

October 21, 2021

The Honorable Bob Menendez
Chair
Committee on Foreign Relations
United States Senate
Washington D.C.
20510

Chairman Menendez:

The murder of teenager Laquan McDonald by a Chicago Police Officer in October 2014 continues to have raw immediacy for those who have borne the brunt of generations of the misuse of police authority in Chicago and the United States. The shooting and its aftermath prompted a long past due local and national reckoning respecting the overwhelmingly disproportionate, and in too many contexts, targeted use of officially sanctioned force against Black and brown people. That reckoning has come this time with a consciousness raising about the centrality of officially sanctioned use of force as dating to the formative stages of our country and the original sin of slavery, which was institutionalized in the Founder's Constitution, and whose legacy resides in institutionalized racism and implicit bias in our society today, with continuing tragic consequence reflected in the wrongful taking of the lives of Black and brown Americans by police officers in this nation. One aspect of the reckoning following the release of the video of Laquan McDonald's murder is that our history has fostered a profound mistrust not only of police, but of elected officials, and particularly the elected leaders of our cities under whose stewardship police departments operate.

The Senate confirmation process for the nomination of former Chicago Mayor Rahm Emanuel to be U.S. Ambassador to Japan has resurrected questions that are still actively debated in Chicago regarding his responsibility for the state of the Chicago Police Department during his tenure as Mayor, and most significantly, whether he engaged in a "cover-up" of the shooting by keeping the police body-worn camera videos from the public. As a matter of fact, and given the state of the public record, the questions are appropriate. However, as a matter of premise and accusation by those inveighing against his nomination because of a surmised role in a suspected "cover-up," they are not fair, because they are not grounded in fact, because the facts simply do not exist. I know. I was the Inspector General for the City of Chicago leading the office which investigated the City's handling of the aftermath of the McDonald murder. Inspectors General have as one of their core charges,

the responsibility of investigating and reporting out findings of misconduct, whether of a criminal or administrative nature. What they do not, in general practice, do is report out what they do not find. As a result, the context of existing public record should be understood as much for its negative space, as it is for its affirmatively declared space. I write to address, as a matter of fact, and for the record, the negative space within which factually unsubstantiated surmise, suspicion and narrative has been forged.

In the immediate aftermath of the release of the McDonald videos, then-Mayor Emanuel did three things of particular note. First, he formed and charged the Chicago Police Accountability Task Force (PATF) to independently conduct a full inquiry into and publicly report out its findings on the practices and culture of the Chicago Police Department and their implications in the communities it serves, foremost the impact on Black and brown communities. Which is precisely what the PATF did, without constraint or filter, and as led, at Emanuel's request, by one of his more trenchant critics -- who would eventually succeed him as Mayor. The PATF's findings and recommendations were reported out nationally and to much acclaim for their candor in pulling back the cover on the lived experience of those who have directly and indirectly, over generations, experienced the consequences of aggressive and oppressive historical policing practice and culture. The work of the Emanuel-appointed and charged Task Force was independent and unconstrained. Then-Mayor Emanuel, to his eventual discomfort, asked that the truth be found and reported, with the chips to fall where they may. I know this as affirmative fact, as I too -- an Inspector General with whom he was, in the ordinary course of business, at occasional, and respectful, if at times vociferous and heated odds over findings and recommendations of my office's independently conducted investigations and audits -- was a member of the PATF, along with notable others that included, in advisory capacity, former head of the United States Department of Justice Civil Rights Section and ex-Massachusetts Governor, and Chicago native Deval Patrick. The work of the PATF was conducted separately but coordinately to the pattern and practice investigation of the Civil Rights Section of the United States Department of Justice, whose findings were consistent with and as it related specifically to use of force, complementary to and a further expansion of those of the PATF.

Second, he declared, decried and demanded an end to something few if any elected leaders in the United States had previously acknowledged -- the operation of a so-called "code of silence in the Chicago Police Department (and many law enforcement agencies) in which by culture and practice, often as much through acquiescent inaction as action, sworn personnel close ranks and protect their colleagues who they know to have engaged in misconduct. While some were skeptical of Mayor Emanuel's naming of that pernicious acculturated phenomenon as wrought only of political crisis, what was little acknowledged was that in

doing so, he exposed the City to litigative complication (and, with it, potential financial consequence). Stated another way, he chose a principled over a transactional path. I know. As a former federal prosecutor and as Inspector General with investigative and program audit oversight of the Chicago Police Department, I know from experience the effect the acknowledgement of this pernicious cultural practice has on the litigation of Section 1983 and Monell civil rights claims against a city and its employees and officials.

Third, and most critical to the question of the moment, Mayor Emanuel encouraged and supported a thoroughgoing independent investigation of the conduct of CPD, its sworn personnel and, to the extent indicated, other City officials, respecting the handling of the aftermath of the McDonald shooting by the Office of Inspector General. That investigation, which I led, proceeded without interference, and yielded findings and recommendations of the firing of 11 Chicago police officers and lesser sanctions for 6 others. That investigation and outcome, in addition to the unprecedented successful prosecution and conviction of the shooter, former Officer Jason Van Dyke, constitutes one of the largest scandals in the scandal-ridden history of CPD, which is now going through the wrenching, long-term process of reform under the terms of a federal consent decree. In all of these respects, Mayor Emanuel was fully supportive of a comprehensive inquiry resulting in full accountability, again, letting the chips fall where the evidence indicated. In fact, the investigation revealed the subtle tacit ways in which a “code of silence” operates.

To my earlier point about the need to address the negative space, my office’s comprehensive investigation did not reveal any evidence that would support the lingering surmises and accusations of a “cover-up” orchestrated out of City Hall. None. Decisions made about the non- or delayed- disclosure of the body-worn camera videos at that time were in fact the longstanding policy and practice of the City of Chicago and its Law Department. That policy and practice as it existed then may fairly be questioned, and, indeed, was the subject of a near unprecedented video release policy implemented in February 2016 by Mayor Emanuel, acting immediately in response to the first-issued recommendation of the PATF. That said, there is a complete absence of factual basis to support the claim that Mayor Emanuel was involved directly or indirectly in a “cover-up” of the McDonald shooting videos.

I offer this statement strictly to assure a complete and accurate factual record for the Committee on a very important question that remains open because it resides as a matter of record to this point, in negative, i.e., undeclared, space. The conjecture drawn from that negative space is not supported by any evidence and, as such, may best be understood as a symptom of the very mistrust the public has of police, policing and government that are at

the core of so many of our present societal ills and challenges. I therefore hope my offering clarifies the factual public record and as such is of service to the Committee in these important deliberations.

Respectfully,

A handwritten signature in blue ink, consisting of a large, stylized initial 'J' followed by a long, horizontal stroke that tapers to the right.

Joseph M. Ferguson
Inspector General (2009-2021)
City of Chicago