

2011 ANNUAL REPORT

POLICE BOARD

RAHM EMANUEL, MAYOR • DEMETRIUS E. CARNEY, PRESIDENT





MESSAGE FROM THE PRESIDENT

Ladies and Gentlemen:

I am pleased to present this report of the activities of the Chicago Police Board during 2011.

The members of the Board are a professional and diverse group of Chicago residents who devote an extraordinary amount of time and effort to their public responsibilities. Working with such knowledgeable and collegial professionals is a pleasure.

In 2011, a number of significant developments concerning the Chicago Police Department and the Police Board took place. Foremost among these was the naming of Garry F. McCarthy as Superintendent of Police. The Police Board nominated McCarthy, a twenty-five year veteran of the New York City Police Department and head of the Newark Police Department, and two other candidates to Mayor Rahm Emanuel for his consideration. Information on the Superintendent search appears on page 4 of this report.

A primary responsibility of the Police Board 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 role of the Board, like that of a court of law, 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 decisions in disciplinary matters.

The Board is committed to carrying out its responsibilities with openness and transparency. The City Council amended sections of the Municipal Code pertaining to the Police Board in September 2011, and the Board has implemented several initiatives that promote accountability and increase the public's and police officers' confidence in the process for handling allegations of police misconduct. For example: a list of cases currently before the Board, which includes a brief description of the case and when it is scheduled for hearing, appears on the Board's website; all of the Board's disciplinary hearings are open to the public; the Board's written decisions, which include detailed explanations for the Board's findings, are posted on the Board's website.

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 members of the public to engage in dialogue with the Board, the Superintendent of Police, and the Chief Administrator of the Independent Police Review Authority. I strongly encourage you to attend our meetings, for they serve as an important forum for increasing accountability and responsiveness by the CPD and IPRA to the community's issues of concern.

The Board welcomed three new Board members in 2011: William Conlon, Susan McKeever, and Elisa Rodriguez, each of whom has brought diverse experience and insight to the work of the Board. In addition, I thank Victor Gonzalez, Art Smith, and George Velcich for their many years of distinguished service. They contributed greatly to the Board and I will miss working with such dedicated professionals.

I thank Mayor Rahm Emanuel, the City Council, Superintendent McCarthy, and IPRA 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 service.

Sincerely,

Demetrius E. Carney
President
Chicago Police Board

MEMBERS OF THE POLICE BOARD

The members of the Police Board are private citizens appointed by the Mayor with the advice and consent of the City Council.



Demetrius E. Carney
President
Partner, Bryan Cave LLP



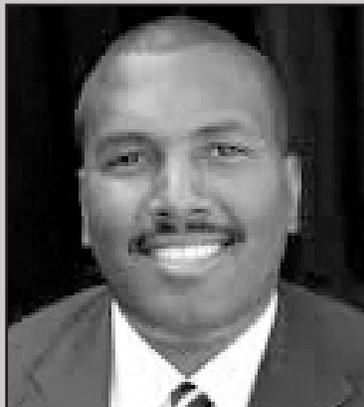
Scott J. Davis
Vice President
Partner, Mayer Brown LLP



Melissa M. Ballate
President, Blue Daring, Inc.



William F. Conlon
Partner, Sidley Austin LLP



Ghian Foreman
Partner, Maktub Development LLC



Rita A. Fry
President, RAF Consulting, Inc.



Susan L. McKeever
Principal, Law Firm
of Susan L. McKeever



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



Elisa Rodriguez
Attorney, Chicago Immigration
Advocates Law Offices

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, and its primary powers and responsibilities are listed below.

The Police Board:

- Decides disciplinary cases when the Superintendent of Police files charges to discharge an officer from the Police Department, or to suspend an officer for more than thirty days;
- Reviews, upon the request of officers, disciplinary suspensions of six through thirty days;
- Decides matters in which the Chief Administrator of the Independent Police Review Authority and the Superintendent of Police do not concur regarding discipline of an officer;
- Considers applications, conducts interviews, and submits to the Mayor a list of three candidates for the position of Superintendent of Police when there is a vacancy in that position;
- Adopts the rules and regulations governing the Police Department;
- Holds monthly meetings that provide an opportunity of all members of the public to present questions and comments directly to the Board. The Superintendent of Police (or his designee) and the Chief Administrator of the Independent Police Review Authority (or her designee) also attend these meetings.



SUPERINTENDENT SELECTION

The Board participates in the selection of the Superintendent of Police by considering applications, conducting interviews, and nominating three candidates for consideration by the Mayor.

Jody P. Weis, who became Superintendent in January 2008, resigned on March 1, 2011. The Board immediately began a nation-wide search for a new Superintendent. The Board received in excess of forty applications, including significant numbers from members of the Chicago Police Department as well as from outside of the City of Chicago.

Following a detailed review of all applications, the Board conducted in-depth interviews of the candidates whom the Board found to be most qualified for the position. The Board then had thorough investigations of the candidates conducted, which included researching and analyzing public records, contacting references, and consulting high-level law enforcement officials and community leaders knowledgeable about the candidates and their work.

Candidates were evaluated on professional and personal qualifications, leadership skills, and their ability to address the important challenges and opportunities facing the Chicago Police Department.

On April 29 the Board announced its three nominees:

- Debra K. Kirby, Deputy Superintendent of the Chicago Police Department's Bureau of Professional Standards;
- Garry F. McCarthy, a twenty-five year veteran of the New York City Police Department, and Police Director of the Newark Police Department; and
- Eugene Williams, Chief of Patrol with the Chicago Police Department.

On May 16, Mayor Rahm Emanuel appointed Garry F. McCarthy, and the City Council confirmed McCarthy as Superintendent of Police on June 8, 2011.

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 Police Board's role is to decide those disciplinary matters that are brought to the Board. 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 below. 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.

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, an investigation is initiated. IPRA is responsible for conducting investigations into complaints of 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 within IPRA's jurisdiction are forwarded to the Police Department's Bureau of Internal Affairs (IA) for investigation.

2. Decision Regarding Disciplinary Action

If the head of IPRA or IA (depending on which unit conducted the investigation) recommends that one or more allegations be sustained—that is, the allegation is supported by sufficient 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 then 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.

Discharge Cases. In order to discharge an officer from the Chicago Police Department, the Superintendent must file with the Board charges against the officer; the Board will then hold an evidentiary hearing, which is similar to a trial in court. The typical case begins with opening statements. The Superintendent's attorney then presents the case against the officer. The officer, usually represented by an attorney, may then present evidence in defense and mitigation. Each side may call and examine witnesses (the Board has its own subpoena power to ensure the presence of witnesses). The opposing side may cross-examine the witnesses. Hearsay evidence is not admissible. Following the officer's case, the Superintendent's attorney has an opportunity to offer rebuttal evidence. The hearing concludes with closing arguments.

Once the hearing is completed, the Board decides whether the officer is guilty of one or more of the charges. 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. 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 when the charges are filed).

Suspension Cases. If the Superintendent suspends a police 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, as described above.

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 Complaint Register investigation file, a written statement the officer may provide, and a response from IPRA and/or the Department. (There is no evidentiary hearing or oral argument in these cases.) The Board then renders a decision to sustain, reduce, or reverse the 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 A 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 Department member, the matter shall be referred to a separate panel consisting of three Police Board members. In 2011, 26 such matters were referred to a panel. The panel found that the Superintendent's proposal for less discipline did not meet its burden of overcoming the Chief Administrator's recommendation for discipline of 17 officers; the panel found for the Superintendent in 9 matters.

DISCHARGE CASES

In 2011, the Superintendent filed charges against 47 Department members (45 police officers and 2 sergeants) recommending that they be discharged from the Chicago Police Department. Table I below presents data on cases decided by the Board in 2011 (some of these cases were filed prior to 2011). All of these cases involved charges filed against sworn members of the Department (26 police officers and 1 sergeant).

TABLE I: DISCHARGE CASES DECIDED IN 2011

PRIMARY ALLEGATION <i>(Investigation)</i>	GUILTY & DISCHARGED	GUILTY & SUSPENDED	NOT GUILTY	RESIGNED*	TOTAL
Excessive Force/On Duty (IPRA)	0	0	0	0	0
Other On-Duty Misconduct (IPRA)	0	0	0	0	0
Domestic Altercation/Off Duty (IPRA)	0	0	1	0	1
Other Off-Duty Misconduct (IPRA)	3	2	0	0	5
Drug/Alcohol Abuse (IA)	1	0	0	2	3
Bribery/Official Corruption (IA)	1	0	0	0	1
Commission of a Crime (IA)	0	0	0	1	1
Conduct Unbecoming/Off Duty (IA)	2	0	0	0	2
Operation/Personnel Violations (e.g., medical roll, neglect of duty, insubordination) (IA)	3	5	3	3	14
Other (IA)	0	0	0	0	0
Total	10	7	4	6	27

**The respondent resigned prior to a hearing rather than contest the charges, and the charges were therefore withdrawn.*

A decision in a discharge 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 officer challenge the decision through a union grievance procedure.

Under Illinois law, the parties to a Police Board case (the Superintendent and the officer) have the right to appeal the Board's decision by filing a petition for administrative review in the Circuit Court of Cook County. 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 of discharge cases for 2011. As noted above, a particular 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.

The Illinois Supreme Court did not accept for review or decide any Police Board cases in 2011.

TABLE II: APPEALS OF POLICE BOARD CASES, 2011

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/D	R	A/D	R
6	2	5	1	4	0

A/D-Police Board decision affirmed or appeal dismissed.

R- Police Board decision reversed.

SUSPENSION CASES

In 2011, the Superintendent filed charges against one sworn member (a sergeant) recommending a suspension of greater than thirty days; this case was open as of December 31, 2011. The Police Board decided one such case in 2011; in that case (filed in 2010), the Board found a sergeant guilty failing to conduct a thorough investigation of an altercation involving off-duty officers, and suspended the sergeant for 180 days (the Superintendent recommended a 60-day suspension).

If the Superintendent orders a suspension of six through thirty days, the suspended officer may request Police Board review of the suspension. The Board received 8 requests for review in 2011 (7 from police officers and 1 from a sergeant).

Table III below presents data on reviews of suspension decided by the Board in 2011 (some of these cases were filed prior to 2011). All of these cases involved suspensions of sworn members of the Department (12 police officers and 1 sergeant).



TABLE III: SUSPENSION CASES (6-30 DAYS) DECIDED IN 2011

PRIMARY ALLEGATION <i>(Investigation)</i>	SUSTAINED FULL PENALTY	SUSTAINED PENALTY REDUCED	NOT SUSTAINED PENALTY REVERSED	TOTAL
Excessive Force--On Duty (IPRA)	2	0	0	2
Other On-Duty Misconduct (IPRA)	1	0	0	1
Domestic Altercation--Off Duty (IPRA)	1	0	0	1
Other Off-Duty Misconduct (IPRA)	1	0	0	1
Drug/Alcohol Abuse (IA)	0	0	0	0
Bribery/Official Corruption (IA)	0	0	0	0
Commission of a Crime (IA)	0	0	0	0
Conduct Unbecoming/Off Duty (IA)	1	0	0	1
Operation/Personnel Violations (e.g., medical roll, neglect of duty, insubordination) (IA)	5	0	2	7
Other (IA)	0	0	0	0
Total	11	0	2	13



OUTREACH ACTIVITIES

The Board holds monthly public meetings at Chicago Police Headquarters, 3510 South Michigan Avenue. Meetings take place in the evening, and all members of the public are invited to attend and are welcome to address questions or comments to the Board. The Superintendent (or his designee) and the Chief Administrator of the Independent Police Review Authority (or her designee) also attend these meetings. In addition to receiving input from the community, the Board reports on disciplinary actions and other matters, and receives a report from the Superintendent.

The Board maintains a website at www.ChicagoPoliceBoard.org. The site provides the public with the Board's decisions in disciplinary cases, a schedule of cases currently before the Board, a 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 the disciplinary process.

PERSONNEL & ADMINISTRATION

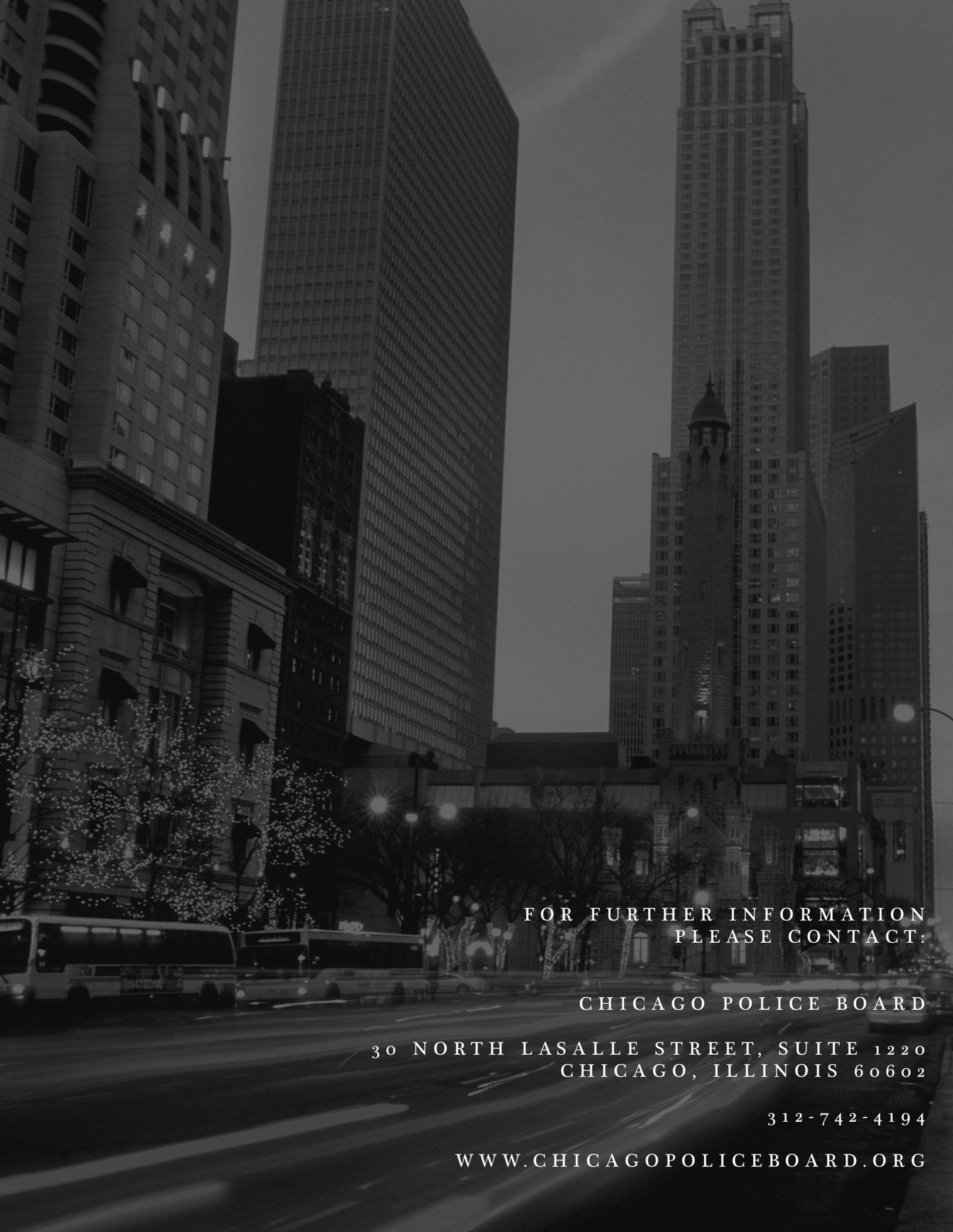
Three new Board members were appointed during 2011: William F. Conlon succeeded George M. Velcich, Susan L. McKeever succeeded Arthur J. Smith Sr., and Elisa Rodriguez succeeded Victor M. Gonzalez.

Executive Director Max A. Caproni serves as the Board's Secretary and 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 disciplinary hearings, continued to serve the Board on an hourly basis during 2011.

The Police Board's budget is proposed by the Mayor and approved by the City Council as part of the annual appropriation ordinance. The 2011 appropriation was \$422,633.







FOR FURTHER INFORMATION
PLEASE CONTACT:

CHICAGO POLICE BOARD

30 NORTH LASALLE STREET, SUITE 1220
CHICAGO, ILLINOIS 60602

312-742-4194

WWW.CHICAGOPOLICEBOARD.ORG