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Why We Need Community Control of the Police

Larry Redmond*

Police in the United States of America in the twenty-first century are out of control. The news of a police officer killing a Black man is so common today, it is causing many of us to become more and more enraged. We all know the names Walter Scott, Eric Garner, Michael Brown, Tamir Rice, Rekia Boyd and Laquan McDonald.¹ These names have been plastered in newspapers and flashed on computer screens from coast to coast, often with grisly photographs or video. Each time one of these killings happens, we gnash our teeth, wring our hands, cry, curse, demand change, demand reform, blame the system, blame white privilege, and contemplate leaving the country.

What we fail to realize is that this phenomenon is not new. With regard to police behavior, it is in fact the norm.

THE ORIGINS OF POLICING IN AMERICA & THE CHICAGO POLICE DEPARTMENT

In the 1700s, watchmen in northern states and slave catchers in southern states were the genesis of modern police departments.² Though watchmen may have performed their duties as a form of punishment, one of the primary functions of slave catchers was to “provide a form of organized terror to deter slave revolts.”³ In the middle 1800s, the idea of centralized municipal police departments emerged in this country as a response to “disorder” as defined by the merchant class.⁴ It should be noted that disorder consisted of public drunken-

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¹ See Chauncey De Vega, *Laquan McDonald is why Black Lives Matter: Race, the police, and the chilling reality for black America*, SALON, Nov. 25, 2015, http://www.salon.com/2015/11/25/laquan_mcdonald_is_vwhy_black_lives_matter_race_the_police_and_the_chilling_reality_for_black_america/ (listing Black individuals shot by the police).

² See generally DR. GARY POTTER, *THE HISTORY OF POLICING IN THE UNITED STATES* 2 (2013) (discussing the development of policing in the Great Britain and United States).

³ *Id.* at 3.

⁴ See *id.* (“What constitutes social and public order depends largely on who is defining those terms, and in the cities of 19th century America?they were defined by the mercantile

ness and sometimes prostitution rather than crime *per se*.⁵ These mercantile interests sought to create a stable and orderly work force and a stable and orderly environment for the conduct of business.⁶ They also wanted to divest themselves of the cost of protecting their own property and transfer that cost to the state.⁷

After the Civil War, and because income inequality was rapidly increasing, the economic elite began using police department personnel to break strikes and quell protests against worker oppression.⁸ Social control became defined as crime control by isolating “dangerous classes” as the embodiment of the crime problem.⁹ These “dangerous classes” consisted mainly of immigrants and free blacks.¹⁰ The most obvious tactic used by police departments in these actions was extreme violence.¹¹ Throughout the history of policing in America, economics and politics not crime or crime control have defined the role of the police.¹²

On January 31, 1835, the State of Illinois authorized the Town of Chicago to establish its own police force.¹³ At that time, the first law enforcement personnel were elected, not appointed.¹⁴ Orsemus Morrison was elected High Constable on August 15, 1835.¹⁵ Around 1842, the chief law enforcement

interests, who through taxes and political influence supported the development of bureaucratic policing institutions.”)

⁵ *Id.*

⁶ *Id.* at 4.

⁷ *Id.*

⁸ *See id.* at 6-7 (“By the late 19th century union organizing and labor unrest was widespread in the United States. New York City had 5,090 strikes, involving almost a million workers from 1880 to 1900; Chicago had 1,737 strikes, involving over a half a million workers in the same period.”).

⁹ *See id.* at 4 (“This isolation of the ‘dangerous classes’ as the embodiment of the crime problem created a focus in crime control that persists to today, the idea that policing should be directed toward ‘bad’ individuals, rather than social and economic conditions that are criminogenic in their social outcomes.”).

¹⁰ *Id.*

¹¹ *Id.* at 6.

¹² *Id.* at 15.

¹³ *History*, CHICAGO POLICE DEPARTMENT, <https://portal.chicagopolice.org/portal/page/portal/ClearPath/About%20CPD/History> (last visited Apr. 19, 2016).

¹⁴ *See id.* (“On August 15, [1835,] Orsemus Morrison is elected Chicago’s first constable . . .”) *See also Heads of the Chicago Police Department*, CHICAGOCOP.COM, http://chicagocop.com/html/history/heads_of_the_cpd.html#sthash.ujDgumaW.UW7jhcT8.dpbs (City constables and marshals elected until 1860.)

¹⁵ *Heads of the Chicago Police Department*, CHICAGOCOP.COM, http://chicagocop.com/html/history/heads_of_the_cpd.html#sthash.ujDgumaW.dpuf (last visited Apr. 12, 2016) [hereinafter *Heads of Chicago Police*].

officer in Chicago became known as the City Marshal.¹⁶ Orson Smith was elected the city's first City Marshal on March 1, 1842.¹⁷ From 1858 until 1861, the Mayor and the City Marshal directed police department activities.¹⁸

On February 15, 1861, however, the Legislature of Illinois stripped the city of its right to pick its own City Marshal by passing an act to establish a Board of Police Commissioners in the City of Chicago.¹⁹ It was the governor who picked the board members, and it was the duty of the board to organize the police force by appointing a superintendent, deputy superintendent and all subordinate personnel.²⁰ The board appointed General Superintendent Cyrus P. Bradley on May 1, 1861.²¹ Though there have been organizational changes over the years – home rule being principal among them – the Chicago Police Board participates in the selection of a police superintendent to this day.

RECENT CAMPAIGNS FOR CIVILIAN POLICE OVERSIGHT

Over the years, various attempts, including commissions, have been made to control the abuses perpetrated by the police.²² However, none of them have worked. Commissions inform the public, but they have little lasting impact on police practices.²³

In Detroit, Michigan, Mayor Coleman Young had limited success in 1973 when he disbanded the Stop The Robberies Enjoy Safe Streets (STRESS) unit, notorious for its violent treatment of Blacks.²⁴ He also further integrated the Detroit Police Department from 10% to 50% Black enrollment by 1993.²⁵ However, police abuses continued. As a result on October 22, 1996, some

¹⁶ See *id.* (City Marshall Olson Smith was elected on March 1, 1842.)

¹⁷ *Heads of Chicago Police*, *supra* note 15.

¹⁸ *Chicago Police Department*, CHICAGOLOGY, <https://chicagology.com/chicagopolice/> (last visited Apr. 12, 2016).

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Heads of Chicago Police*, *supra* note 15.

²² See generally POTTER, *supra* note 3, at 9-15 (discussing and analyzing the various methods used in attempt to address police violence).

²³ *Id.* at 10.

²⁴ See George Hunter, *Detroit police diversity issues predate national debate*, THE DETROIT NEWS, Mar. 8, 2013, <http://www.detroitnews.com/story/news/local/wayne-county/2015/03/07/detroit-police-department-diversity/24570427/> (stating that the STRESS unit and Big Four units “[b]oth randomly stopped and harassed black citizens, and experts say the units fueled much of the racial tension during the 1960s and 1970s.”).

²⁵ Coleman A. Young, 79, *Mayor of Detroit And Political Symbol for Blacks, Is Dead*, THE NEW YORK TIMES, Dec. 1, 1997, <http://www.nytimes.com/1997/12/01/us/coleman-a-young-79-mayor-of-detroit-and-political-symbol-for-blacks-is-dead.html/>.

Detroit activists founded the Detroit Coalition Against Police Brutality. The Coalition's mission is to "mobilize a powerful, visible local, national and international protest against brutality and institutional violence."²⁶

In New Orleans, Louisiana, in 2002, a Police-Civilian Review Task Force recommended the creation of the Office of the New Orleans Independent Police Monitor (OIPM).²⁷ In 2009, that office was created.²⁸ Since its creation, the OIPM has come under heavy attack, because it investigates the same use-of-force incidents that are investigated by the New Orleans Police Department's Public Integrity Bureau (PIB).²⁹ The PIB has complained that the OIPM has "unfettered access" to each case.³⁰ The OIPM countered that to not have that kind of access is problematic.³¹ Without the permission of the Inspector General, the OIPM released a privately recorded video of New Orleans Police Department Officer Joshua Colclough fatally shooting unarmed 20-year-old Wendell Allen.³² As a result, the officer later pled guilty to manslaughter and is serving a four-year prison term.³³ Because of this incident and certain other issues, the Inspector General now wants the IPM fired.³⁴ Police unions, internal affairs units, and citizens who are law-and-order advocates often oppose civilian oversight of law enforcement.³⁵ Apparently, so does the Inspector General.

Citizens in Berkeley, California began campaigning for community control of the police in the 1970s.³⁶ A referendum calling for community control

²⁶ *About*, DETROIT COALITION AGAINST POLICE BRUTALITY, <http://detroitcoalition.org/about/> (last visited Apr. 12, 2016).

²⁷ *History*, OFFICE OF THE INDEPENDENT POLICE MONITOR, <http://nolaipm.org/main/in-side.php?page=history> (last visited Apr. 18, 2016).

²⁸ *Id.*

²⁹ Jonathan Bullington, *Independent Police Monitor's report questions use of force investigations by NOPD*, THE TIMES-PICAYUNE, Apr. 23, 2015, http://www.nola.com/crime/index.ssf/2015/04/independent_police_monitors_re.html.

³⁰ *Id.*

³¹ *Id.*

³² Brentin Mock, *When Independent Police Oversight Becomes Too Independent*, CITYLAB, Sept. 30, 2015, <http://www.citylab.com/design/2015/09/when-independent-police-oversight-be-comes-too-independent/407290/>.

³³ *Id.*

³⁴ *Id.*

³⁵ Nadra Enzi, *New Orleans Independent Police Monitor Solution*, WESTERN JOURNALISM, Feb. 16, 2013, <http://www.westernjournalism.com/new-orleans-independent-police-monitor-solution/>.

³⁶ DAVID MONDSTOCK, *Chapter 2: The 1971 Election and the April Coalition*, BERKELEY IN THE 70S: A HISTORY OF PROGRESSIVE ELECTORAL POLITICS (unpublished), available at <http://berkeleyinthe70s.homestead.com/files/d-1971.htm>.

of police was on the ballot for the April 6, 1971 election.³⁷ In fact, that referendum called for the creation of three separate Berkeley police departments run by elected boards: one for the hills' neighborhood, one for the campus community, and one for the Black community.³⁸ It was defeated 68% to 32%.³⁹ However, two years later, in 1973, four separate referenda were on the ballot, representing four separate watered-down portions of the initiative for community control of police.⁴⁰ The four referenda were (1) a Police Review Commission, (2) Police Weapons Control, (3) a Police Residence Requirement, and (4) a Mutual Aid Pact Regulation.⁴¹ Of the four, two passed: the Police Review Commission and the Mutual Aid Pact Regulation.⁴² The City of Berkeley Police Review Commission exists to this day,⁴³ addressing complaints against Berkeley police officers.

Minneapolis, Minnesota, presents a cautionary tale. In April 2012, the State of Minnesota, at the urging of the Minneapolis Police Federation, that city's police union, passed a law that seriously undercut the power of a 22-year-old system of civilian police oversight.⁴⁴ The new law prohibited the Minneapolis Civilian Review Authority (CRA) – the body responsible for overseeing the Minneapolis Police Department – from issuing “findings of fact.”⁴⁵ As it turns out, these findings were being “routinely ignored” anyway⁴⁶ because the CRA had no authority to enforce its recommendations. Five months later, on September 21, 2012, the Minneapolis City Council passed an ordinance creating the Police Conduct Oversight Commission.⁴⁷ The new law scrapped the old

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ DAVID MONDSTOCK, *Chapter 3 - The 1971 to 1973 City Council and the April 1973 Election*, BERKELEY IN THE 70S: A HISTORY OF PROGRESSIVE ELECTORAL POLITICS, (unpublished), available at <http://berkeleyinthe70s.homestead.com/files/e-71to73.htm>.

⁴¹ *Id.*

⁴² *Id.*

⁴³ *Home*, CITY OF BERKELEY POLICE REVIEW COMM'N, <http://www.ci.berkeley.ca.us/prcl/> (last visited Apr. 12, 2016).

⁴⁴ Randy Furst, *New law throws Minneapolis police oversight in turmoil*, STAR TRIB. (Apr. 6, 2012, 9:22 PM), <http://www.startribune.com/new-law-throws-minneapolis-police-oversight-in-turmoil/146497655/>.

⁴⁵ *Id.*

⁴⁶ Matt McKinney, *Minneapolis Police Conduct Oversight Commission to meet for first time*, THE STAR TRIBUNE, Oct. 5, 2013, , <http://www.startribune.com/minneapolis-police-conduct-oversight-commission-to-meet-for-first-time/226602351/>.

⁴⁷ Andy Mannix, *Mpls City Council passes Civilian Review Authority overhaul 8-5*, CITY PAGES, Sept. 21, 2012, , <http://www.citypages.com/news/mps-city-council-passes-civilian-review-authority-overhaul-8-5-6567611>.

model, in which police misconduct complaints were reviewed by a board composed entirely of appointed citizens, and replaced it with an entirely new, first-of-its-kind process that combined police and citizens in the review process.⁴⁸ This was clearly a step backwards. Police unions do *not* want police accountability.⁴⁹ With police officers now part of the oversight process, accountability is now hard to come by. As of August 29, 2013, 439 cases of police misconduct have been brought before the Police Conduct Oversight Commission, and not one police officer who has faced a complaint has been disciplined.⁵⁰ If the CRA had the power to enforce its recommendations, the new Police Conduct Oversight Commission might never have been needed.

POLICE OVERSIGHT IN CHICAGO

Recent attempts at police oversight in Chicago, Illinois have been checked. Since 1974, the year the Office of Professional Standards (OPS) was formed, OPS has consistently failed to adequately address the issue of brutal or corrupt officers.⁵¹ Most critical observers of OPS have concluded that OPS obscured and downplayed police misconduct rather than investigating and uncovering it.⁵² From 1999 through 2004, the percentage of cases sustained by OPS ranged from 0.41% to 1.45%.⁵³

The nine-member, mayor-appointed police board establishes the protocols by which the Chicago Police Department (CPD) is run. Only the police board has the power to fire an officer. However, the police board routinely exonerates officers accused of serious violations, or reduces their recommended penalties.⁵⁴

⁴⁸ *Id.*

⁴⁹ Enzi, *supra* note 35.

⁵⁰ Katie Rucke, *Claims of Minneapolis Police Misconduct: 439; Officers Disciplined: 0*, MINT-PRESS NEWS, Aug. 29, 2013, <http://www.mintpressnews.com/minneapolis-police-misconduct/167997/>.

⁵¹ See *Chicago: Office of Professional Standards*, HUMAN RIGHTS WATCH, <http://www.columbia.edu/itc/journalism/cases/katrina/Human%20Rights%20Watch/uspohtml/usp055.htm> (“Many community activists and attorneys who represent victims of police abuse in civil suits. . . claim that the OPS staff is often rude to complainants, conducts sloppy investigations, and places an enormous burden on complainants to prove their cases. . . There is a perception among community activists that the OPS is biased in favor of the police generally and is particularly vulnerable to pressure by the police union. The code of silence among officers is strong during OPS reviews, as officers routinely claim no knowledge of alleged excessive force.”).

⁵² Tracy Siska & Joseph Lipari, *An Open Letter to Mayor Daley*, CHI. JUSTICE PROJECT, <http://www.chicagojustice.org/blog/an-open-letter-to-mayor-daley>.

⁵³ *Id.*

⁵⁴ See *Chicago: Office of Professional Standards*, *supra* note 51.

The Independent Police Review Authority (IPRA), created in 2007 by the Chicago City Council to replace OPS, has fared poorly.⁵⁵ After examining more than 400 shootings since being established, IPRA has faulted officers in only two cases.⁵⁶ In fact, since 1986, a period spanning both OPS and IPRA, more than 1,600 people have been shot by Chicago police officers—an average of more than one person a week.⁵⁷ Over the last two years, in 208 closed cases—a period in which IPRA was exclusively under Scott Ando’s control—no shooting has been deemed unjustified.⁵⁸ On December 6, 2015, after the announcement of an investigation of the Chicago Police Department by the U.S. Department of Justice, Scott Ando resigned.⁵⁹ The investigation by the DOJ was prompted by the suppression of a video showing the murder of Laquan McDonald by CPD officer Jason Van Dyke.⁶⁰ Mayor Emanuel, who originally appointed Ando to that post, said that “new leadership is required as we rededicate ourselves to dramatically improving our system of police accountability and rebuilding trust in that process.”⁶¹ Pretty words.

THE CIVILIAN POLICE ACCOUNTABILITY COUNCIL

The history of police oversight in this country is clear. The current system of police oversight is not working for the benefit of the people. It is working for the benefit of the economic elite. It is time for a paradigm change. It is time to put control of the police in the hands of the people.

Founded in 1973 as a local branch of the National Alliance Against Racist and Political Repression (NAARPR), the Chicago chapter grew out of and helped promote the mass movement to free Angela Davis and all political pris-

⁵⁵ Mitch Smith, *Outside Panel to Examine Police Shootings in Chicago*, THE NEW YORK TIMES, Mar. 23, 2016, http://www.nytimes.com/2016/03/24/us/outside-panel-to-examine-police-shootings-in-chicago.html?_r=1.

⁵⁶ *Id.*

⁵⁷ Steve Bogira, *When Chicago cops shoot*, CHICAGO READER, May 20, 2015, <http://www.chicagoreader.com/chicago/chicago-police-department-shooting-kevin-fry-cops-cedrick-chatman/Content?oid=17767928>.

⁵⁸ *Id.*

⁵⁹ *Head of Chicago’s Independent Police Review Authority Resigns*, NBC CHICAGO, Dec. 6, 2015, <http://www.nbcchicago.com/news/local/Head-of-Chicagos-Independent-Police-Review-Authority-Resigns-360742831.html#ixzz44IPdErhN>.

⁶⁰ Jon Seidel, *Police review authority boss ousted*, CHICAGO SUN-TIMES, Dec. 6, 2015, <http://chicago.suntimes.com/politics/police-review-authority-boss-ousted/>.

⁶¹ *Id.*

oners.⁶² Today, the Alliance is championing community control of the Chicago Police Department by way of a proposed ordinance for an all-elected Civilian Police Accountability Council (CPAC).⁶³ This initiative began in 2012 with the drafting of the ordinance.⁶⁴ Early in the process, there were two people's hearings on police crimes in support of the ordinance.⁶⁵ One was in July, 2012, and the other was in February, 2013.⁶⁶ On August 28, 2013, there was a rally at Chicago's City Hall that was attended by 500 people to demand passage of the ordinance.⁶⁷ Two years later, on August 29, 2015, another march and rally took place,⁶⁸ which began at the Federal Plaza and wound its way to City Hall. Over 3,000 people marched.⁶⁹

The Civilian Police Accountability Council would replace both IPRA and the Police Board, and would be composed of 22 members, one elected from each of the 22 police districts in the city.⁷⁰ Each candidate would be required to live in the district for one year prior to seeking the office, and if elected, would be required to remain in the district for the balance of his time in office.⁷¹ Among other powers and duties, the Council would select the police superintendent, write the protocols of engagement including use of force, investigate and determine the action to be taken for all police crimes and misconduct, negotiate with the police union and manage the budget of the Chicago Police Department.⁷² The Council would have subpoena power and the power to fire an officer and solicit the convening of a federal grand jury for an indictment, if necessary.⁷³

⁶² CHICAGO ALLIANCE AGAINST RACIST & POLITICAL REPRESSION (CAARPR), <http://naarpr.org/> (last visited Apr. 10, 2016).

⁶³ *About the Stop Police Crimes Campaign*, THE CHICAGO ALLIANCE AGAINST RACIST AND POLITICAL REPRESSION (CAARPR), Sept. 15, 2013, <http://naarpr.org/stop-police-crimes/>.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *"This Stops Today! - We Cant Breathe" August 29 2015 Mass March for CPAC*, CHICAGO ALLIANCE AGAINST RACIST & POLITICAL REPRESSION (CAARPR), <http://naarpr.org/this-stops-today-we-cant-breathe-august-29-2015-mass-march-for-cpac/> (last visited Apr. 19, 2016).

⁶⁹ *Stop Police Crimes Home*, CHI. ALLIANCE AG. RACIST & POLITICAL REPRESSION (CAARPR), <http://naarpr.org/join-campaign-police-accountability/> (last visited Apr. 19, 2016).

⁷⁰ CIVILIAN POLICE ACCOUNTABILITY COUNCIL, MUN. CODE OF CHI. § 2-83-020 (Proposed Official Draft 2015) <http://naarpr.org/wp-content/uploads/2016/02/Council-Ready-Proposed-Legislation.pdf>.

⁷¹ *Id.* § 2-83-030.

⁷² *Id.* § 2-83-040.

⁷³ *Id.*

CONCLUSION

It has been amply demonstrated that oversight bodies and commissions have no effect on the behavior of police departments and officers.⁷⁴ It is time for that to change. It is time for control of the police to be placed directly back in the hands of the people, the way it was back in 1835. It is time for an all-elected Civilian Police Accountability Council.

Power to the people!

⁷⁴ See Potter, *supra* note 2, at 14 (“Community policing is the latest iteration in efforts to (1) improve relations between the police and the community; (2) decentralize the police; and, (3) in response to the overwhelming body of scholarly literature which finds that the police have virtually no impact on crime, no matter their emphasis or role, provide a means to make citizens feel more comfortable about what has been a seemingly insolu[]ble American dilemma.”).