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OF ACLU, INC.

Illinois

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Joint Hearing of the Illinois Senate Criminal Law Committee and Senate Special Committee on Public Safety

Subject Matter On: Police Reform: 1) Body Cameras 2) Data Collection & Transparency 3)
Issues Related to Officer-Involved Shootings 4) Residency Requirements 5) Officer Misconduct

Testimony on Data Collection & Transparency and Body Cameras
Rachel Murphy, ACLU of Illinois
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To Chairman Sims, Chairman Peters and members of the Senate Criminal Law Committee and
Special Committee on Public Safety:

Good afternoon. My name is Rachel Murphy, and I am a staff attorney working on policing
issues with the ACLU of Illinois. Thank you for the opportunity to submit testimony today on
the issues of data collection and transparency in policing, and police body-worn cameras.

For generations, communities of color have shared their experiences of being disproportionately
harmed by police misconduct and abuse. But numerous hurdles stand in the way of showing
broad patterns of racial profiling, misconduct, and excessive force. One of the biggest obstacles
is the lack of transparent information about police behavior on our streets and in our
communities.

Data Collection and Transparency

It is critical that the public have access to clear, detailed information about use of force by the
police. Robust data collection and reporting of the data in ways that are fully accessible to the
public is necessary to understand and track whether police officers follow or violate department
policies, especially use of force policies; whether communities, especially communities of color
face disproportionate targeting or harm at the hands of law enforcement, as compared to their
white counterparts; and whether there is a need for early intervention for officers. Data collection
and reporting can also lead to increased trust between communities and law enforcement when
the data is reviewed and acted on by managers and supervisors. Additionally, it can serve as a
critical accountability tool when police officers harm members of the public.

We urge the Illinois General Assembly to adopt the following reforms:

1. Require all law enforcement agencies to document every use of force and publicly report
detailed information on each use of force by police officers including, but not limited to:

- demographic data and any known or observed physical limitation, medical condition, developmental disability, mental impairment, drug or alcohol impairment, or language barrier, of the person who was subjected to the use of force;
- the type of force used ranging from physical contact to the use of a lethal weapon or firearm; and
- whether the person who was subjected to the use of force possessed any weapons or acted in ways that would indicate that they presented an imminent threat of bodily injury.

While some law enforcement agencies collect use of force data, there is no uniform reporting mechanism or database across Illinois. We need consistent reporting on the use of force, what kinds of force are used, and whether such force is justified. We need to know and better understand how and why force is used, against whom force is used, and whether certain officers are repeatedly abusing force in violation of department policy or law. Reporting use of force data will also permit agencies to compare their data to other similarly situated agencies as they engage in reforms. Law enforcement leaders can consider the impact of certain policies or practices and evaluate their data over time to identify trends and assess whether changes are effective.

2. Require all law enforcement agencies that maintain a SWAT or Tactical Team to collect and report information about when SWAT or Tactical teams are deployed, including, but not limited to, the reason for and result of each deployment.

Each time law enforcement uses military-style tools of war, the end result can lead to increased trauma and distrust. The Chicago Tribune reported a story of an incident in August of 2018¹ where a SWAT team burst into the Back of the Yards home of Ebony Tate and her family, including her 55-year-old mother and four children between the ages of 4 and 13. The SWAT team “set off flash grenades,” “broke through the front screen door,” and “multiple officers pointed assault rifles at Tate and her three other children as they ordered everyone — including the family’s scantily dressed grandmother, who was about to take a bath — out of the apartment.” They raided the wrong house. The officers eventually left, but the family was left to deal with the memory of this horribly traumatic incident. Unfortunately, this isn’t a one-off experience. According to reporting by CBS 2 Chicago,² the homes of “more than a dozen innocent families, and more than two dozen children...were wrongly raided by the Chicago Police. Each instance follows a similar pattern of allegations: guns pointed at families and often at children, destruction of personal property with a lack of follow-up, and black or Latino families being on the other end of the door.” There is no easily accessible public information available on these kinds of raids. The data needs to be collected, and it must be fully accessible to all members of the public.

¹ Anna Spoere, *Federal Lawsuit Alleges Chicago Police Raided Wrong Home, ‘Terrorized’ Family*, CHICAGO TRIBUNE (Nov. 9, 2018), <https://www.chicagotribune.com/news/breaking/ct-met-chicago-police-raid-wrong-house-20181109-story.html>.

² 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*, CBS 2 CHICAGO, <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>.

The General Assembly has shown leadership by recognizing the importance of collecting and analyzing data on police interactions statewide. The Illinois Traffic Stop Statistical Study Act was passed in 2003 as an effort to curb racial profiling.³ The law requires all law enforcement officers to document data on traffic stops, including the race of the motorist and the outcome of the stop. The General Assembly expanded the law several times to also include data on consent searches, dog sniff searches, and pedestrian stops.⁴

This data has opened the eyes of the public, researchers, media, and government officials alike. Analysis of data across Illinois has exposed significant racial disparities in police stops and searches.

Officer Misconduct

There is no system for publicly tracking Illinois police officers who are terminated for misconduct. Nor is there a system for publicly tracking officers who are decertified by the Illinois Law Enforcement Training Standards Board (ILETSB) for conviction of a felony or one of 21 different misdemeanors. The public—and other police departments—should know which officers are terminated by their agencies or decertified by ILETSB for committing felonies or misdemeanors. The database also should include police officers who resigned during a pending investigation of their actions.

We urge the Illinois General Assembly to adopt the following reform:

- Create an online database of records of officers who are decertified or terminated for cause.

Body-Worn Cameras

Just over five years ago, we saw a vigorous nationwide discussion about whether police body-worn cameras could check police abuse by ensuring the recording of police interactions with members of the public. Since then, police departments in Illinois and around the country have purchased body-worn cameras and some have required certain officers to wear them when interacting with members of the public.

But body-worn cameras alone have fallen short of the promise of ensuring accountability because police officers control when they turn them on and off. In some high-profile instances, officers have failed to keep cameras on as required.

The widespread use of facial recognition technology also means that body-worn cameras are increasingly used not to monitor police, but to surveil the public. Body-worn cameras can capture the images of members of the public who are not even the subject of a police interaction. This can result in the storage of huge volumes of information about our location, participation in protests, attendance at religious services, who we associate with, and where we travel.

³ 625 ILCS 5/11-212; Public Act 93-0209, § 15 (2003).

⁴ Public Act 94-0997, § 90 (2006); Public Act 97-0469, § 10 (2011); Public Act 99-0352, § 20-150 (2015).

Facial recognition technology on body-worn cameras is also extraordinarily dangerous for Black people because research shows that algorithms can be racist. A 2018 study concluded that some facial analysis algorithms misclassified Black women nearly 35 percent of the time, while nearly always correctly identifying white men.⁵ Because police in many jurisdictions in the United States use mugshot databases to identify people with facial recognition algorithms, the technology recycles racial bias from the past.⁶ As a result, the integration of facial recognition technology onto body-worn cameras can lead to false identifications that disproportionately impact Black people, resulting in wrongful arrests, lengthy detentions, and the potential of deadly police violence.⁷

We urge the Illinois General Assembly to adopt the following reforms:

1. Illinois law must impose consequences on officers who are equipped with body-worn cameras and fail to turn them on, or turn them off prematurely.
2. Illinois law must prohibit body-worn cameras from being used to gather intelligence information based on First Amendment protected speech, associations, or religion.
3. Illinois law must prohibit body-worn cameras from being equipped with any real-time facial recognition technologies and prohibit the footage from these cameras to be subjected to facial recognition technology.

These reforms would ensure that body-worn cameras are the tool for promoting police accountability that many believed them to be when laws regulating those cameras were enacted.

Conclusion

Collecting and publicly reporting data about police actions, enhancing transparency about policing policies and actions, and creating consequences for officers who violate body-worn camera policies are critical elements to instilling public confidence with policing across Illinois.

The number of people taking to the streets—risking their lives during a pandemic—to demand change and accountability in policing makes clear that this is the time for elected officials to take bold action. We cannot accept that there are just a “few bad apples” if we do not take steps to root out those problematic officers and scrutinize the broader systemic issues that allowed them to maintain their positions, inflict harm, and influence others.

We look forward to working with you, the communities demanding reform, and the law enforcement leaders sworn to protect all of us to make the changes we need. On behalf of the

⁵ Joy Buolamwini & Timnit Gebru, *Gender Shades: Intersectional Accuracy Disparities in Commercial Gender Classification*, 81 PROC. OF MACH. LEARNING RSCH. 77-91 (2018).

⁶ Kade Crockford, *How is Face Recognition Surveillance Technology Racist?*, ACLU.ORG (Jun. 16, 2020), <https://www.aclu.org/news/privacy-technology/how-is-face-recognition-surveillance-technology-racist/>.

⁷ See Jon Schuppe, *Should Police Body Cameras Have Facial Recognition Tech? Axon the largest U.S. Maker of Devices, Says No*, NBC NEWS (Jun. 27, 2019), <https://www.nbcnews.com/news/us-news/should-police-body-cameras-have-facial-recognition-tech-axon-largest-n1023271>.

ACLU of Illinois, I thank the Committee for the opportunity to provide testimony in support of broader transparency and data collection mechanisms in Illinois.