... and ensures equal protection of the law to all individuals."<sup>4</sup> The identified flaws in CPD's home raid practices endanger everyone involved and undermine the very purpose of the Consent Decree.

As CPD strives to embody the Consent Decree's guiding principles,<sup>5</sup> fulfill the Decree's requirements for officer conduct and supervision,<sup>6</sup> and incorporate data-driven accountability and officer support,<sup>7</sup> CPD must work with the Coalition, the Independent Monitor, and the OAG to address the concerns raised in the Letter to protect Chicago's children, make policing more effective, and restore trust between police and the communities they serve.<sup>8</sup>

### ***Interactions with Youth***

The Coalition's policy and training recommendations to safeguard children from trauma fall squarely within CPD's obligations under Paragraphs 32 and 37(d) of the Consent Decree.<sup>9</sup> Under these paragraphs, CPD is required to review and revise its policies and training to provide officers with guidance on, and developmentally appropriate responses to, interactions with youth and children, including information about adolescent development and techniques for positive youth interactions.

In comments we sent on January 7, 2020, we stated that CPD should develop a clear directive about safeguarding children at the time of parental arrest, as OAG does not believe CPD currently has clear guidance on this issue. We explained that best practices call for clear policies, procedures, and training on steps police can take to reduce trauma associated with the arrest of a parent. We asked CPD to collaborate with our office to develop an additional policy on this topic, which we noted would advance compliance with Paragraph 32 of the Consent Decree. During the January 2020 site visit, and again by email on January 30, 2020, we specifically raised concerns about the impact of search warrant execution on juveniles and provided you a copy of a 2014 report and model policy related to "safeguarding children of arrested parents."<sup>10</sup> We requested to work with

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<sup>2</sup> See Letter at 4.

<sup>3</sup> See Letter at 4-9.

<sup>4</sup> Consent Decree, ¶ 51.

<sup>5</sup> See, e.g., Consent Decree, ¶¶ 6, 10, 15, 49, 51, 250, 265-68, 293, 298, 317.

<sup>6</sup> See, e.g., Consent Decree, ¶¶ 32, 35, 36, 54, 153, 156, 162, 164, 176, 189, 237-39, 271-72, 334, 341-46, 352-53, 369.

<sup>7</sup> See, e.g., Consent Decree, ¶¶ 355, 544, 547, 561, 566-69, 576, 583, 588.

<sup>8</sup> See Letter at 9-13.

<sup>9</sup> See Letter at 10-12

<sup>10</sup> International Association of Chiefs of Police Report, Safeguarding Children of Arrested Parents (August 2014), available at <https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/IACP-SafeguardingChildren.pdf>.

you on developing a more comprehensive directive. CPD has not substantively responded to this request. As the Coalition's Letter underscores, additional action on this issue cannot wait.

### ***Search Warrant Policy and Training***

CPD's search warrant policies and practices have failed to prevent recurring wrong raids. The Coalition's recommendations to improve the veracity of warrant information will make search warrant execution safer and are critical for community trust.<sup>11</sup> These policy and training modifications are implicated by a number of Consent Decree requirements.

For example, Paragraph 156 requires that CPD's use of force policies and training, supervision, and accountability systems ensure that CPD members use "sound tactics" to eliminate or reduce the amount of force needed; use de-escalation "to prevent or reduce the need for force wherever safe and reasonable";<sup>12</sup> "continually assess the situation and modify the use of force as circumstances change"; and act "with a high degree of ethics, professionalism, and respect for the public" "in a manner that promotes trust between CPD and the communities it serves" and respects "the sanctity of human life." These requirements are inextricably tied to the wrong raid issues identified in the Letter.<sup>13</sup> Moreover, the Consent Decree requires CPD to identify and analyze trends, including trends in use of force and trends in litigation,<sup>14</sup> to assess and improve its policies and training.<sup>15</sup> The Coalition has documented trends that CPD must address by revising its policies and training to reflect best practices, meet the goals of the Consent Decree, and prevent or reduce the need to use force.<sup>16</sup>

On February 28, 2020, we raised the issue of search warrant-related trainings, particularly as related to incidents with wrong addresses or children present, in the context of CPD's pre-service and promotional training course list. We requested that the trainings be produced for review. While CPD recently produced its pre-service trainings on September 16, the Coalition's recommendations must guide CPD as it revises its policies and training.

OAG also agrees that CPD should ban "no-knock" search warrants. As the tragic killing of Breonna Taylor has painfully reminded the country, and as experts point out, no-knock search warrants are dangerous for both officers and the public.<sup>17</sup> While officers might still be permitted

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<sup>11</sup> Letter at 10.

<sup>12</sup> See also Consent Decree, ¶ 161 (adopting de-escalation as a core principle and requiring de-escalation techniques).

<sup>13</sup> Letter at 4-8. See also Dave Savini, Chicago Police Officers Reveal Major Missteps As They're Questioned On Video For Lawsuit About Raiding Wrong Home, CBS 2 Chicago (Oct. 3, 2019) (officer testimony and body camera evidence revealing that "[d]espite the lack of verification that the address was correct, [the officer's] superior signed off" on the wrong raid warrant and that the officers continued to search the home "even when they knew they were in the wrong place"), <https://chicago.cbslocal.com/2019/10/03/chicago-police-officers-questioned-on-video-for-lawsuit-about-raiding-wrong-home>.

<sup>14</sup> Consent Decree, ¶¶ 547-49, 572.

<sup>15</sup> See, e.g., Consent Decree, ¶ 157.

<sup>16</sup> Letter at 4-8.

<sup>17</sup> See, e.g., The Justice Collaborative Institute, End No-Knock Raids, available at [https://tjcinstitute.com/wp-content/uploads/2020/06/no\\_knock\\_raids-1.pdf](https://tjcinstitute.com/wp-content/uploads/2020/06/no_knock_raids-1.pdf).

to enter a home without knocking in exigent circumstances, Chicago should join the nationwide trend in banning “no-knock” warrants.<sup>18</sup>

### ***Search Warrant and Arrest Data***

“Data can empower CPD to engage in the type of critical self-examination essential to instilling and maintaining constitutional policing.”<sup>19</sup> The Coalition’s recommendations for search warrant and arrest data are vital for increasing transparency under Paragraph 544 and enabling CPD to continually improve its practices and support its officers.<sup>20</sup> Additionally, Paragraphs 567-569 require CPD to collect and maintain the data and records necessary to accurately evaluate its use of force practices and to facilitate transparency and accountability regarding those practices.

Further, it is imperative that CPD implement the Consent Decree paragraphs on body worn cameras, which require officers to record their law-enforcement related activities per the Illinois Law Enforcement Officer-Worn Body Camera Act.<sup>21</sup> CPD must assure that all officers record their law enforcement-related encounters and activities, including search and arrest warrant execution.

### ***Next Steps***

While CPD has taken some steps to improve its home raid practices, including some updates to its search warrant policy,<sup>22</sup> more work needs to be done. The spirit of reform demands it, and the Consent Decree requires it.

As a next step, please schedule a time to meet with the Coalition, IMT, and OAG to discuss the Coalition’s detailed proposals and to address these concerns as it updates its policies, procedures, training, data collection, accountability procedures, and officer support.

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<sup>18</sup> See, e.g., Candice Norwood, The War on Drugs Gave Rise to ‘No-Knock’ Warrants. Breonna Taylor’s Death Could End Them, PBS (June 12, 2020), <https://www.pbs.org/newshour/politics/the-war-on-drugs-gave-rise-to-no-knock-warrants-breonna-taylors-death-could-end-them>; George Floyd Justice in Policing Act of 2020, H.R. 7120, 116th Cong. § 362 (2019-2020).

<sup>19</sup> Consent Decree, ¶ 566 (“CPD can leverage data to ensure constitutional policing by: systematically collecting enough data to have a broad-based understanding of officers’ interactions with the public; auditing the data to ensure it accurately reflects those interactions; analyzing the data to identify trends or areas of concern; developing tailored support and interventions to address behavior that is or may become problematic; and assessing the effectiveness of attempts to modify officers’ behavior.”)

<sup>20</sup> See Letter at 12-13.

<sup>21</sup> Illinois Law Enforcement Officer-Worn Body Camera Act, 50 ILCS 706/10-1 et seq. See also Consent Decree, ¶¶ 236-242.

<sup>22</sup> See Special Order S04-19, Search Warrants (eff. Jan. 3, 2020) at Sec. VIII(E), available at <http://directives.chicagopolice.org/directives/data/a7a57be2-12a76ce1-24512-a76c-e6f5e256f0ef4e84.pdf?hl=true>; see also Letter at 8 (discussing same).

Respectfully,

KWAME RAOUL  
Attorney General of the State of Illinois

/s/ Christopher G. Wells

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**Subject:** Wrong Raids  
**Date:** Wednesday, December 16, 2020 6:36:05 PM  
**Attachments:** [2020.08.05 Coalition Letter re CPD Raids.pdf](#)

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Dear Tyeesha and Allan,

I'm writing to follow up on the status of your response to our attached August 5 letter, through which we sought the opportunity to work together to remedy CPD's pattern of violent and traumatic raids targeting the homes of Black and Brown families. In September, the Attorney General joined our request to meet together with the IMT to discuss our detailed proposals. For weeks, you've indicated that you intend to respond in writing to our proposals before we meet. The 90-day work-out period under the Consent Decree has long expired without a response from the City.

As you know, CPD policies and practices on this subject have been on everyone's hearts and minds the past couple of days following [CBS's publication](#) of the horrific video of the raid of the home of Anjanette Young, a social worker who was handcuffed while naked as Chicago police officers wrongly tore through her home. We specifically identified Ms. Young's case back in our August letter. Mayor Lightfoot today reiterated her resolve to remedy the issues raised in our letter. Please provide us with a firm date by which you will respond and commit to meeting and working with us to implement long overdue remedies to avoid unnecessary additional trauma, injuries, and even deaths inflicted upon Chicago families.

Sincerely,

Craig

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