

## **FAQ's**

### **What's happening right now with the FOP contract?**

Within weeks, City Council will be voting on a proposed new contract with the Chicago police union (FOP). Mayor Johnson has called for a separate vote on whether to ratify an arbitrator's decision about how police discipline will be handled in Chicago. The FOP is seeking to allow Chicago police officers to send cases in which they have been found to have committed the most serious abuses, including instances in which they unjustifiably killed or sexually assaulted people, to an FOP-approved arbitrator for a closed-door proceeding, instead of having a full hearing open to the public before the Police Board—an independent body whose members are nominated by the Community Commission for Public Safety and Accountability (CCPSA) and appointed by the Mayor.

Mayor Brandon Johnson, as well as every other leader of the City's agencies for addressing CPD misconduct, have urged City Council to vote NO. Transferring responsibility for these cases to private arbitration would undermine transparency, accountability, and recent progress made toward community oversight of CPD.

### **Why does a switch to arbitration matter?**

Moving the review of the most serious CPD discipline to secret sessions before a few FOP-chosen arbitrators would eviscerate any chance of police accountability. Disciplinary decisions over the most egregious police misconduct would be made behind closed doors by private arbitrators approved by the FOP who have a long and consistent history of shielding Chicago police from discipline. Not only would it undo the progress that we have made to end the Chicago Police Department's pattern and practice of civil rights violations that led to the federal Consent Decree in Chicago, it would all but guarantee a state of impunity for police officers who assault and kill community members. For years. The last contract has been in effect for more than a decade. If City Council ratifies the proposed change in the FOP contract, the damage to the CPD and the people of Chicago would be irreparable.

### **What's the difference between the Police Board hearings and FOP arbitrations?**

The Chicago Police Board is an independent body that holds trial-like disciplinary hearings for certain cases that have already been investigated by a different agency (either the independent Civilian Office of Police Accountability, "COPA"; the police department's internal investigations Bureau, "BIA", or the Office of the Inspector General, "OIG"). The Board reviews cases in which the Police Department seeks to fire or suspend a Chicago police officer for longer than a year. Established in the 1960s in response to a series of police scandals and absence of accountability in Chicago, the Board has fulfilled this function for decades.

The Police Board is impartial and doesn't have private interests in the outcomes of its decisions. Board members are nominated by the Community Commission for Public Safety and

Accountability (CCPSA), selected by the Mayor, and can be removed if they fail to fulfill their responsibilities in a fair and impartial manner. **Police Board hearings are open to the public** and provide due process protections to the officers charged with committing abuse. Based on the evidence presented at the hearing, the Police Board must decide whether the City has proved that police officers have committed misconduct and should face accountability. The Police Board is required to promptly publish its decisions and the reasons for its decisions in writing for public review.

In contrast, arbitrators are individuals who are approved by the FOP who decide whether officers will be held accountable in **private sessions that are closed to the public**. Everything that occurs in the arbitrations is kept secret. FOP-approved arbitrators have a long history of protecting Chicago police officers from discipline and have powerful financial incentives to do so. If they do not keep the FOP happy, they will not secure the tens of thousands of dollars of income each year from CPD arbitrations. ProPublica and the Chicago Tribune [found](#) that FOP's hand-selected arbitrators overturned or reduced discipline in 85 percent of cases they decided between 2010 and 2017. In 2021, the Office of Inspector General (OIG) made similar findings, and also [found](#) that just three arbitrators presided in 90% of the CPD discipline cases that went to arbitration.

Arbitrators have broad discretion to decide cases as they wish without any accountability or transparency to the public. Unlike the Police Board, FOP arbitrators are not required to issue public written opinions of their decisions. Neither the federal judge overseeing the CPD Consent Decree or any of the City's oversight bodies established to address police accountability has any power to prevent arbitrators from allowing CPD officers who hurt people to escape accountability.

### **Are police officers being held accountable by the Police Board?**

New reporting from the Invisible Institute found that the Police Board has upheld CPD discipline far more frequently than FOP arbitrators. Between 2011 and 2022, the Board decided 200 cases, the vast majority of them involved recommendations by the CPD Superintendent to fire CPD officers. In 63% of the cases, either the Police Board upheld the disciplinary recommendation, or the officer resigned before the Police Board could proceed to a decision.

### **Other public employees have a right to arbitrate discipline. Why shouldn't police officers?**

Police officers are different from other public employees in that they have the unique powers to arrest people, deprive people of their freedom, use force against community members, and even kill people—in the name of public safety. With these extraordinary powers comes even greater responsibility and accountability to the people of Chicago. Chicago police officers do not have the right to operate in secrecy. Illinois law has long been clear that records that relate to complaints of police misconduct belong to the public. Police officers' exercise of their powers must be subject to public scrutiny.

Like all public employees, police officers have the right to due process and fair procedures when they are charged with committing misconduct. The Chicago Police Board has provided those due process protections for Chicago police officers for decades, while fulfilling the responsibilities to the public of transparency. Indeed, due process and public hearings go hand in hand.

### **What can the Mayor and City Council do? What's the timeline?**

This provision will be up before City Council in the coming weeks—first before the Workforce Committee and then before the entire City Council. To stop the FOP from turning back the clock on our progress and to prevent a return to a state of police impunity in Chicago, 3/5 of City Council must vote “no” to ratifying this provision. That is a total of 30 alderpersons. These votes are imminent: both votes will likely be scheduled in December.

Contract negotiations and collective bargaining matters fall within the purview of the Workforce Committee; their meetings appear on City Council's calendar

(<https://chicago.councilmatic.org/events/>), which updates as new meetings are scheduled.

### **The FOP complains that it would be illegal for City Council to vote to reject the arbitrator's decision. Is this true?**

No. Just like any other decision by an arbitrator in a collective bargaining dispute between the FOP and City, Section 28.3 of the FOP collective bargaining agreement guarantees the City or FOP the right to challenge an arbitrator's decision in court. In order for the City to do so, City Council must vote to reject the arbitrator's decision by a 3/5 vote within 30 days of the date that it is submitted to City Council.

### **What can the people of Chicago do to stop the FOP's efforts to confer impunity to police officers who assault and kill people?**

Contact [your alder](#) by phone and email and [urge them to call for a public hearing](#) on this contract, attend the upcoming workforce development meeting (none announced as of 11.17.2023), and **vote NO on arbitration** when it is brought to full City Council. Spread the word to your networks.

For further details and commentary on this issue, please see the following sources:

- Craig Futterman & Jamie Kalven Op-Ed, [Chicago Tribune](#)
- [Chicago Reader](#) Reporting by Trina Reynolds-Tyler, Andrew Fan, Sam Stecklow
- Color of Change [Press Release](#)
- Color of Change [Letter](#)
- A statement from Chicago Mayor Brandon Johnson on the issue, available at <https://www.chicago.gov/content/dam/city/depts/cpb/PoliceDiscipline/MayorStatement20231023.pdf>

- The dissent from the arbitrator's decision available on Pages 56-63 at [https://ilrb.illinois.gov/content/dam/soi/en/web/ilrb/arbitration/documents/City%20of%20Chicago%20-%20FOP%20Lodge%207%20Interest%20Arbitration%20Award%20\(L-MA-18-016\).pdf](https://ilrb.illinois.gov/content/dam/soi/en/web/ilrb/arbitration/documents/City%20of%20Chicago%20-%20FOP%20Lodge%207%20Interest%20Arbitration%20Award%20(L-MA-18-016).pdf)
- The Police Board public statement on the issue, available at [https://www.chicago.gov/city/en/depts/cpb/provdrs/police\\_discipline/news/2023/august/statement-on-arbitrator-s-opinion-regarding-police-disciplinary-.html](https://www.chicago.gov/city/en/depts/cpb/provdrs/police_discipline/news/2023/august/statement-on-arbitrator-s-opinion-regarding-police-disciplinary-.html)
- A report from the City of Chicago Inspector General for Public Safety that discusses some of the problems with arbitration of less serious police disciplinary cases (involving discipline between 30 and 360 days) under the prior collective bargaining agreement, available at <https://igchicago.org/wp-content/uploads/2023/08/OIG-Review-of-the-Disciplinary-Grievance-Procedure-for-Chicago-Police-Department-Members.pdf>