

Annual Report of the Independent Review Committee for the University of Chicago Police Department

November 2009

The Independent Review Committee for the University of Chicago Police Department (UCPD), composed of faculty, staff, students, and members of the community, examines complaints against the UCPD involving charges of excessive force, violation of rights, and abusive language. The committee reviews the investigations conducted by UCPD and shares with the Provost, President, and the Vice President for Civic Engagement its conclusions and recommendations regarding the actions and procedures of the UCPD. The committee cannot revise any action the UCPD has taken on a complaint determination.

We note that the UCPD is in the midst of significant transition, with the arrival of Marlon Lynch as the new Associate Vice President for Safety and Security and Chief of Police and the retirement of Rudy Nimocks after twenty years of distinguished service. The University also engaged outside consultants in a comprehensive review of the UCPD policies and practices as part of its critical self-examination. Before discussing the work of the Independent Review Committee (IRC) over the course of the year, the IRC wishes to thank and compliment Chief Nimocks for his outstanding service to the University and community and to welcome AVP Lynch to help to lead the UCPD into the future.

This report describes the committee's work and assessments regarding complaints against the UCPD for the 2008–09 academic year.

I. The Complaint Review Process

The UCPD operates under strict rules and regulations that provide for professional conduct. The University takes complaints against the UCPD seriously. The procedure for investigation is as follows:

1. A member of the University community or a resident of the neighborhood who is dissatisfied with UCPD may call the dispatcher at 773-702-8181 and ask to speak with the Watch Commander or the supervisor on duty; may send email to Jeff Collier, Deputy Chief of Administrative Services, at jcollier@uchicago.edu; or may make a formal complaint by completing a Citizen Complaint Form, available at <http://oca.uchicago.edu/pdf/complaint.pdf>. Students at the University may seek assistance from a representative of the Dean of Students Office by calling 773-702-8181. Community members needing assistance may contact the Office of Civic Engagement at 773-702-8195.
2. The investigation of the complaint is conducted by a UCPD supervising officer. The investigation includes formal interviews of all parties concerned.
3. After the investigation is finished, the supervising officer will issue one of the following determinations:
 - *Unfounded*: The allegations are not factually accurate; the alleged conduct did not occur.
 - *Exonerated*: The alleged conduct did occur, but it was justified under the circumstances.
 - *Sustained*: The alleged conduct did occur, and it was not justified under the circumstances.
 - *Not Sustained*: The written record of the investigation does not support a determination of whether the alleged conduct occurred. A classification of Not Sustained is used whenever a case involves conflicting stories that are not clearly resolvable on the basis of evidence presented.
4. If the supervising officer recommends a sustained finding, he or she will also recommend disciplinary action.
5. UCPD supervisors through the chain of command then review the investigation and recommend findings. Each reviewer may agree or disagree with the recommended findings or order further investigatory action. The Associate Vice President for Safety and Security and Chief of Police reviews every investigation and makes the final decision with respect to the investigative finding and any discipline imposed. The Associate Vice President for Safety and Security and Chief of Police then writes to the complainant to communicate the determination, explain any findings, and convey any disciplinary actions taken by UCPD as a result of a sustained complaint.

6. For complaints relating directly or indirectly to issues of excessive force, violation of rights, or abusive language, the investigative report will be submitted to the Independent Review Committee for review.
7. As noted above, the committee annually reports its findings and recommendations to the Provost, President, and Vice President for Civic Engagement. This report, summarizing all incidents reviewed and recommending changes to policies and procedures, is made available to the public via the University's website at http://oca.uchicago.edu/pdf/irc_annual_report.pdf.

II. Complaint Summaries and Review

There were nineteen complaints filed against the UCPD during the 2008-09 academic year. Six of these complaints fell within the Independent Review Committee's (IRC) purview because they involved allegations of excessive force, violation of rights, or abusive language; were investigated by the UCPD; were duly reviewed; and are discussed in this report. (See Figure 1.) The UCPD continues to investigate another five complaints that fall under the IRC purview. One complaint was withdrawn by the complainant. The remaining seven complaints were not within the IRC purview because, for example, they constituted personnel matters internal to the UCPD or were complaints about the City of Chicago Police Department initially incorrectly filed with the UCPD.

III. Committee Case Reviews

The committee agrees with most of the findings and determinations of UCPD's investigations in the six cases it reviewed. The IRC had only one significant disagreement with UCPD findings. In response to the committee's concerns, the UCPD promptly reviewed its investigation, took additional investigative steps, revised a number of its findings and conclusions, and informed the complainant of the revisions. In two cases, the committee disagreed with the UCPD's use of Unfounded to rather than Not Sustained in situations in which after making the initial complaint, the complainant ceased to participate in the investigation and did not respond to repeated requests for interviews via various communications channels. Because the investigation could not be completed, the committee considers Not Sustained a more accurate finding than the over-determined Unfounded. In another case, the committee believed that one charge should have been Not Sustained instead of Exonerated, as explained below.

A discussion of each case follows, after which the committee outlines its general concerns about investigative procedures and makes recommendations for modifications.

CR #08-01-01

Case Summary The complainant alleged that when UCPD officers stopped her teenage son and his friends on the street one evening, the youths were inappropriately questioned and treated. The complainant further alleged that the officers without appropriate justification took the young men to the police station against their will and questioned the teens without attempting to notify a parent. The complainant also questioned whether the incident was an example of racial profiling by the accused officers.

- **Allegation 1** The complainant alleged that the officers threw the teenagers' money on the ground. UCPD's internal investigation was unable to prove or disprove this allegation, and it was duly recorded as Not Sustained.
- **Allegation 2** The complaint alleged that profane language was used both on the street and later at the UCPD station. While some officers present gave testimony that they did not hear profane language, at least one did acknowledge hearing profanity. UCPD determined that the allegation was Not Sustained, but the committee believes it should have been Sustained.
- **Allegation 3** The complainant further alleged that an officer told her son and his friends that they did not belong in Hyde Park. Those present at the scene disagree about what an officer said about belonging

in Hyde Park, leading the committee to conclude that Not Sustained was a more suitable conclusion rather than UCPD's determination of Unfounded.

- **Allegation 4** The complainant alleged that an officer related that he had once shot a teenager. UCPD's investigation into this allegation surfaced the issues of intent and tone. The officer acknowledged telling such a story, reporting that he shared it as an object lesson to help these teens steer a lawful course in life. The committee thus believes that the finding should have been Sustained, not Unfounded as UCPD concluded.
- **Committee Response** *The Committee agrees with the UCPD determination in the first allegation and disagrees with the remaining three conclusions. While ordinarily, the committee reports its responses and suggestions to the UCPD via this annual report, in this case the committee promptly contacted the UCPD to question the decision to transport the youths to the police station, the failure to notify the youths' parents, and the individual officer's decision to share a "scared straight" tale without the parents' permission. At that time, the committee also expressed concerns about how UCPD determines what constitutes an allegation, noting that even if the complainant does not list a particular allegation at the outset, the UCPD has a responsibility to identify, include, and investigate allegations that emerge subsequently in the course of an investigation. The committee also suggested additional training for those personnel conducting investigations so that better skills in asking open-ended questions can be developed. The committee suggested that the UCPD consider assigning internal investigations to no more than a few designated and purposely trained supervisors who would specialize in misconduct investigations.*
- **UCPD Follow-up** *The UCPD reexamined the complaint, further investigating the three allegations with which the committee disagreed and looking into the additional allegations suggested by the committee. The UCPD revised its findings as follows:*
 - **Original Allegation 2** *The UCPD reclassified this allegation to Sustained.*
 - **Original Allegation 3** *The UCPD retained its classification of Unfounded.*
 - **Original Allegation 4** *The UCPD changed its classification to Exonerated.*
 - **Additional Allegation 1** *The officers stopped and frisked the youths on the scene without an appropriate basis. The UCPD classified this allegation as Unfounded because it determined that the officers had a reasonable belief that a crime was about to be committed or had been committed.*
 - **Additional Allegation 2** *The accused officer unjustifiably seized the youths from the scene and brought them to the police station. The UCPD sustained this allegation.*
 - **Additional Allegation 3** *The accused officer and Acting Watch Commander failed to make prompt attempts to notify or seek permission from the youths' parents before providing a "scared straight" lecture at the police station. The UCPD sustained this allegation.*
 - **Specialized Training** *In addition, the UCPD plans to identify and train personnel who will, among their other duties, specialize in investigating police misconduct complaints.*

CR #08-04-04

Case Summary Officers responding to a "burglary in progress" approached the complainant on what

ultimately turned out to be his front porch and asked him for identification, leading to a conflict between the complainant and the officers. The complainant was reportedly combative with the officers. When the complainant's wife, who was present in the house, came downstairs and confirmed that he was her husband, the officers explained their presence to her and left the scene.

- **Allegation 1** The complainant alleged that he was mishandled in his home. The officers' testimony confirmed that this occurred, and given the circumstances, the officer's action was exonerated.
- **Allegation 2** The officer was accused of disrespecting the complainant in front of his wife. Officer and witness testimony was unable to demonstrate this one way or the other, and the allegation was determined to be Not Sustained.
- **Allegation 3** The complainant alleged that a male, black, plain-clothed officer entered his home and refused to explain his presence. All of the UCPD and CPD officers present were in uniform, and the allegation was labeled Not Sustained.
- **Allegation 4** The complainant alleged that the accused officer struck his wife. The officer and witnesses denied this allegation in their testimony, and the allegation was classified as Not Sustained.
- **Committee Response** *The Committee agrees with the UCPD determinations.*

CR #08-08-09

Case Summary In this case, the (accused) officer on patrol spotted the complainant walking down the street at night and carrying what appeared to be a pipe or stick a few feet in length. The officer asked the complainant to put down what could be used as a weapon, and the complainant complied. The officer then continued to follow the complainant in the squad car.

- **Allegation 1** The complainant alleged that the officer harassed him.
- **Committee Response** *The committee agrees with the UCPD determination that this allegation was Unfounded.*
- **Allegation 2** The complainant further alleged that the accused officer followed him.
- **Committee Response** *Based on the investigation, it was unclear to the committee how long the officer followed the complainant after observing the complainant discard the pipe. As a result, the committee believes that the charge should be classified as Not Sustained instead of Exonerated.*

CR #08-09-13

Case Summary The complainant alleged that a UCPD officer yelled at her and threatened to lay hands on her. The UCPD scheduled and rescheduled the complainant for an interview multiple times, and each time she cancelled or did not appear. In a final attempt to set up an interview, the investigator gave the complainant a deadline by which to respond if she wished to pursue the complaint. She did not respond.

- **Allegation 1** The complainant alleged that the accused officer was disrespectful by getting in her face and yelling.

- **Allegation 2** The complainant alleged that the accused officer stated that she would put hands on her.
- **Committee Response** *The committee commends the UCPD for their very thorough and considerate efforts to contact the complainant. Recognizing that the complainant's ultimate lack of participation in the process that she initiated made it impossible to conduct a thorough investigation and, in this case, perhaps impossible to conduct any investigation at all, the committee believes that Not Sustained would have been a more accurate determination for these two allegations rather than Unfounded, which is what the UCPD determined.*

CR #08-12-19

Case Summary An officer encountered the teenage complainant and her friends, who were seated at the time at a fund raising table. The group engaged in friendly conversation. Later that same day, the officer and the complainant crossed paths again in a library. On this second occasion, the officer gave the complainant his name and contact information on a piece of paper and told her to call him if she wanted to work at his friend's New Year's Eve party.

- **Allegation** The complainant alleged that the officer engaged her in inappropriate conversation.
- **Committee Response** *The committee agrees with the UCPD determination that the allegation was Sustained. The officer was disciplined accordingly.*

CR #08-10-16

Case Summary The complainant alleged that UCPD officers hit, kicked, and swore at him in the course of an investigation. The UCPD undertook and documented all viable efforts, including contacting the complainant under his known alias, to enlist his participation in the complaint process that he initiated. The complainant did not respond, which halted the investigation.

- **Allegation 1** Complainant alleged that the officers used profane language when they questioned him.
- **Allegation 2** Complainant alleged that the accused officers used excessive force by hitting and kicking him on his head, face, and body.
- **Committee Response** *As with CR #08-09-13, the committee believes that in a situation with a complainant who does not pursue the complaint by participating in the UCPD's interview and investigatory process a determination of Not Sustained, meaning that the allegations could not be substantiated or not substantiated, is more fitting than Unfounded, meaning that the alleged conduct did not occur.*

The committee also discussed what if anything the University might do differently to encourage complainants to participate in the investigations they initiate, thus improving the investigation completion rate. It was noted that students may seek support and advice from the Dean-on-Call, but others do not have a formal institutional resource designated to assist or support them during the course of the investigation.

IV. Looking Ahead

Complaint Histories and Tracking Patterns Using complaint data that the UCPD recently provided since 2005, the Committee will add to this database going forward and work to identify and track potential patterns of

complaints over time. A preliminary look at the data shows 49 citizen complaints, 47 of which fell under the IRC's purview. Nineteen were filed by women, and 29 were filed by men. Thirty-eight complainants were Black, 4 were White, and 7 were unknown (or unnoted). As complainants may register multiple complaints about the same incident, the number of charges (allegations) exceeds the number of complaints (cases); there were 69 allegations of violation of rights, 32 of excessive force, and 13 of abusive language. Again, because complainants may accuse multiple officers within a single complaint, the number of accused officers exceeds the number of complaints filed; 31 accused officers were Black, 27 White, 1 Hispanic, and 9 unidentified. Two officers had a total of 4 complaints against each of them. The committee plans to analyze the data and share the committee finds with the UCPD and the public in subsequent annual reports.

Changes within the University of Chicago Police Department With a new Associate Vice President and Chief of Police leading the UCPD, a new organizational structure that he is establishing, new UCPD headquarters located at 6054 S. Drexel Avenue, and new plans to seek accreditation for the UCPD through the Commission on Accreditation for Law Enforcement Agencies (CALEA), the committee anticipates that these many changes may alter the ways in which the committee and the UCPD interact. CALEA requires an independent review process for complaints against accredited police departments, and the University might be asked to modify or redefine some of its practices or structure to ensure compliance with CALEA standards.

Policy and Procedure Review As a part of UCPD's accreditation work, the committee plans to work with the Department to review proposed new policies and procedures as they relate to the mission of the committee. The committee further plans to work with AVP Lynch to develop policies and practices to build upon the Department's past success and further improve police service and investigative procedures.

V. General Concerns and Recommendations

The committee respectfully makes the following recommendations for University and UCPD consideration:

Specialization in Police Misconduct Investigations As noted above, the committee recommends that the UCPD identify and specially train no more than a few investigators to investigate complaints of misconduct. The UCPD has indicated that it intends to do so.

Use of Determinations As noted above in CR # 08-09-13 and CF #08-10-16, the committee recommends that the UCPD review its practice of classifying as Unfounded allegations that cannot be fully investigated because the complainant does not participate in the investigation. The committee recommends instead that Not Sustained be used for allegations that cannot be substantiated one way or the other because of a lack of evidence.

Establishment of Allegations for the UCPD to Investigate As the committee observed regarding CR #08-01-01, it seems important not only to investigate the allegations a complainant initially registers but also to amend the complaint by adding substantive allegations that may emerge in the course of interviewing the complainant. The committee further recommends that careful attention be paid to how the allegations are written; compound allegations should be separated into two allegations because each component merits its own determination.

Completing Investigations The committee asks the UCPD to consider how to improve the completion rate of investigations by improving complainant participation in investigations. Perhaps the preparations for CALEA accreditation will provide an opportunity and a process for doing so.

The committee noted that in some cases, much time elapsed between the filing of a complaint and the disposition of a complaint. Further examination showed that most investigations proceeded and concluded reasonably promptly; the delay occurred between the investigation's conclusion and the notification of the

complainant. The committee recommends that the UCPD tighten up the timing of this final and important step of the investigation process.

VI. Conclusion

In the past two decades under the able leadership of Chief Rudolph Nimocks, the UCPD has grown in size, stature, and capacity, and the patrol area has expanded markedly. The committee joins the community in saluting Chief Nimocks and Deputy Chief Lee Caldwell, who recently left the University, and in thanking them for their countless hours of outstanding and tireless service and for their dedication to the safety and wellbeing of our community.

Marlon Lynch, in the reconfigured role of Associate Vice President and Chief of Police, now oversees the UCPD and Transportation and Parking Services. He brings a wealth of new ideas to his position and has begun implementing ambitious plans to build on the successes of his predecessor.

Again this year, the number of complaints against the UCPD is very small relative to the number of citizen contacts that occur within this 24-hour-a-day, 365-days-a-year operation. While many of these contacts are with friendly and appreciative citizens, other contacts are with individuals and groups in much distress. And still others are with people who pose a genuine threat to the public and officers alike. The committee appreciates the seriousness with which the department has treated all complaints, the department's openness to using these complaints as opportunities to learn and improve, and the department's commitment to excellent service.

Members of the Committee

Laura Brinkman, *student, Harris School of Public Policy*

Craig Futterman, *Clinical Professor, Law School and Committee Chair*

Wendy Doniger, *Professor, Divinity School and the College*

Theodore Feaster, *Community member*

Jacqueline Goldsby, *Associate Professor, Department of English Language & Literature and the College*

Ingrid Gould, *Associate Provost and staff to Committee*

Hannah Jacoby, *student, the College*

Brad Jonas, *Community member*

Jamie Kalven, *Community member*

Robert Rush, *Associate General Counsel, Office of Legal Counsel*

Alfred Perez, *student, School of Social Service Administration*

Belinda Vazquez, *Assistant Dean of Students, Office of the Vice President and Dean of Students*