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Los Angeles as a Blueprint for Police Reform in Chicago

Professor Stephen Rushin
Symposium Keynote Speech
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Loyola University Chicago
School of Law

Thank you for joining us today for this extraordinary and timely event. It is a pleasure to be speaking amongst such a distinguished group of experts in criminal justice, juvenile justice, policing, community advocacy, and criminology. We are here today to discuss the crime challenges facing our city.

THE CRIME PROBLEM

It is no secret that the City of Chicago's crime problem has become a political talking point over the last several years. Perhaps nothing better represents this than how President Donald Trump talked about Chicago during his run to the White House, and since he has assumed office.

Only a few days ago, President Trump tweeted that, "Chicago is a disaster, a total disaster."

Earlier this summer, President Trump claimed that "crime and killings in Chicago have reached epic proportions," so much so, that he promised to send in "Federal help."

And in September of 2016, President Trump described Chicago as "a war-torn country," suggesting that it was more dangerous than parts Afghanistan.

Is the President right? Is Chicago more dangerous than Afghanistan? Is crime out of control? As we start a day of discussion and debate about the crime problem in Chicago, it may be helpful to run through some basic numbers so that we can better understand the kind of problem we face.

The Federal Bureau of Investigations (FBI) compiles uniform crime statistics on cities across the country. These statistics allow us to make judgments about crime rates in Chicago relative to other cities across the country.

Like most cities, Chicago today is *actually* less dangerous than it was several decades ago in almost all crime categories. Crime in Chicago in virtually all index categories—categories like murder, rape, assault, robbery, burglary, larceny, and motor vehicle theft—peaked in the early 1990s. Since then, crime has generally declined in Chicago, as it has in most cities across the country.

Despite all the heated rhetoric about crime during the last presidential campaign, it is important to recognize that crime in Chicago and across the country has fallen significantly in most categories over the last 20-30 years.

In fact, since the peak crime rates in the early 1990s, most crime rates in Chicago have fallen at a greater magnitude than the national average. So, for example, robbery rates in Chicago have fallen by 72%. Aggravated assault rates and property crime rates have both fallen by 61%, burglary by 72%, larceny by 52%, and motor vehicle theft by 75%. In each of these crime categories, Chicago has actually exceeded the national average.

That is to say, crime rates per capita in Chicago have actually fallen *more* in most index categories over the last 20-30 years than the United States as a whole. But, there is one crime category where Chicago has struggled badly: murder.

Chicago's highest murder and non-negligent manslaughter rates occurred in 1992 and 1994, when the City experienced 33.1 murders per 100,000 residents. In those years, Chicago had a murder rate that was around 2.5 times higher than the national average. But between this time period and 2004, Chicago (like most cities in the country) made tremendous progress in cutting its murder rate by over 50%. But since 2004, as the national murder rate continued to decline, Chicago's murder rate stayed relatively flat. And most concerning of all, over the last two years as homicide rates have slowly increased nationwide, Chicago's homicide rates have skyrocketed, increasing by over 15% in 2015, and more than 60% in 2016.

And Chicago's 77 neighborhoods have not experienced this homicide spike equally. As data from the Chicago Police Department (CPD) reveals, a small number of neighborhoods in south and west Chicago have accounted for a disproportionate amount of this increase. In fact, according to one estimate, murders in a small number of these Chicago neighborhoods has accounted for nearly 10% of the entire national increase in homicides in 2016.

So while President Trump has no doubt unfairly, hyperbolically, and seemingly indiscriminately targeted Chicago in his heated anti-crime rhetoric, we cannot ignore the fact that Chicago faces a real and serious epidemic of deadly shootings and homicides over the last several years—one that stands out as unique and troubling compared to other American cities.

However, despite President Trump's claims to the contrary, this does not appear to be a problem that we can easily fix. This is, in part because, in Chicago, we don't just have a problem with crime. We have a problem of

concentrated, geographically clustered violence that disproportionately affects communities of color in economically and racially segregated neighborhoods.

We have a problem that is, in part, reflective of deeper social and structural problems afflicting the city—problems involving poverty, easy access to unlawful firearms, gangs, unemployment and underemployment, inequality, racism, and at times a lack of effective social services. All of these factors, no doubt, may play a role in the wave of violence that has swept this city in recent years. But many of these problems are not easy, or cheap, fixes.

We are lucky enough today to have with us today experts in a range of diverse fields, who can help us understand how we can begin addressing these deeper, systemic problems facing the city of Chicago. I have no doubt, these experts are better positioned than I am to share their insights on how to address many of the root causes of violence in our city.

THE CHICAGO POLICE DEPARTMENT

Instead, I would like to talk to you today about an area where I have a bit more expertise: policing. And of course, as we begin to tackle the causes of and solutions to violence in the city, we must have a conversation about how policing and police tactics can affect crime rates. In doing so, we must also acknowledge the challenges facing the Chicago Police Department. In January of this year, the DOJ released a detailed and thorough report arguing that the CPD has been engaged in a pattern or practice of unconstitutional misconduct in violation of 42 U.S.C. § 14141, including excessive uses of force, including deadly force, and systematic violations of the Fourth Amendment. The DOJ identified deficiencies in the CPD's training of officers, its accountability structure, its failure to train officers in de-escalation, and its failure to conduct meaningful investigations of officer uses of force.

Before the election of Donald Trump, it appeared that the CPD may be poised to become the next in a growing lineup of police departments subject to federal intervention and oversight. In doing so, it would join the ranks of other large American cities to undergo federal police reform, including Los Angeles, Seattle, Albuquerque, New Orleans, Washington, D.C., Cincinnati, and Pittsburgh, as well as smaller departments like Ferguson, Missouri and Steubenville, Ohio.

But upon his election, President Trump appointed Alabama Senator Jeff Sessions to be his Attorney General. And Attorney General Sessions has made it abundantly clear that the DOJ has no intention of pursuing a federal con-

sent decree against the CPD. For a brief time, it was unclear whether the DOJ's report would result in any sort of outside intervention into the CPD.

But in August of this year, Illinois Attorney General Lisa Madigan announced that her office would pick up where the DOJ left off. It now appears almost certain that the CPD will ultimately face a lengthy and expensive reform process via federal consent decree, overseen by a federal district court and a team of external monitors. If history is any guide, this process will likely take a decade or more to complete. It will cost the taxpayers, conservatively, over \$100 million dollars. It will force changes in internal policies and procedures, new academy and in-service training protocols, improvements to the department's early warning system, adjustments to its community policing efforts, and potentially some alterations to the portions of the police union contract dealing with disciplinary investigations. So far, the mere threat of this federal intervention has already seemingly motivated the CPD to put into place a new use of force policy.

The hope is that the new and improved CPD will be more effective at fighting crime. The hope is that the new CPD will build a stronger relationship with the community—built on trust and mutual respect. And the hope is that officers who are treated with procedural fairness within the department will mirror that behavior in their interactions with the community.

However, if history is any guide, we should expect some resistance and negative side-effects as we begin this difficult and arduous process. In nearly every case of federal intervention into a police department in American history, external monitors have faced some sort of backlash from officers. Sometimes, officers have argued that the process fails to include their voice in the development of new reforms. As best I can tell from a detailed examination of dozens of such cases, these claims have some merit. Sometimes, officers complain that the reform process reduces officer morale. Again, survey data suggests that this may be a genuine source of concern based on prior cases. But perhaps most commonly, officers worry that these efforts to increase officer oversight and accountability decrease aggressiveness, take officers off the streets, and make it harder for police to fight crime.

This so-called de-policing hypothesis argues that efforts to increase officer accountability sometimes have the unintended consequence of decreasing officer aggressiveness, thereby driving up crime rates.

So as Chicago attempts to simultaneously fight skyrocketing violence, while also adhering to the terms of a consent decree, how can we avoid such a de-policing effect?

THE LOS ANGELES CASE STUDY

Where can we look for guidance? How can our community both combat a pattern or practice of unconstitutional misconduct by our police department, while also implementing policies that will help combat our skyrocketing homicide rates?

Perhaps the best example on how to thread this needle comes to us from one of the other largest cities in the country—Los Angeles. Los Angeles stands as a shining example of how a community can comply with the terms of a federal consent decree, improve its police department, and effectively combat crime at the same time.

Between June 15, 2001 and May 16, 2013, the LAPD was subject to an expansive federal consent decree that substantially overhauled its internal policies and procedures. During this same time period, the LAPD also witnessed one of the largest sustained crime drops in American history—nearly matching and in some cases exceeding the much discussed crime drop in New York City over the same time period. The police misconduct problems Los Angeles faced were jarring. In fact, Congress actually passed 42 U.S.C. § 14141, the statute that the DOJ used to investigate Chicago, in direct response to the release of the George Holliday video showing a group of Los Angeles police officers ruthlessly beating Rodney King on the side of a Southern California highway.

In the years that followed, the LAPD was seemingly embroiled in one embarrassing, nationally publicized police scandal after another, ultimately culminating in the infamous Rampart Scandal that has been labeled by some policing experts as among the worst patterns of police abuse in modern American history. It was this series of events that inspired the DOJ to intervene into the LAPD, and ultimately agree to a consent decree in 2001.

Until Chicago, the LAPD was the largest police department in the country that the DOJ had found to be engaged in a pattern or practice of misconduct. Much like Chicago, the DOJ found the LAPD failed to adequately train, supervise, investigate, and discipline its officers. It found that the LAPD's early warning system was deficient. And it found that it failed to properly respond to citizen complaints.

The process in Los Angeles was far from easy. Various members of the Los Angeles City Council and representatives from the local police union raised questions about the necessity and scope of the intervention efforts. And officers complained that they had been "deliberately excluded" from the negotiation of reforms.

This feeling of exclusion may explain why officers in Los Angeles reported lower morale early in the reform process. But these initial growing pains proved temporary. The quarterly reports filed by the monitoring team assigned to the LAPD found consistent and measurable improvement over time.

The process wasn't easy. It took nearly 12 years to complete. And it appears to have cost the City of Los Angeles well over \$100 million. But the results have been largely positive. The LAPD appeared to see reductions in officer use of force. Independent audits found that officers drastically improved the handling of civilian complaints and the sufficiency of warrant applications. There appeared to be at least some reductions in bias in traffic and pedestrian stops. The department made remarkable progress in the development and use of its early warning system. And perhaps most importantly, polling suggested that there was widespread agreement, among officers and the public, that the LAPD was a better police department because of the consent decree.

And while the cost of reform was high, the reforms may have paid for themselves over time. Early indicators suggest that the LAPD saw an apparent drop in the number of civil rights suits and payout for these civil rights suits for officer misconduct. While this apparent reduction in civil liability will not pay for all the upfront costs of federal intervention, it may down the line defray the expense borne by the taxpayers.

But perhaps most impressively of all, the LAPD accomplished this without compromising public safety or police aggressiveness. Index arrests per crime increased during federal intervention, as did pedestrian and traffic stops. Meanwhile, violent crime rates in Los Angeles declined by 65% during federal intervention—over 40% more than the national average, and more than any other large American city during this time period. And Los Angeles also saw property crime rates decline by more than virtually all other large American cities, too.

The verdict from Los Angeles is clear. It proved, without doubt, that a city as large and diverse as Chicago can effectively fight crime while also promoting constitutional policing. Crime suppression and constitutional policing are not inconsistent.

This is not to say that cities do not go through growing pains when faced with federal intervention. A colleague and I recently conducted a analysis of the effect of federal intervention on crime rates across all communities subject to federal intervention between 1994 and 2012. We found that in the first several years after federal intervention, there is strong evidence to suggest of-

fficers may temporarily pull back enforcement in response to new regulations, which appears to contribute to an uptick in primarily property crime rates.

However, we found little evidence to suggest that federal intervention efforts, in the aggregate, contribute to any long-term de-policing efforts, or any rises in violent crime rates.

Combined with the evidence from Los Angeles, this finding should be reassuring for Chicagoans.

CONCLUDING THOUGHTS

As we embark on, what will almost certainly be an ambitious police reform effort, we should rest easy knowing that, *if done right*, such an effort should not impede our important attempts to drive down violent crime rates in Chicago. But that qualifier is important: *if done right*. From my experience studying and writing about federal intervention efforts in cities across the country, there are some pitfalls that we must avoid.

First, we must not exclude police officers and their representatives from the process of developing internal reform strategies. Successful reform requires officer buy-in. That means the reform process must be collaborative and procedurally just, including as many relevant stakeholders as possible. Second, we as Chicago residents must make sure that our efforts to improve policing receive proper funding. Cities that experience the greatest growing pains during federal intervention were those that would not financially commit to the reform process. And finally, we must remember that the reform process is a marathon, not a sprint. Reforming an agency the size of the CPD requires time, collaboration, and resources.

The end result, as proven in Los Angeles, can be a more effective police department that can both engage in effective crime-fighting while also protecting the constitutional rights of its constituents. Thank you again for the chance to speak with you today. I look forward to all of our excellent speakers today.