

USA

Summary of Amnesty International's Concerns on Police Abuse in Chicago

Allegations of torture, brutality, unjustified shootings and cover-ups involving members of the Chicago Police Department have surfaced repeatedly over the past ten years. Many of the issues reflect national patterns of concern, as documented in Amnesty International's reports *Rights For All* (October 1998, AI Index AMR 51/35/98) and *Race, Rights and Police Brutality* (September 1999, AI Index AMR 51/147/99). Although Police Superintendent Terry Hillard has introduced some reforms, the city and police department have failed to implement the detailed monitoring or oversight systems adopted by some other large police agencies in recent years.

Amnesty International's concerns include the following:

Torture in Area 2 Police Station

Evidence of the systematic torture of suspects by detectives in Area 2 police station came to light in the late 1980s -early 1990s, when the People's Law Office (a law firm specialising in civil rights cases) identified 65 suspects who had been subjected to treatment including electric-shocks, suffocation and "Russian roulette" while under interrogation. The cases, which were uncovered during investigation of a lawsuit filed by one of the victims, spanned a 20-year period from 1972. Most of the victims were African American or other minorities and the officers involved were white. The Area's commander, Jon Burge, was eventually fired in 1993 and two other officers disciplined after the police department's complaints body, the Office of Professional Standards (OPS), re-investigated the cases. However, no other officers involved in the cases have been disciplined and several were promoted or allowed to retire on full benefits.¹ Amnesty International called for an independent inquiry into the allegations in 1990, noting that the treatment described constituted a clear violation of international law.² It remains concerned at the length of time it took to expose the abuses and the lack of action taken in the case of other officers involved. Amnesty International believes that the cases demonstrate serious weaknesses both in oversight and the investigatory system.

¹As well as the Wilson case, an OPS inquiry reviewed more than 50 other cases in 1990 and found that physical abuse at the Area 2 station was "systematic" and included "psychological techniques and planned torture" spanning at least a decade. According to attorneys, the report of this review (the Goldston Report) was initially suppressed but the OPS later said they would look again at cases individually. Through subsequent court proceedings, the People's Law Office learned that the OPS had re-opened detailed investigations into only a few of the cases and that investigators had recommended disciplinary action in several of them, but these recommendations were overruled by the OPS director.

²Amnesty International, *Allegations of Police Torture in Chicago, Illinois*, December 1990

Ten prisoners on death row, who were interrogated by officers under Burge's command, are currently seeking a review or retrial of their cases on the grounds that they were tortured during interrogation and, in some cases, forced to sign false confessions. They include Aaron Patterson, convicted of a double murder, who has always maintained his innocence of the crime. He alleges he was punched, suffocated with a typewriter cover and threatened with a gun during 25 hours of interrogation in which he was denied access to a lawyer. Although he refused to sign a confession, he was convicted on the evidence of an informant who has since recanted her testimony. During proceedings seeking a new trial (which are still ongoing), his lawyers won a court order allowing them to photograph a bench at the station on which he had allegedly scratched a message during his detention, testifying to the police violence. His case is among several featured in a report in which Amnesty International backed calls for a moratorium on executions (see Amnesty International Report, *Fatal Flaws: Innocence and the Death Penalty*, November 1998).

Continuing concern about police interrogations: videotaping of confessions

The type of torture which took place in Area 2 under Burge's tenure is no longer reported. However, other abuses have been reported during the 1990s, including brutality and improper tactics or coercion during questioning, with confession evidence being thrown out in a number of cases, including cases involving children (see below).

In response to these concerns, in August 1999, the Cook County authorities introduced the videotaping of confessions in murder cases, where the suspect agreed. However, civil rights advocates have criticized the measure as inadequate, as it does not extend to police interviews or interrogations prior to a final confession. A state legislative committee is currently considering whether there should be a state law on videotaping confessions or police interrogations of suspects. Videotaping is reportedly becoming increasingly common in police and sheriff's departments in other parts of the USA. Over a third of US police and sheriff's departments are now reported to videotape interrogations, including big city police departments in New York, Minneapolis, Houston, San Diego and Denver.³

Amnesty International believes that videotaping interrogations can be an important safeguard against ill-treatment, a view endorsed by other international human rights bodies. In 1998, the United Nations (UN) Special Rapporteur on Torture strongly recommended that the Spanish Government consider video-recording police interrogations as a means of protecting both detainees and law enforcement officers who may be falsely accused of torture or ill-treatment. The European Committee for the Prevention of Torture (CPT) has recommended the electronic recording of police interviews in Switzerland, Belgium and France as a guarantee

³Information provided by the Children and Family Justice Center of the Northwestern University Legal Clinic, Chicago.

for people deprived of their liberty and as facilitating the investigation of allegations of ill-treatment.⁴

The detention and interrogation of children in police custody

There have been disturbing cases in which children have been held in police custody in Chicago and questioned about serious crimes outside the presence of their parents, attorney or youth officer.⁵ One of the last alleged victims of police torture under Commander Burge was 13-year-old African American teenager Marcus Wiggins, who was arrested with others in connection with a gang-related shooting in 1991 and held for questioning without his parents or a youth officer being present. He alleged that he was threatened, hit and subjected to electro-shocks while in custody and showed signs of being deeply traumatized. All charges against him were eventually dropped and the city later agreed to settle a civil lawsuit for damages in his case for just under \$100,000.

In August 1998 two boys, aged seven and eight, were charged with first-degree murder for the killing of an 11 year-old girl, Ryan Harris, on the basis of alleged statements they made to Chicago police. The children were questioned over a period of hours, without attorneys, parents or a youth officer being present. The charges were subsequently dropped, after further investigation led to the discovery of physical evidence pointing to an adult offender. (The two boys and the victim in the Ryan Harris case were black, and relatives questioned whether a case involving white children would have been handled differently by the criminal justice system.)

Following concern about the above case, Police Superintendent Terry Hillard issued a directive in October 1998 requiring police officers to make "every reasonable effort" to have parents present when questioning suspects under the age of 13. Juvenile justice advocates have said that this measure does not go far enough as it places no absolute obligation on the police to locate a child's parent or guardian before an interrogation and there is no exclusionary rule making statements inadmissible if the child is questioned alone. The measure also excludes children over 12, who make up the large majority of juveniles taken into police custody and who

⁴The CPT is a body of experts elected by states parties to the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment to monitor and strengthen safeguards against torture or ill-treatment.

⁵A youth officer is a police officer whose role is to act as an "interested adult" on behalf of a child in custody and to help him or her understand the proceedings. Children's advocates have told AI that, in practice, the police youth division is understaffed and underfunded and the police have often questioned children without the presence of youth officers. In cases where youth officers do sit in on interrogations about serious crimes, they do not always intervene to advise the child but simply observe the proceedings.

are also vulnerable. Youth advocates have urged that all children in Illinois aged 16 or under⁶ who are suspects in serious crimes should have access to attorneys in the police station; that the police should be required by law to contact a parent or guardian before a child is questioned as a suspect; and that a parent or guardian should have the right to instruct police not to question a child outside their presence. They have also called for the videotaping of all interrogations of children who may be charged with serious crimes (not just homicides), and not just the final confession.⁷

The measures recommended above are consistent with international standards which recognize the need for special protections for children in the justice system. Rule 7 of the *UN Standard Minimum Rules for the Administration of Juvenile Justice* specifies that all basic safeguards for a fair trial should apply, and that children should have the right to counsel and to the presence of a parent or guardian at all stages of the proceedings. The rules also state that the same principles should guide the treatment of children in the adult criminal justice system. Similar safeguards are set out under the Convention on the Rights of the Child (signed but not ratified by the USA), which states that “the best interests of the child” should be a primary consideration in all acts concerning children, including criminal justice proceedings.

Under both international standards and national laws, 18 is the most common age below which special protection as a child or juvenile is deemed to be necessary and desirable for people accused or convicted of violating criminal laws.

Brutality and excessive force

There continue to be numerous complaints of suspects being brutalized by Chicago police officers. The OPS receives around 3,000 citizen complaints annually involving allegations of excessive force. Although the number of complaints declined somewhat in 1998 over 1997

⁶In Illinois all persons aged 17 or over are considered adults in the criminal justice system.

⁷The Children and Family Justice Center at Northwestern University Legal Clinic has prepared a list of its concerns regarding the absence of adequate legal protections afforded children in police custody in Cook County. The center has pointed to research showing that many young teenagers are incapable of fully understanding their rights, such as the right to remain silent; and that parents themselves are not always in a position to fully understand the proceedings. They have also pointed out that videotaping of confessions only (especially when a child has not been afforded other protections) could make things worse by purporting to validate a confession which may not have been truly voluntary.

(2,856 filed in 1998 compared to 3,117 in 1997) it remains substantial.⁸ In 1998, Chicago reportedly paid out \$3.7m to settle 134 lawsuits involving police misconduct.⁹ Although the OPS does not keep a breakdown of the race of complainants, civil rights lawyers and police monitoring groups report that most victims are African American, Latino or other minorities.

Cases include people being beaten with flashlights, choked or hit while handcuffed, some resulting in serious injury or death. However, criminal prosecutions of officers accused of misconduct are extremely rare, even in cases where complaints have been sustained and substantial damages awarded. The Police Board (a police adjudicatory body) voted to fire two officers for "egregious violent conduct" and conspiring to cover up their actions in the September 1997 beating of Jeremiah Mearday, an 18-year old African American youth who suffered a broken jaw after being hit with a police flashlight. However, no criminal charges were brought against the officers, partly, according to prosecutors, because they could not identify which officer had used the flashlight which had Mearday's blood on it. Both officers exercised their "fifth amendment" right not to testify in the case.¹⁰

Shirley Alejos, a petite Latina woman, was so badly beaten while handcuffed in a police station in 1994 that her face was unrecognizable in photographs taken afterwards. The two officers involved received 50 and 55 days' suspensions after widespread publicity about the case, and she later received \$200,000 in damages. However, no criminal charges were filed against the officers and they are reported to remain on the force. One was named in two prior civil lawsuits alleging police misconduct, in which damages were awarded.

Some suspects have died after the application by police of choke holds or compression of the chest or neck, procedures known to be dangerous and to carry the risk of asphyxia. In June 1999 Gregory Riley died after allegedly being placed in a choke hold during a struggle with Chicago police officers trying to arrest him for a drugs offence. The Cook County medical examiner found cause of death to be "asphyxia due to compression of the neck and chest" and

⁸The authorities have pointed out to Amnesty International and others that the number of complaints appears high as all complaints are recorded, some involving relatively minor accusations of misconduct. However, they remain high compared to some other large cities. The Civilian Complaint Review Board for New York City - whose police department is more than twice the size of Chicago - received a total of 4,962 citizen complaints in 1998, involving a somewhat wider category of misconduct than those in the figure cited for the OPS.

⁹Todd Lighty and Steve Mills, Chicago Tribune February 15, 1999. Amnesty International has written to the city's Law Department seeking information on the number of claims filed for police misconduct annually, and the number of settlements, for the past five years. This information has not yet been received.

¹⁰Protection against self incrimination

ruled it a homicide. (The case was still being investigated as of September 1999). Amnesty International has written to the authorities expressing concern about the case and asking for the outcome of inquiries.

There are reported to have been at least 14 other restraint-related deaths of suspects in the Chicago area since 1990.¹¹ Cases include Jorge Guillen, a mentally ill Latino man who died of asphyxia while being subdued by police officers in 1995, whose family was later awarded \$637,500 in damages. The OPS recommended that all three officers involved in the case be suspended but this recommendation was rejected by the police chief in one case and the other two suspensions were overruled by the Police Board. In July 1999, the city agreed to a \$500,000 settlement with the family of Frankie Ann Perkins, a 37-year-old African American woman who died in 1997 when officers wrestled her to the ground and allegedly kned her in the chest and choked her during a street arrest for alleged drug-taking. The OPS investigated the case and found no wrongdoing by the officers involved.¹²

These and other cases appear to violate international standards prohibiting torture or ill-treatment and standards set out in the *UN Code of Conduct for Law Enforcement Officials* and the *Basic Principles on the Use of Force and Firearms* which provide that law enforcement officials should use force only when strictly necessary, that it should be proportionate to the threat faced and designed to minimize damage or injury.¹³

Police shootings

Amnesty International is concerned that some police officers have shot unarmed suspects fleeing minor crime scenes or during routine traffic stops. Such actions are in violation of international standards which provide that deadly force should be used only in response to an imminent threat of death or serious injury and only when less extreme measures are unavailable (the UN Basic Principles, cited above). While many US police departments, including Chicago, have similar guidelines, these are not always followed.

¹¹The Chicago Reporter, March 1999: article based on information from the Cook County Medical Examiner's Office: the suspects had all suffocated during a struggle with officers, although cocaine intoxication was found to be a factor in some cases.

¹²Report by Gary Washburn, Chicago Tribune July 7, 1999

¹³The Code of Conduct was adopted by the UN General Assembly in 1979 and the Basic Principles were adopted by consensus by the Eighth UN Congress on the Prevention of Crime and Treatment of Offenders on 7 September 1990.

The fatal police shootings of unarmed African American motorists La Tanya Haggerty and Robert Russ in June 1999 caused wide public concern. Haggerty, a 19-year-old passenger in a car pulled over by police after a short chase, was shot dead when, according to the police, officers mistook the cell-phone in her hand for a gun. Robert Russ was shot after he refused to get out of his car after a pursuit. He was reportedly shot when an officer smashed the car window and pointed his gun directly into the car. A recommendation by the police chief that the officers involved in the Haggerty shooting be fired was pending a hearing before the Police Board at the time of writing. The federal authorities are reported to be looking into both cases. Civil lawsuits are currently pending in the case of several other questionable police shootings in Chicago.

Following the Haggerty and Russ shootings, Chicago Police Superintendent Terry Hillard announced that he would install video-cameras in some police cars and improve officers' training in policies on deadly force and pursuits. The latter recommendation was based on a review of police procedures conducted by the Marshall Law School, set up after the shootings. The review panel also recommended the deployment of more senior officers in high crime districts, which are often patrolled by inexperienced "rookie" (newly qualified) officers. This proposal would reportedly require police union agreement to be implemented.

As elsewhere, a disproportionate number of the victims of wrongful police shootings (and other deaths in custody) in Chicago are members of ethnic or racial minorities, highlighting concern about the racial stereotyping of black people and other minorities as potential criminals. According to an analysis conducted by a Chicago journal, Chicago police shot dead 115 civilians between 1990 and 1998 of whom 82 were black, 16 were Latino, 2 were Asian and only 12 were white (the report did not give a breakdown of the circumstances of the shootings). The report also revealed that the 71 officer-involved shootings (fatal and nonfatal) by the Chicago Police Department in 1998 was the highest annual total in ten years.¹⁴

Adequacy of the complaints process / Oversight of the police

As noted above, criminal prosecutions of police in Chicago are rare. The adequacy of the police complaints and disciplinary process has also been questioned. There is no external oversight of complaints against the police. All complaints involving an allegation of excessive force are investigated by the Office of Professional Standards (OPS) which, although staffed by civilians, remains part of the Chicago Police Department. (All other complaints against the police, including verbal abuse, discourtesy and rule violations are handled by the police department's Internal Affairs Division.)

¹⁴The Chicago Reporter, March 1999

The vast majority of complaints are ruled “unsustained”, largely, according to investigators, because many cases rest on the word of the complainant against that of the officer without corroborative evidence. However, civil rights attorneys maintain that the OPS often fails to conduct thorough investigations and is too ready to accept the police version of events. The OPS is also limited to looking at individual cases and it has no computerized system to record data such as the age, race or gender of complainants or accused officers, the types of complaints received, the districts where incidents occurred or other factors which may enable it to discern patterns of concern. Its public reports are far less detailed than those issued by some other large city police complaints boards.¹⁵

Due to a police union agreement, the Chicago Police Department (including the OPS) is also unable to consider an officer’s prior complaints history when investigating misconduct. This can only be reviewed in the small minority of cases which are sustained when determining punishment. Even then, the department is prohibited from taking into account prior unsustained complaints or any complaints more than five years’ old. A number of other large US police departments now routinely review their officers’ entire complaints history (including unsustained complaints) when conducting investigations into alleged misconduct, in order to detect possible patterns of concern requiring training or other remedial action. The resolution of sustained complaints in Chicago can be hampered by prolonged, multiple appeals, with initial recommendations on punishment often being dismissed at a higher level of appeal. The length of time it takes to resolve cases has been criticized in various quarters.¹⁶

The secrecy of investigations into police misconduct has also been a concern in Chicago as elsewhere. No public information is generally given on the outcome of an individual complaint of brutality or the reasons for a decision, unless the case is sustained and there is a public

¹⁵It provides aggregate data only on the number of complaints received, the disposition of completed investigations (ie how many complaints were ruled sustained, unsustained, unfounded or the officer exonerated) and the types of discipline recommended.

¹⁶ Disciplinary recommendations by the OPS are reviewed through the chain of command before the Superintendent decides on the penalty. Suspensions of more than 30 days or dismissals must then be endorsed through a hearing by the Police Board which can either affirm or reduce the penalty; officers can also take certain cases to arbitration. The Chicago Tribune reported in November 1997 that more than half the officers the former Superintendent tried to fire during his five years in office were either acquitted or had their sentences reduced by the Board. A commission of inquiry into police corruption reporting in November 1997 found the disciplinary system was thwarted by long delays between the incident and the imposition of a sanction and recommended streamlining the process (reported in Human Rights Watch: *Shielded from Justice, Police Brutality and Accountability in the United States*, June 1998).

hearing before the Police Board (which happens only in cases involving a penalty of more than 30 days' suspension or dismissal.) However, such cases are rare compared to the number of complaints filed. Data provided to Amnesty International shows that five officers were suspended or discharged for excessive force in 1997 and 9 in 1998 as a result of Police Board dispositions.

Some police departments have developed sophisticated systems for identifying and monitoring the small percentage of officers involved in persistent misconduct.¹⁷ However, the Chicago Police Department has long been criticized for failing to adequately monitor officers who are the subject of repeated complaints of brutality or other misconduct. A 1995 study found that there were 196 officers in the department who had accumulated ten or more complaints over a five-year period but only 35 had been placed in the department's "behavioural alert system".¹⁸ A more sophisticated computerized monitoring system known as "Brainmaker" was introduced by the department in 1994 but was discontinued after opposition from the police union and all the information held on a hard disc was reportedly deleted. The department continues to use the less sophisticated alert system which, according to some sources, is geared primarily to detecting officers involved in misconduct such as drugs offences, rather than brutality.

The Chicago Police Board consists of nine civilians appointed by the mayor. Its primary role is to act as a disciplinary board to hear cases against Chicago Police Department employees in which discharge or a suspension greater than 30 days is sought by the Superintendent, or to hear appeals lodged by officers in cases of suspension between 6 and 30 days. The Board is also responsible for approving the annual budget of the Police Department and it recruits and interviews candidates for the post of Superintendent, submitting a list of finalists to the mayor. Although it holds monthly public hearings, it has no authority to investigate cases or any subpoena powers. Its oversight functions are therefore extremely limited. Although the Board has authority for adopting rules and regulations for the governance of the Police Department, Amnesty International has been told that in practice it has only nominal oversight of the police department's policies and that it has interpreted its role very narrowly in this sphere.

¹⁷ For example, detailed monitoring systems have been established in the Pittsburgh (Pennsylvania) and Steubenville (Ohio) police departments in settlements reached with the US Justice Department as a result of federal civil lawsuits. These include keeping records of officers' disciplinary, training and complaints history, as well as data on arrests, traffic stops, race and use of force incidents. Both the Los Angeles Sheriff's Department and, more recently, the Los Angeles Police Department have established detailed computerized monitoring programs.

¹⁸ Study by Deborah Nelson, reported in the Chicago Sun-Times January 8, 1995

Recommendations

In its Rights For All campaign, Amnesty International made a series of detailed recommendations to the federal government and to local and state authorities to combat police brutality. These are listed in its publications *Rights for All* (AMR 51/35/98) and its most recent report *Race, Rights and Police Brutality* (AMR 51/147/99). They include the following:

- State, federal and local authorities should ensure that abuses, including torture, brutality and other excessive force by police officers will not be tolerated; that officers will be held accountable for their actions and that those responsible for abuses will be brought to justice.
- International human rights standards on the use of force and firearms, and on the prohibition of torture and ill-treatment and discriminatory treatment, should be fully incorporated into police codes of conduct and strictly enforced.
- All police departments should introduce training programs designed to minimize the risk of unnecessary force and death or injury in certain common situations, including vehicle pursuits and coping with mentally ill or disturbed individuals. They should ban dangerous restraint procedures such as hogtying and choke holds.
- All police departments should establish early warning systems to identify and deal with officers involved in human rights violations. They should establish clear reporting systems and keep detailed records in order to identify, and take remedial action in respect of, any patterns of abuse, including racial bias or other discriminatory treatment.
- There should be greater transparency in the investigation of complaints of human rights abuses. The outcome of all criminal, disciplinary and administrative investigations into alleged violations, and into all disputed shootings and deaths in custody, and the reasons for any decisions taken, should be made public promptly after completion of the investigation.
- State, local and federal authorities should establish independent and effective oversight bodies for their respective police agencies. These should have the authority to investigate or review complaints of police abuses; to conduct regular audits and, where necessary, their own investigations; to review and make recommendations on policy and training; and they should be required to publish detailed reports.
- The federal authorities should be provided with the necessary resources to investigate and prosecute officers accused of federal civil rights violations and to take action in respect of police agencies engaging in a “pattern or practice” of abuses.

In addition to the above recommendations Amnesty International also

- Calls on the authorities in Chicago and elsewhere in Illinois to ensure that children in police custody are provided with adequate safeguards in accordance with international standards. These should include access to attorneys and parents or guardians before and during interrogation for serious crimes, and the videotaping of all police interviews in such cases.