

Chicago Police Board

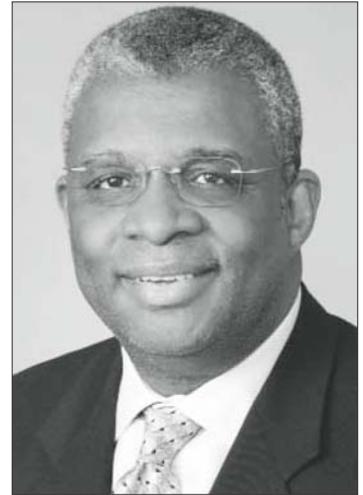
2008 ANNUAL REPORT

RICHARD M. DALEY, MAYOR • DEMETRIUS E. CARNEY, PRESIDENT





Message from the President



Demetrius E. Carney
President

Ladies and Gentlemen:

I am pleased to present this report of the activities of the Chicago Police Board during 2008. The members of the Board are a diverse and experienced group of Chicago residents who devote an extraordinary amount of time and effort to their public responsibilities. Working with such knowledgeable and collegial individuals is a pleasure.

Our primary responsibility as Board members is to decide cases involving allegations of serious misconduct made against members of the Chicago Police Department. These cases range from highly visible charges of excessive force to less visible, yet still quite important, allegations of wrongdoing. As an impartial decision-maker, the Board, like a court, strikes a balance between the public's interest in addressing police misconduct and the rights of the accused. Our role is to undertake a thorough review of each case and render a fair, unbiased decision. You will find in the following pages detailed information and statistics on the Board's consideration of disciplinary matters.

In addition to deciding disciplinary cases, the Board plays a vital role in enhancing police-community relations. At its monthly meetings, the Board provides an opportunity for all members of the public to present questions and comments directly to the Board, the Superintendent of Police, and the Chief Administrator of the Independent Police Review Authority. Our meetings serve as an important forum for discussion of police-related matters and increase accountability and responsiveness to the public's issues of concern. I strongly encourage you to attend our meetings and to visit our expanded website at www.ChicagoPoliceBoard.org. The information the Board makes available increases the transparency of the process for handling allegations of police misconduct, which is an important step in promoting public awareness of and confidence in the disciplinary process.

I thank Mayor Richard M. Daley, the City Council, Superintendent Jody P. Weis, and Chief Administrator Ilana B.R. Rosenzweig for their continued support of the Board's activities. My colleagues on the Board and I are committed to providing the independent oversight that is essential for ensuring that all Chicagoans receive the most effective and professional police protection and service.

Sincerely,

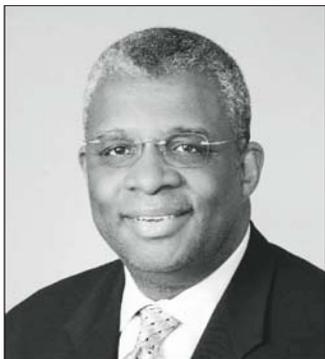
A handwritten signature in cursive script that reads "Demetrius E. Carney".

Demetrius E. Carney
President
Chicago Police Board

The Chicago Police Board

Members of the Board

The members of the Police Board are private citizens appointed by the Mayor with the advice and consent of the City Council. The following nine members served throughout 2008.



Demetrius E. Carney
President
Partner, Perkins Coie LLP



Scott J. Davis
Vice President
Partner, Mayer Brown LLP



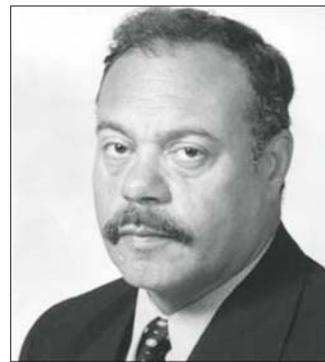
Phyllis L. Apelbaum
Founder & CEO, Arrow
Messenger Service, Inc.



Patricia C. Bobb
President, Patricia C. Bobb
& Associates



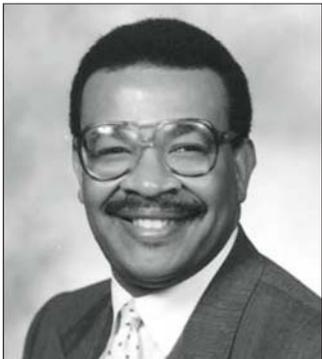
Victor M. Gonzalez
Assistant General Counsel,
Blue Cross-Blue Shield of Illinois



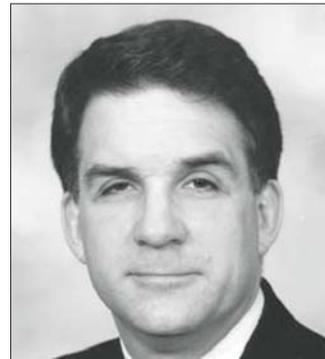
Dr. William C. Kirkling
Dentist, Private Practice



Rev. Johnny L. Miller
Pastor, Mount Vernon
Baptist Church



Arthur J. Smith Sr.
President,
Art's Enterprises, Inc.



George M. Velcich
Partner, Belgrade &
O'Donnell P.C.

Powers and Responsibilities

The Police Board is an independent civilian body that oversees certain activities of the Chicago Police Department. The Board derives its authority from city ordinance and state law. Its primary powers and responsibilities include the following:

- The Board decides disciplinary cases when the Superintendent of Police files charges to discharge or suspend a Department member for more than thirty days.
- The Board reviews, upon the request of Department members, disciplinary suspensions of six through thirty days.
- The Board decides matters in which the Chief Administrator of the Independent Police Review Authority and the Superintendent of Police do not concur regarding discipline of a Department member.
- When there is a vacancy in the position of Superintendent of Police, the Board reviews applications, conducts interviews, and submits to the Mayor a list of three candidates; the Mayor must choose from the list or request another list from the Board.
- The Board performs certain court-ordered duties to monitor compliance with the terms of the federal court consent decree regarding individuals' First Amendment rights of freedom of expression and association.
- The Board adopts the rules and regulations governing the Police Department.



Chicago City Hall on LaSalle Street

Disciplinary Matters

Summary of the Disciplinary Process

The Independent Police Review Authority (IPRA), the Police Department, and the Police Board have different roles. The responsibility to receive complaints rests with IPRA. Depending on the nature of the allegations, either IPRA or the Police Department will investigate the complaint. The Board's role is to adjudicate complaints—it is similar to a court. The Board cannot on its own reach out and investigate or hold a disciplinary hearing against a Department member suspected of misconduct; rather, it can take action only after the Superintendent of Police files charges against a member or suspends a member who then requests review of the suspension.

A summary of the disciplinary process appears on the following pages. More detailed information on the process is available on the Board's website. For simplicity's sake, the following summary applies to matters involving a police officer below the rank of sergeant who has completed the initial probationary period; the procedures for supervisors and civilian members vary slightly.

Disciplinary Matters

1. A Complaint is Filed and Investigated

As noted above, IPRA, an independent City agency, is responsible for receiving all complaints of misconduct made against a police officer. In addition to a member of the public filing a complaint, Police Department personnel, including supervisors, may file a complaint against a police officer.

Upon receipt of a properly filed complaint, a Complaint Register (CR) investigation is initiated. IPRA is responsible for conducting investigations into complaints concerning excessive force, domestic violence, coercion, and verbal abuse; IPRA also conducts investigations into all cases in which a Department member discharges a weapon in a manner which potentially could strike an individual, and all cases in which there is a death or injury of a person while in police custody, even when no allegation of misconduct is made. All complaints concerning types of alleged misconduct other than those mentioned above are forwarded to the Police Department's Internal Affairs Division (IAD) for investigation.

2. Decision Regarding Disciplinary Action

If the head of IPRA or IAD (depending on which unit conducted the investigation) recommends that one or more allegations be sustained—that is, the allegation is supported by substantial evidence to justify disciplinary action—a recommendation for discipline is submitted to the Superintendent of Police.

The Superintendent must respond to a disciplinary recommendation from IPRA within ninety days. If the Superintendent proposes less discipline than IPRA, the Superintendent and the Chief Administrator of IPRA must meet to discuss the matter. If the Chief Administrator does not concur with the Superintendent's reasons for the differing disciplinary action, the Chief Administrator shall refer the matter to a separate panel consisting of three Police Board members.

The three-member panel shall review the matter. If the panel determines that the Superintendent's response does not meet its burden of overcoming the Chief Administrator's recommendation for discipline, the recommendation shall be deemed to be accepted by the Superintendent. The three members of the panel must recuse themselves from any future involvement with such case by the full Police Board.

3. The Police Board's Role

The Police Board's role in the disciplinary process is determined by the severity of the discipline that may be imposed against a police officer:

Police Board Cases

If the Superintendent wishes to discharge or suspend an officer for more than one year, the Superintendent must file charges with the Board; the Board will then hold an evidentiary hearing, which is similar to a trial

in court. If the Superintendent suspends an officer for a period from thirty-one days through one year, the officer has the right to request review by the Board; if a timely request is made, the Superintendent is to file formal charges against the officer, and the Board will then hold an evidentiary hearing.

Once the hearing is completed, the Board decides whether the officer is guilty of one or more of the charges. The officer is considered innocent until proven guilty, and the Superintendent has the burden to prove the case by a preponderance of the evidence (a less rigorous standard than the beyond-a-reasonable-doubt standard used in criminal cases). If the Board finds the officer guilty of one or more charges, it determines the penalty after considering the officer's complimentary and disciplinary histories. The penalty may be discharge or suspension without pay (in certain types of cases the Board may attach conditions to a suspension, such as treatment for alcohol abuse or domestic violence). If the Board finds the officer not guilty, the officer is restored to duty and awarded back-pay for the time served under suspension (the officer is ordinarily suspended without pay at the time charges are filed). Decisions regarding questions of guilt and penalty are binding on the parties unless subsequently reversed by a court.

Information on disciplinary matters involving evidentiary hearings appears in the "Police Board Cases" section below.

Reviews of Suspension

If the Superintendent suspends an officer for a period from six through thirty days, the officer has a right to request review of the suspension by the Board. When reviewing these suspensions the Board considers material from the CR file, a written statement the officer may provide, and a response from IPRA or the Department (there is no evidentiary hearing or oral argument). The Board then renders a decision to sustain, reduce, or reverse the suspension. Information on these matters appears below in the section titled "Reviews of Suspension."

The Board does not review suspensions of one through five days, as there is no right to appeal these suspensions to the Board.

Decisions of the Three-Member Panel

As noted above, when the Chief Administrator of the Independent Police Review Authority and the Superintendent of Police do not concur regarding discipline of a police officer, a separate panel consisting of three Police Board members shall determine whether the Superintendent's proposal for less discipline meets its burden of overcoming the Chief Administrator's recommendation for discipline. There were no such matters referred to the panel in 2008.

Police Board Cases

In 2008, the Superintendent filed charges against twenty-eight Department members. In all but one of these cases the Superintendent sought a penalty of discharge. There was one appeal of a suspension of thirty-one days through one year during 2008.

Table I below presents data on cases decided by the Board in 2008 (some of these cases were filed prior to 2008). All of these cases involved the Superintendent seeking to discharge the member. Each case is listed according to the nature of the primary allegations (based on complaint categories used by the Independent Police Review Authority and the Internal Affairs Division) and whether the respondent was a sworn or civilian member.

Table I also includes data on those cases in which the Department member resigned rather than contest the charges. In addition to the cases included in the table, the Police Board, in 2008, dismissed the charges against one member and approved the withdrawal of charges against two members for administrative reasons

Table I: 2008 Police Board Cases

Primary Allegation	Guilty and Discharged		Guilty and Suspended		Not Guilty		Resigned*		Total
	Sworn	Civilian	Sworn	Civilian	Sworn	Civilian	Sworn	Civilian	
Excessive Force/On-duty	1	0	0	0	0	0	0	0	1
Excessive Force/Off-duty	0	0	0	0	0	0	0	0	0
Domestic Altercation	3	0	0	0	0	0	0	0	3
Alcohol Abuse	0	0	0	0	0	0	0	0	0
Drug/Substance Abuse	2	0	0	0	2	0	5	0	9
Bribery/Official Corruption	0	0	1	0	2	0	2	0	5
Commission of a Crime	3	1	0	0	0	0	2	1	7
Conduct Unbecoming/Off-duty	3	0	0	0	0	1	1	0	5
Operation/Personnel Violations (e.g., insubordination, neglect of duty, medical roll abuse, sexual harassment)	7	0	7	1	5	0	2	0	22
Other	0	0	0	0	1	0	0	0	1
Total	19	1	8	1	9	1	12	1	52

* The respondent resigned prior to a hearing and the charges were therefore withdrawn.

A decision in a Police Board case may be reversed only by a court. That is, the Board's decision is not subject to the Superintendent's approval, nor may the member challenge the decision through a union grievance procedure.

Under Illinois law, the parties to a Police Board case (the Superintendent and the member) have the right to appeal the Board's decision by filing a petition for administrative review in the Circuit Court of Cook County.

Other individuals, such as a victim of police misconduct, do not have legal standing to appeal a Police Board decision with which they disagree; rather, such grievances are handled by a different means, such as a separate civil suit.

A party dissatisfied with the Circuit Court's review of a Police Board case may appeal to the Appellate Court of Illinois. Following an adverse ruling at this level, a party may attempt a further appeal to the Supreme Court of Illinois.

Table II provides data on suits in administrative review for 2008. As noted above, a particular Police Board case may be reviewed at several levels; in addition, court rulings may cause the Board to issue multiple decisions in the same case. The data on court decisions in Table II pertain to final action regarding the Board's original decision.

Table II: 2008 Appeals of Police Board Cases						
	Appeals Filed in the:		Appeals Decided by the:			
	Circuit Court of Cook County	Appellate Court of Illinois	Circuit Court of Cook County		Appellate Court of Illinois	
			A	R	A	R
	21	0	8	0	0	0
<i>(A—Affirmed R—Reversed and/or Remanded)</i>						

The Illinois Supreme Court did not accept for review or consider any Police Board decisions in 2008.

Reviews of Suspension

If the Superintendent orders a suspension of six through thirty days, the affected member may request Police Board review of the suspension. The Board received fifty-three requests for review in 2008.

Table III below presents data on reviews of suspension decided by the Board in 2008 (some of the requests for review were filed prior to 2008). Each matter is listed according to the nature of the primary allegations (based on complaint categories used by the Independent Police Review Authority and the Internal Affairs Division) and whether the employee was a sworn or civilian member:

In addition to the decisions included in the table, the Board did not act on two requests for review because they were not filed in a timely manner:

Table III: 2008 Reviews of Suspension

Primary Allegation	Sustained Full Penalty		Sustained Reduced Penalty		Reversed		Total
	Sworn	Civilian	Sworn	Civilian	Sworn	Civilian	
Excessive Force/On-duty	2	0	0	0	0	0	2
Excessive Force/Off-duty	0	0	0	0	0	0	0
Domestic Altercation	1	0	0	0	0	0	1
Alcohol Abuse	1	0	0	0	0	1	2
Drug/Substance Abuse	0	0	0	0	0	0	0
Bribery/Official Corruption	0	0	0	0	0	0	0
Commission of a Crime	0	0	0	0	0	0	0
Conduct Unbecoming/Off-duty	6	0	0	0	0	0	6
Operation/Personnel Violations (e.g., insubordination, neglect of duty, medical roll abuse, sexual harassment)	24	0	5	0	1	0	30
Other	7	0	0	0	0	0	7
Total	41	0	5	0	1	1	48

Superintendent Selection

The Board participates in the selection of the Superintendent of Police by reviewing applications, conducting interviews, and nominating three candidates for consideration by the Mayor. There was no vacancy in the position during 2008.

Oversight Regarding First Amendment Rights

In 1974 and 1975 the Alliance to End Repression and the American Civil Liberties Union sued the City of Chicago in U.S. District Court, charging that the Chicago Police Department's intelligence division was violating individuals' First Amendment rights by overly intrusive and improperly motivated investigations of alleged subversive activities. Before a trial was held, the City entered into a consent decree, approved by the court in 1982, that imposed detailed restrictions on the City's investigative authority. In 1997, the City argued that the decree was hampering its efforts to counter threats to public safety, and asked the court to modify the decree to make it less onerous. A modified decree took effect in 2001

following a ruling by the U.S. Court of Appeals for the Seventh Circuit. The modified decree requires the Police Board to engage in certain activities to ensure compliance with the terms of the decree.

First, the Board must review the Police Department's annual internal First Amendment compliance audit, and must report to the Mayor, the Superintendent of Police, and the public concerning its findings. The fifth and final required annual internal audit was completed in November 2006, and the Board reported on the findings of its review in January 2007.

Second, the Board is required to have a national independent public accounting firm conduct an external audit of the City's compliance with the decree. This audit, which covered the years 2001 through 2005, was completed in July 2007.

Third, if the Board learns of any probable substantial violation of the decree, the Board must refer the matter to the Superintendent of Police (or, if another City agency is involved, to the Inspector General). The Board learned of no such matters during 2008.

In 2008 the City moved to dissolve the modified consent decree, arguing that it has fully complied with the terms of the decree and that, because the unconstitutional activities that were the subject of the decree have long since ceased, the decree has effectively fulfilled its purpose and should be dissolved. The U.S. District Court denied the City's motion without prejudice, stating that submission of additional information regarding the external audit is required in order for the court exercise its review of the City's compliance. The City appealed this decision, and as of December 31, 2008, the case is pending before the U.S. Court of Appeals for the Seventh Circuit.

Outreach Activities

The Board holds monthly public meetings at Chicago Police Headquarters, 3510 South Michigan Avenue. Meetings take place in the evening, and members of the public are invited to attend and are welcome to address questions or comments to the Board (prior sign-up by 4:30 p.m. of the day before the meeting is required of those wishing to address the Board). In addition to receiving input from the community, the Board reports on disciplinary actions and other matters, and receives a report from the Superintendent of Police.

The Board maintains a website at www.ChicagoPoliceBoard.org. The site provides the public with information on the Board's powers and responsibilities, a detailed guide to the disciplinary process, the rules and regulations governing the Police Department, and other material.

The Executive Director of the Board meets frequently with members of the community and the Police Department to provide information on the Board's operations and on the complaint and disciplinary process.

Personnel and Administration

There were no changes to the membership of the Board during 2008. Executive Director Max A. Caproni manages the day-to-day operations of the Board. Carisa A. Boatman serves as supervising clerk. The Board's three hearing officers, experienced attorneys who preside over hearings and report on cases, continued to serve the Board on an hourly basis during 2008.

The Police Board's budget is proposed by the Mayor and approved by the City Council as part of the annual appropriation ordinance. The 2008 appropriation was \$474,868.



The Chicago Transit Authority (CTA) Train arriving at the Kimball Station

For further information, please contact:

Chicago Police Board
30 North LaSalle Street
Suite 1220
Chicago, IL 60602

phone: 312.742.4194

fax: 312.742.4193

www.ChicagoPoliceBoard.org