

# **CITY of CHICAGO POLICE BOARD 1989 ANNUAL REPORT**



**ALBERT C. MAULE**  
President, Police Board

**RICHARD M. DALEY**  
Mayor, City of Chicago

The Police Board of the City of Chicago

1989 Annual Report

Honorable Richard M. Daley  
Mayor  
City of Chicago

Albert C. Maule  
President  
Chicago Police Board

1121 South State Street • Room 603  
(312) 744-6268 • (312) 744-8006 (TDD)

Police Board Members

Term of Office

|                                |                   |
|--------------------------------|-------------------|
| Albert C. Maule, President     | [August 10, 1994] |
| Brian L. Crowe, Vice-President | [August 10, 1994] |
| Victor Armendariz              | [August 10, 1994] |
| Scott Davis                    | [August 10, 1993] |
| Edna Selan Epstein             | [August 10, 1992] |
| Russell H. Ewert               | [August 10, 1992] |
| Nancy Jefferson                | [August 10, 1993] |
| Maxine C. Leftwich             | [August 10, 1993] |
| Art Smith                      | [August 10, 1992] |

Executive Director:  
Mark Iris

Supervising Clerk:  
Carolyn C. Doheny

Hearing Officers:  
Michael Berland  
William H. Hall  
Jacqueline Walker

## Message from the President

In the fall of 1989, Mayor Daley appointed six new members to the Police Board, including myself as president and former Circuit Court Judge Brian Crowe as vice president. The reconstituted Board has continued to perform its existing statutory responsibilities while undertaking new initiatives with the support and cooperation of Mayor Daley and Superintendent Martin.

Mayor Daley appointed the new Board at a time where there was grave community concern about a perceived increase of excessive force by police officers against citizens. The Office of Professional Standards, not the Board, receives the initial excessive force complaints, investigates them, and makes recommendations to the Superintendent for discipline or separation. When the Superintendent presents such cases to the Board, the Board is committed to deciding them fairly and promptly, without favor or prejudice toward any party involved. The Board also plans on working with the Department to develop approaches that might reduce the frequency of excessive force cases.

But the excessive force issue should not detract attention from the fact that the vast majority of police officers are honest, hard working individuals who place their lives in jeopardy every day. In the short time the new Police Board has been in place, we have attended the funerals of three officers

who have been murdered in the line of duty -- Officers Elijah Harris, Gregory A. Hauser and Raymond C. Kilroy. The Board will be as quick to honor courageous officers whose selfless actions bring pride and honor to the Department and the City, as it is to condemn those few miscreant officers whose conduct is shameful and degrading to all of us.

As the agency charged with civilian oversight of the Police Department, the Board has been particularly interested in facilitating an ongoing constructive dialogue between various communities throughout the City and the Department. To this end, the Board has held several of its monthly public meetings in different City neighborhoods and is committed to doing so on a regular basis in future years.

The Police Department is called upon to respond to some of the most difficult and dangerous problems confronting the community. One of the keys for the Department to be able to successfully respond to these problems is community involvement. As Professor Herman Goldstein has written in his widely acclaimed book, Problem-Oriented Policing, "the community is among the major untapped resources available to the police for dealing with problems, and engaging the community holds the potential for invoking informal controls that are more permanent and more effective than any measure the police themselves are in a position to implement."

Another of the Board's initiatives has been to prepare this first Annual Report for the Board. The Report summarizes

Police Board activities in 1989, as well as current work in progress for 1990. The Board hopes this Report will serve as a useful document to help keep City officials and the public abreast of the Board's activities.

Albert C. Maule  
President of the  
Chicago Police Board

## I. The Police Board's Legal Powers, Authority and Staff

Many citizens inquire about the nine-member Board's powers and authority. At the outset, it may be helpful to review the legal basis for the Board's existence.

The Board's basic functions and procedures are derived from the Illinois Revised Statutes, the Chicago Municipal Code, and Illinois court decisions. The Board's core functions are:

- (1) When a vacancy occurs in the position of Police Superintendent, the Board shall nominate three candidates and submit their names to the Mayor.
- (2) The Board shall adopt rules and regulations for the governance of the Police Department.
- (3) The Board shall review, approve, and submit to the City's Budget Director the Police Department's annual budget.
- (4) The Board hears suspension review appeals for disciplinary cases involving suspensions of six through thirty days, and conducts disciplinary hearings for suspensions in excess of thirty days and discharges of Police Department employees with Career Service status.

When the Superintendent seeks to discharge a Police Officer, or suspend an officer for more than thirty days, the Superintendent files charges with the Board and must prove the charges at an adversarial hearing. The officer has the right

to be represented by counsel, at his own expense, to cross-examine the Superintendent's witnesses, and to present his or her own evidence in defense. The Corporation Counsel typically represents the Superintendent in these proceedings.

The Board is legally obligated to hold monthly meetings; these are open to the public. Starting in December, 1989, the Board has adopted a practice of holding these meetings during the evening. This, it is hoped, will make it more convenient for many citizens to attend. In addition, the Board is committed to holding a number of its meetings at neighborhood sites, located at various communities across the City. In the past year, the Board has held meetings on the South Side, West Side, and North Side; more community-based gatherings will be held in the future.

The Board employs a full-time executive director and supervising clerk. The Board also relies upon three attorneys who serve as hearing officers on a part-time basis. The hearing officers preside at the evidentiary hearings.



## II. Office of Professional Standards

The Office of Professional Standards ("OPS") was created by a General Order of the Police Superintendent in 1974. OPS is a unit of the Chicago Police Department. Its chief administrator reports directly to the Superintendent of Police. OPS is responsible for investigating allegations of police use of excessive force, and making recommendations to the Superintendent of Police on the disposition of these complaints.

OPS was the target of severe criticism in 1989 and early 1990 for serious investigative shortcomings. With the recent appointment of Gayle Shines, a former prosecutor with fourteen years experience, the Board believes that Mayor Daley and Superintendent Martin have sent a clear message to the public and to police officers that allegations of police brutality will be investigated completely, thoroughly and aggressively. By appointing Ms. Shines to head OPS, the Mayor and the Superintendent have reaffirmed the important principle of civilian control over OPS. Ms. Shines has a mandate from the Mayor and the Superintendent to overhaul and upgrade OPS. The Board fully supports this mandate. The Board will work with the Mayor, the Superintendent, Ms. Shines and the City Council to assure that OPS has adequate funds to accomplish its vital mission.

### III. Disciplinary Cases

Under Illinois statute and municipal ordinance, no sworn or civilian employee of the Chicago Police Department who has career service status may be discharged, or suspended for a period in excess of thirty days, without a hearing before the Police Board. Once the Police Board makes its decision, both the employee and the superintendent have the right to seek judicial review of the Board's decision. In 1989, a total of fifty-eight separation cases were filed before the Board. This is consistent with the annual average filings of fifty to fifty-five cases.

For 1990, a vastly different situation is emerging. The Department of Law, which prepares cases for filing as the legal representative of the Superintendent of Police, has made a great effort to eliminate the accumulate backlog of unprocessed cases awaiting filing before the Board. In the first three months of 1990, a total of seventy-eight separation cases were filed, well in excess of the total filings for all of 1989.

A noticeable trend in the last year has been the increased complexity of these disciplinary hearings. Examination and cross-examination of witnesses are more prolonged than in the past; more motions are being filed for a variety of reasons than had been the case previously. This all leads to more prolonged hearings. Lengthier hearings, plus a much greater number of cases filed, will lead to severe budgetary pressures

on the Board's accounts for hearing officers and court reporting services. Although cuts made from the Board's original 1990 requests have since been restored, these revised 1990 appropriations may not be sufficient as the very large number of cases filed in early 1990 reach hearing later this year. A supplementary appropriation may be necessary.

#### IV. Suspension Review Cases

In addition to separation cases, the Board has the authority to review suspensions of employees of six through thirty days. In these cases, the Board, through its hearing officers, conducts paper reviews of investigative files, supplemented by statements filed by the employee. No live hearing actually takes place. The Board may sustain Superintendent Martin's recommended penalty, reduce it or exonerate the officer. The Board's determination may be challenged through a grievance arbitration proceeding.

In 1989, a total of fifty suspension cases were filed for review, well below the recent annual average of sixty to seventy. Preliminary 1990 data show a reversal of this; twenty-three cases were filed in the first six weeks of 1990.

## V. Case Disposition

Dispositions of both separation cases and suspension review cases in 1989 were analyzed to ascertain both how cases were decided, and what types of misconduct have led to cases being filed before the Police Board. Summaries of these dispositions are presented in Tables I and II. A review of these numbers reveals two disturbing trends.

First, it is clear that problems of substance abuse -- both illegal drugs and alcohol -- are evident in a plurality, if indeed not a majority, of cases coming before the Board. The Department's policy is to seek separation charges against any employee whose urine screen tests positive for any controlled substance. Four to five years ago, during the early stages of this testing, the vast bulk of respondents in these cases were alleged to have used marijuana. In 1989, charges of cocaine use were much more prevalent. By the time an officer's case involving drugs or alcohol is presented to the Board, any damage resulting to the officer, the Department or the public has already occurred. Thus, the Board is committed to helping the Superintendent to enhance the Department's strategies to prevent illegal drug and alcohol use by officers.

The second disturbing trend revealed by the case summaries is that only four of the twenty excessive force cases heard by the Board last year were separation cases. The remaining sixteen cases involved instances where the Superintendent

sought to discipline the alleged offending officer by a suspension of thirty days or less. The Board will not prejudge any case which comes before it. And the Board understands that many excessive force cases involve split second decisions and encounters with criminal suspects. But just as the Board endorses the Superintendent's policy of continually seeking separation for an officer using illegal drugs, regardless of his or her prior work record, it believes that separation should be sought where there is substantial evidence of gratuitous excessive force on the part of a police officer.

TABLE I  
POLICE BOARD

DISCIPLINARY CASE DISPOSITIONS: 1989

SUMMARY

| Category  | Discharged | Suspended | Not Guilty | Charges Withdrawn | Total     |
|---|------------|-----------|------------|-------------------|-----------|
| Drug Use  | 4          | 2         | 1          | 4                 | 11        |
| Refused Order to Take Drug Test                               | 1          | -0-       | -0-        | -0-               | 1         |
| Drug Dealing and Other Drug-related                           | 1          | -0-       | 1          | 2                 | 4         |
| Alcoholism and Alcohol related (includes domestic disputes)   | 3          | 5         | -0-        | -0-               | 8         |
| Excessive Force   | 2          | 2         | -0-        | -0-               | 4         |
| Monetary Violations (includes theft, bribery, pay-offs, etc.) | 1          | 2         | -0-        | 2                 | 5         |
| Residency Violation   | 1          | -0-       | -0-        | 3                 | 4         |
| Miscellaneous   | -0-        | 1         | 1          | 1                 | 3         |
| <b>Total</b>  | <b>13</b>  | <b>12</b> | <b>3</b>   | <b>12</b>         | <b>40</b> |

TABLE II

POLICE BOARD

SUSPENSION REVIEW CASES DISPOSITIONS: 1989

SUMMARY

| Category  | Sustained | Not Sustained | Total     |
|---|-----------|---------------|-----------|
| Intoxicated and disorderly<br>(includes domestic disputes)              | 8         | -0-           | 8         |
| Excessive Force (on and off<br>duty)                                    | 12        | 4             | 16        |
| Medical Roll/Secondary<br>Employment Violations                         | 5         | 1             | 6         |
| Incompetence; Inefficiency<br>Inattention to Duty;<br>Insubordination   | 6         | 2             | 8         |
| Moving Traffic Violations<br>(not DUI); vehicle licensing<br>violations | 3         | -0-           | 3         |
| Miscellaneous   | 2         | 1             | 3         |
| <b>TOTALS</b>   | <b>36</b> | <b>8</b>      | <b>44</b> |



## VI. Rules and Regulation Revision

A subcommittee of the Police Board, with substantial outside pro bono legal assistance, undertook a thorough revision of the Police Board's Rules of Conduct, and the procedures for disciplinary hearings, over the course of 1985-1987. New rules and procedures were published and distributed, and were to have taken effect in August, 1987. Their implementation was stayed due to reservations voiced by the Department of Law. Since that time, the matter has been in limbo.

The members of the Board are now organizing themselves to restart this dormant project. Police Board Vice-President Brian Crowe has agreed to chair the Board's subcommittee for rules revision. He has enlisted substantial support in this project, including former United States Attorney Anton Valukas, as well as representatives of the Departments of Police and Law, and community organizations. A list of these committee members is attached. It is expected this group will make rapid progress during 1990 to resolve the matter and produce an up to date document.

POLICE BOARD

RULES AND REGULATIONS REVISION COMMITTEE

Brian Crowe, Esq.  
Vice-President  
Chicago Police Board  
COMMITTEE CHAIR

Victor P. Armendariz, Esq.  
Member, Chicago Police Board

Patricia C. Bobb, Esq.  
Patricia C. Bobb and  
Associates

Professor James P. Carey  
School of Law  
Loyola University

Ruben Castillo, Esq.  
Mexican-American Legal  
Defense and  
Educational Fund

Gerald A. Cooper  
Executive Assistant to the  
Superintendent  
Chicago Police Department

Honorable Richard Fitzgerald  
Winston and Strawn

Harold A. Katz, Esq.  
Katz, Friedman, Schur & Eagle

Maxine C. Leftwich  
Member, Chicago Police Board

Honorable George N. Leighton  
Earl L. Neal and Associates

Mary Powers  
Citizens' Alert

Geraldine C. Simmons, Esq.  
Cook County Bar Association

Art Smith  
Member, Chicago Police Board

Anton Valukas, Esq.  
Jenner and Block

Janette C. Wilson, Esq.  
PUSH Trade Bureau

## VII. First Amendment Judgment Order

Under the terms of the Judgment Order in the First Amendment litigation (commonly known as the "Police Spying/Red Squad" case), the Police Board was established as the quasi-autonomous entity charged with the responsibility of monitoring the compliance of the Chicago Police Department in particular, and the City in general, with the terms of the Judgment Order.

To that end, the Board is required to have an independent, national public accounting firm conduct periodic audits of the City's compliance with the Judgment Order. The Order requires that such audits be done every five years.

The previous audit was done in 1984/1985. In the fall of 1989, the Board issued a Request for Proposals (RFP), circulated to qualified accounting firms. Three viable proposals were received. The Board has examined these proposals, and has designated a preliminary awardee.

The Police Board now stands ready and willing to fulfill its obligations under the terms of the Consent Decree in having this independent audit performed. Final action in terms of executing a contract and having the audit perform awaits further direction from the United States District Court and the parties involved in the litigation.

### VIII. Budgetary Oversight

Under Illinois statute, the Board is empowered to review and approve the Police Department's annual budget. In 1989, for the first time in quite some years, the Board, through a subcommittee, was much more intensively involved in examining the Police Department's budget proposals than had been the case previously. Board members and staff attended the Superintendent's staff meeting with all individual Police Department unit heads. The Board approved the Superintendent's budget requests. The Board also strongly supported the Superintendent's proposed hiring of more civilians for the Department to free sworn officers from administrative tasks. The members of the Board expect to continue these efforts to exercise their responsibilities for oversight of the Police Department's budget.

## Conclusions

In closing, the Board would like to thank Mayor Daley, Superintendent Martin and their respective staffs for their support and guidance in 1989, a transitional year for the Chicago Police Board. The Board also would like to thank its staff and hearing officers, particularly executive director Mark Iris for making the transition as smooth as possible. The Board is looking forward to an innovative and productive year in 1990.