

# Chicago Through a Policy Lens 2.0

Essays By Class of 2024 Students Majoring in Public  
Policy Studies at the University of Chicago



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# Introduction

Jim Leitzel

The overwhelmingly positive public response to [\*Chicago Through a Policy Lens\*](#) demands a sequel – and we are back, with eight all-new essays in *Chicago Through a Policy Lens 2.0*!

In the fall of 2023, eight fourth-year Public Policy Studies majors at the University of Chicago came together for their capstone experience, a course that would entail (among other things) each of them writing a professional quality policy essay with a connection to Chicagoland. For most of the participants, their chosen topic was new to them, but a few months later (the work includes developments up to mid-December, 2023), they were experienced hands. We are pleased to present their resulting essays here.

Besides the authors themselves, one other person who was instrumental to the process of completing this work was the Public Policy Instructional Assistant, Francis Fabre. Thank you, Francis, for all of your help with the University of Chicago Public Policy Studies graduating class of 2024; may your sojourn across the Midway be a happy one.

One person who has helped to shepherd our students along the way – really, every step along the way – to graduation, and often has been involved in easing their journeys even before the students became Public Policy majors, is Dr. Milvia Rodriguez. Milvia is a Program Director *par excellence*, and *Chicago Through a Policy Lens 2.0* is dedicated, with admiration and thanks, to Dr. Milvia.

Finally, worthy students and authors, thank you for all you have brought to our major and the University of Chicago. Your commitment, your enthusiasm, and your outstanding work should make you proud – and they surely make Public Policy Studies proud. Onwards and upwards!



## CHAPTER ONE

# Shopping Around: Chicago's City-Owned Grocery Store Proposal

Tomie Ibarra

### **Introduction: Chicago's City-Owned Grocery Store**

Throughout 2022 and 2023, a series of high-profile grocery stores closures occurred across Chicago, leaving many neighborhoods without a local store. The closures came after national chain grocery stores pulled out of the city due to a lack of profitability; Walmart alone closed four stores in 2023<sup>1</sup> with most closures in neighborhoods with a predominantly minority population. With the closing of stores, many neighborhood residents are now left without convenient access to groceries. Take, for instance, the former Walmart at 4720 S Cottage Grove Avenue in the Kenwood neighborhood. After Walmart closed, the next closest grocery store is more than 15 minutes away by bus according to the City of Chicago's grocery store database.<sup>2</sup> This store is "One Stop Food & Liquors" a small grocery store that primarily sells boxed goods with a limited fresh grocery section. Residents around 4720 S Cottage Grove who want a wide selection of food and goods are then closest to a Whole Foods in Hyde Park. Whole Foods is not a viable option to meet grocery needs for low-income residents, as the store charges a premium for groceries and the route to the store often requires multiple public transit transfers. The Kenwood saga is not an isolated example. Looking at a map of Chicago's grocery stores<sup>3</sup> (appendix) there are glaring gaps in store accessibility on the south and west sides of the city. The Walmart and other similar closures have left a hole in the Kenwood neighborhood, as well as other neighborhoods across the city.

The void created by closed grocery stores has not gone unnoticed, and many neighborhood groups have assembled protests in favor of opening new stores. The most vocal of these groups is the Residential Association of Greater Englewood or R.A.G.E., which has been protesting what it calls a "Food Apartheid" (as opposed to "food deserts"). R.A.G.E. traces Food Apartheid to historical systems of neglect from the city government, leaving a lack of consistent food options for residents primarily on the south and west sides of Chicago.<sup>4</sup> The adoption of the term Food Apartheid

focuses the problem as one created by policy, as opposed to “food desert,” which suggests a naturally occurring condition. For neighborhood community groups, the only solution to the Food Apartheid is investment into local, reliable, and quality grocery stores.<sup>5</sup>

In September 2023, Mayor Brandon Johnson announced that Chicago would be “exploring city-owned grocery stores.”<sup>6</sup> This exploration, undertaken by partnering with various research groups, will seek to determine if a public grocery store can improve economic choice and empower communities. The ultimate goal of the mayor’s exploration is to appropriately invest in communities and address the longstanding exclusion from resources and food access in historically underserved communities.

The prospect of a non-profit grocery store with the full power of the local government behind it may help address historical disinvestment in communities. Though Chicago is the first major US city to explore such a policy, city-owned grocery stores could soon become widespread, especially if early efforts are promising. This chapter will address the main debates surrounding municipally-run grocery stores, as well as consider alternative methods of responding to food deserts and community disinvestment.

Furthermore, this chapter will draw out the attributes that have contributed to the failure of private stores in Chicago as well as the strong success of a city-run store in Baldwin, Florida. Even if not dispositive, the Baldwin example of a city-run grocery store can guide the study of similar stores in Chicago. Finally, this chapter will conclude with arguments that address potential shortcomings of city-owned grocery stores.

## **On Grocery Stores**

Grocery stores come in varying sizes, but all stores sell a variety of fresh goods, such as fruit and produce. By providing this access, stores create benefits in two direct ways: offering a place to buy fresh food and providing that food for an affordable price. These benefits can mean that grocery stores are critical resources for a neighborhood.

Grocery stores should not be confused with convenience stores. Under-resourced areas may have many local convenience stores but frequently lack nearby grocery stores.<sup>7</sup> The fresh goods that are features of grocery stores – but generally are not important elements of convenience stores – bring with them an expansive range



of documented health benefits. For example, healthy grocery access can support brain development, physical growth, and disease immunity in children;<sup>8</sup> for adults, access to healthy groceries lowers risk of disease and supports healthy pregnancies.<sup>9</sup>

Furthermore, grocery stores are more able to accommodate dietary restrictions such as food allergies and gluten-free diets. Alternatively, convenience stores are smaller than grocery stores and primarily offer items with low-nutritional value, such as boxed foods high in sodium and/or sugar.

Further, spending on food is a necessity, one that is more burdensome for low-income residents; therefore, it is vital that low-income residents have access to grocery stores, which make cheaper groceries available. The convenience stores in food deserts often sell their products at inflated prices, straining the budget of low-income residents who depend on them as their primary source of food.<sup>10</sup> In Chicago, roughly 17% of residents live in poverty<sup>11</sup> and these residents often spend more than 31% of their income on food (compared to 8% for those with the highest income levels).<sup>12</sup> Food access is a basic need, and a dependence on convenience stores puts unnecessary economic pressure on low-income residents.

Grocery stores offer further indirect benefits such as providing economic stimulus to a neighborhood by creating jobs and promoting other community development. Chicago neighborhoods like Englewood and Washington Park are not only food deserts but suffer from the highest unemployment rates in the city: 30% or more.<sup>13</sup> Grocery store operations create stable jobs for those with all levels of education, giving community members long-term employment and building transferable skills. Grocery stores may also serve as a signal for further investment by acting as a gauge for business conditions in an area.<sup>14</sup> By bringing in additional businesses, grocery stores can be a catalyst for community development, where new jobs and housing spring up.

Finally, grocery stores have the potential to act as spaces for social community development.<sup>15</sup> Grocery stores are a space to connect with others, whether through informal run-ins or organized community events. These events are not insignificant: as a McKinsey study found, the main reason shoppers chose grocery stores over online pick-up or delivery shopping is due to the desire for personal contact.<sup>16</sup> Shoppers value the chance to connect with others in their neighborhood. In the grocery store, community members have a chance to meet outside of their homes and workplaces and build a sense of community.

## Why Private Stores Fail in Cities

Grocery stores' razor-thin profit margins require effective business models to remain sustainable, but these models may not adapt to cities and especially to underserved communities. Chain grocery stores typically operate at profit margins of only around 2%.<sup>17</sup> This small margin requires strict operational efficiency to gain a return on investment. Grocery stores struggle to adapt to urban areas because of the costs associated with operating in a city vs. a suburban or rural area. The specific reasons for urban operational struggles break down into three categories: store size, shrinkage protection, and population changes. All three areas adversely affect the already thin margins of grocery stores and keep them out of underserved communities.

The massive size of grocery stores swells operating costs, which can prevent stores from opening in and serving dense urban areas. For many US residents, the stereotypical grocery store is that of the "Walmart Superstore," which averages a size of 182,000 square feet<sup>18</sup> – equivalent to more than three American football fields. Walmart has leveraged this size to its advantage in the rural and suburban areas it typically operates in by becoming a one-stop shop, often housing auto-centers, electronics, and clothing departments in addition to groceries.<sup>19</sup>

While size has been an asset for Walmart's operations traditionally, in urban areas this large footprint becomes a liability. There is no space for a superstore in local neighborhoods and additional building and tax costs associated with mega-structures cuts into the thin profit margins. Walmart has explored operating smaller-scale stores, but with little success in Chicago. The "Walmart Neighborhood Market" is a Walmart designed for urban areas, with a significantly reduced footprint of 38,000 square feet that almost exclusively sells groceries;<sup>20</sup> however, these stores may still be too big with three such Chicago stores closing in 2023 due to operational losses.<sup>21</sup> The Markets are more than twice the size of the average Aldi's<sup>22</sup> – a chain whose reduced footprint and operational efficiency have led to the obtainability of fresh groceries at prices less than Walmart.<sup>23</sup> In many Chicago neighborhoods, Aldi's is the only grocery store available;<sup>24</sup> however, the store has also faced operating difficulties with a recent closure in the Auburn-Gresham neighborhood<sup>25</sup> (though for reasons unrelated to store size).

Aldi's and other stores have claimed an increase in shrinkage has made continued operation in some neighborhoods unsustainable.<sup>26</sup> Shrinkage is a metric for inventory loss composed of many factors, but stores across the country have cited

increases in shrinkage due to crime, primarily theft.<sup>27</sup> The actual rate of shrinkage – or if it is even increasing at all – is unclear, but some stores are responding to the perceived threat.<sup>28</sup> Many stores have added high-paid security guards,<sup>29</sup> raising their operating costs; other stores have closed instead of increasing security. Overall, while the amount of shrinkage is not fully understood, the perception (and perhaps reality) that it has increased has contributed to the closure of many stores across the country.

Neighborhood grocery stores also close because of population changes. Neighborhoods in the South and West sides have seen a steady decrease in their population since 2010, reflecting an on-going exodus of Black residents out of Chicago.<sup>30</sup> Smaller populations intersect with the typically large size of grocery stores; a neighborhood may have once supported a grocery store, but now the store is too big for its local population. Further, a neighborhood that is losing residents can struggle to attract a new grocery store that can help stabilize the area: the potential for a negative feedback loop is palpable. There is space and money to be made in areas of reduced population, as people always need food and places to acquire that food; however, as with other businesses, grocery store operators are likely to find other neighborhoods more appealing for investment.<sup>31</sup>

A city-owned grocery store may better understand the communities it serves and can address some of the drawbacks associated with private grocery stores. Chain grocery stores can operate thousands of locations across the world, so narrowing in on the needs of a specific neighborhood can be difficult. The city, in contrast, can more easily work with constituents to find out how to maximize the impact of a store. For instance, the city could operate stores of the appropriate size for the community and can take locally beneficial measures that would not be worthwhile for a store dedicated to making profits. Non-profit, city-run grocery stores can fill the gaps of areas in decline and help bring residents to the neighborhood, as well as possibly attracting back former residents by making an area more appealing. City-owned stores can do this as they can be less worried about the return on investment and more concerned about the social benefit offered by stores. Moreover, without a need for profit the city can afford to decrease the “profit margin” and could decide to subsidize security with less impact on overall sustainability. A city-owned store comes with the freedom and flexibility for a city to do as it wants; however, lessons must be learned from the private sector to avoid repeating past failures.

## **Baldwin, Florida: A Possible Model?**

Only a handful of city-run grocery stores operate across the US; all these stores opened in the last 10 years and are in small, rural communities.<sup>32</sup> This is the case in Baldwin, Florida which is the most publicized example of a city-run grocery store in the US. While the policy experience in a rural town is not immediately transferable to Chicago, the lessons learned from Baldwin can be valuable.

The municipal-owned grocery store in Baldwin, Florida shows that the city-run business model can succeed. Baldwin, a small town of about 1,400 residents, manages its own grocery store.<sup>33</sup> Since 2019, the Baldwin City Market (BCM) has been the only grocery store in town. BCM serves a primarily low-income population, which has limited access to transportation due to age and income.<sup>34</sup> The town's small and low-income population made it unable to raise taxes to subsidize a grocery store to move into Baldwin, but at the same time, access by Baldwin residents to grocery stores in other towns was limited: a local store seemed imperative. The town's mayor, Sean Lynch, found that the most cost-effective option was for Baldwin to purchase a defunct, in-town store and run it similarly to a public utility: Baldwin covered the initial start-up costs, but the residents pay for the store's continued service. As Lynch told the Washington Post "We take the water out of the ground, and we pump it to your house and charge you, what's the difference with a grocery store?"<sup>35</sup> The store has largely been a success in Baldwin, creating jobs for locals, garnering strong local reviews, and regularly exceeding sales expectations – and thereby ensuring sustainability.<sup>36</sup> The one drawback for residents is the price of groceries. The store serves such a small population that economies of scale are not possible, meaning that prices are regularly higher than at Walmart and other similar stores. Considering the Baldwin public store operates with a minimal mark-up, the relatively higher prices are concerning, though perhaps unavoidable outside of large national chains.

While the BCM has been successful, the sustainability of city-owned grocery stores elsewhere remains unresolved. The main issue with the BCM is that the store has higher prices due to the unavoidably higher per unit-costs that characterize single, low-volume retailers. Whether Chicago-owned grocery stores would be better able to capture economies of scale is debatable, but the answer could be critical for judging the viability of such stores.

Consider the Chicago neighborhood of Austin. Austin is considered a food desert, and residents have an extremely low average income per capita of around \$16,000<sup>37</sup> – about a third of the median income of Baldwin. The relatively high food

prices at the BCM are bearable even for low-income Baldwin residents, but in Austin, high prices could be expected to be more deterring to low-income shoppers. On the other hand, Austin's population of almost 97,000 people is 60 times larger than Baldwin's. In Baldwin, almost every resident visited the store in its first week of being open;<sup>38</sup> if the customer attraction was similar in Austin the store would operate at a much larger scale, paving the way for lower per-unit costs and retail prices. If the larger customer base could drive down costs and prices to near Walmart levels, then the city-owned store would be more accessible to residents and therefore more likely to succeed.

Another key difference between a Chicago-owned and a Baldwin-owned grocery store is the urban versus rural dimension. Baldwin's fresh groceries are offered at a discount due to its partnerships with local farms. The proximity to farms gives Baldwin cheap access to high-quality produce and helps bring down prices. Chicago also has access to nearby farmland, but these farms primarily grow feed crops (for animals) such as corn and soybeans;<sup>39</sup> Chicago's local access to human food crops is minimal. A Chicago-owned grocery store cannot depend on favorable access to producers to keep prices low.

A city-run grocery store in Chicago is most feasible by leveraging city resources to reduce costs and prices. Neighborhoods like Austin<sup>40</sup> and Englewood<sup>41</sup> are both densely populated and have cheap lots zoned for grocery store use – some of these lots are already owned by Chicago's Department of Development.<sup>42</sup> With relatively low start-up costs and a larger customer base than Baldwin, it is possible that the city could utilize its large population to reduce food costs to be near those of corporate chain stores. If a Chicago public store can attract enough customers to buy and sell large quantities of goods, then it could possibly replicate the success seen at the BCM.

### **Subsidized Grocery Stores**

Subsidies have been provided to grocery stores in Chicago with varying degrees of success. City governments that value community well-being may choose to subsidize grocery stores that otherwise could not survive in the marketplace. This strategy is more desirable the greater the non-monetary neighborhood benefits of local grocery stores. Subsidies to private enterprises are a considerably lighter intervention than operating city-owned stores. In this section, the failures and

successes of the subsidy model will be explored through two Chicago examples, the closed Whole Foods in Englewood, and the Jewel-Osco in Woodlawn.

The November 2022 closing of the Whole Foods in Englewood brought this city-subsidized store to an all-but-destined end. Chicago Mayor Rahm Emanuel championed the opening of the Whole Foods in 2016, with the city pledging almost \$25 million in tax incentives.<sup>43</sup> Local community groups had been campaigning for a quality grocery store like Whole Foods since at least 2010,<sup>44</sup> so the store opened to widespread neighborhood excitement. Community members were happy with the new availability of healthy options; however, the premium prices of Whole Foods limited the accessibility of groceries.<sup>45</sup> Englewood is one of the poorest communities in Chicago, with a per capita income of only \$11,888<sup>46</sup> – not the sort of resources that allow for frequent shopping at Whole Foods. The Englewood store was able to create jobs and provide access to a large variety of groceries, but without making those groceries affordable to residents the store struggled to make a profit. As a result, the store closed only six years after it had opened, leaving Englewood to become a food desert yet again. The Whole Foods example shows the importance of bringing in a store that matches the wants and means of residents, and reinforces the insight that availability is not the same as accessibility.

The 2019 opening of a Jewel-Osco in Woodlawn, along with its continued operation, shows that subsidized grocery stores can have positive community impact and be profitable. Jewel-Osco is a chain of affordable grocery stores located primarily in the Chicagoland area; the Woodlawn store was opened after receiving \$11.5 million in subsidies.<sup>47</sup> Before the Jewel-Osco came to Woodlawn, the neighborhood spent more than 40 years as a food desert with the nearest grocery store more than 2 miles away.<sup>48</sup>

Much like the Whole Foods in Englewood, Jewel-Osco's opening was welcomed by neighborhood residents; however, several factors have contributed to the store's continued success. The store offers groceries at prices residents can afford, with sales and coupons being widely publicized. I live in the Woodlawn neighborhood, and my block as well as surrounding blocks receives free, weekly fliers from Jewel-Osco, which not only attract customers, but offer discounted groceries. Further, the store increases access for those in the surrounding area by accepting Electronic Benefit Transfer (EBT)/Supplemental Nutritional Assistance Program (SNAP) benefits for local grocery delivery.<sup>49</sup> These government programs promote food affordability for disadvantaged people, so by accepting these benefits Jewel-

Osco provides another form of access for low-income residents unable to visit the store directly. Moreover, Jewel-Osco has successfully embedded itself in the community, with a presence at many local happenings, as well as hosting the store's own events. This community goodwill has helped translate into profit with the store returning "a good return for its investors" according to a Crain's Chicago Business article.<sup>50</sup> The store further benefits from its location, which is next to two residential buildings that cater to senior citizens.<sup>51</sup> These (often mobility-impaired) neighbors receive vital access to groceries and provide Jewel-Osco with a significant base of regular customers. Finally, the store has created more than 200 full-time jobs, 95% of which are union affiliated.<sup>52</sup> By almost every metric, the Woodlawn Jewel-Osco has been a success: ingraining itself into the community, turning a financial profit, addressing local food insecurity, and creating quality jobs.

Jewel-Osco has helped spur a wave of economic development in Woodlawn. After the store opened, local business owners reported a ripple effect with increased and continued patronage.<sup>53</sup> Jake Sapstein, owner of the local Robust Coffee Shop, claims in a Chicago Sun-Times interview that the opening of the store has "absolutely" had a positive effect on his business and the surrounding neighborhood.<sup>54</sup> Researchers at Case Western University and University of Illinois-Chicago support the claim that Jewel-Osco boosted the community's visibility and viability for businesses and has promoted Woodlawn's development.<sup>55</sup> The researchers state that Jewel-Osco and nearby apartment developments have together drawn in more than \$400 million in community investment dollars. The Woodlawn Jewel-Osco was further recognized for its community impact by the non-profit organization, Local Initiative Support Corporation (LISC), which gave the Jewel-Osco the For-Profit Real Estate Project award for the year, calling the store "a model for what equitable, people-powered economic development [is]."<sup>56</sup>

While neighborhood residents support the Jewel-Osco, there was a fear that the community redevelopment could have led to gentrification, pushing out long-term residents. This reality almost came to pass; however, in the face of rapid community development, Woodlawn community groups successfully advocated for the Woodlawn Housing Preservation Ordinance to protect housing access.<sup>57</sup> This ordinance set aside 30% of new housing developments for "very low-income" residents to make sure that long-time residents were not pushed out. (The more general question of how to balance community revitalization against gentrification remains a common predicament, in Chicago and elsewhere.) With the continued

investment into Woodlawn the store has helped to spur, the Jewel-Osco has validated its public subsidy and illustrated the developmental effect of grocery stores in a community.

A city-owned grocery store may similarly be able to produce these benefits and offer more financial incentive than a subsidized store. In the subsidy model, public funds go to private owners, and they might bring social benefits that justify the expense; however, the city does not have a chance to directly recoup the funds spent on subsidies. Instead, the city's subsidies increase resources by creating employment opportunities, promoting community development, and spurring other economic improvements. City-owned stores could have the same favorable impact on community development, while also directly recouping public funds through profitable operations, as in the Baldwin, Florida case study.

Together, the two examples of subsidized grocery stores in Englewood and Woodlawn illustrate the importance of proper implementation in deriving benefits from grocery stores. Theoretical demand for groceries is not enough for a private store to remain open: neighborhood ability to pay is vital as well. Grocery stores should reflect the wants and means of a community to maximize private and public benefit. Furthermore, the examples illustrate the social benefits, beyond the provision of healthy food, that a grocery store can offer. If a city-run grocery store can maintain the benefits offered by a corporate store, while capitalizing on the ability to directly gain revenue, then city-owned grocery stores could be as (or more) impactful than successful subsidized grocery stores.

### **Arguments Against City-run Grocery Stores**

Arguments arrayed against city-run grocery stores generally point to the potential for such stores to have limited or even negative net benefits for communities. Care in implementation, however, can reduce the potency of these concerns. Here, two arguments against city-owned grocery stores will be surveyed. One of the arguments has been made by respected community leader Asiaha Butler, and the other by prominent academic Ethan Bueno de Mesquita. Both arguments can help guide the implementation of a city-owned store to sidestep some of the potential problems.

Community buy-in is critical, but one leading community member possesses healthy skepticism of the city's ability to address historical disinvestment. Asiaha Butler is the leader of R.A.G.E, or the Residential Association of Greater Englewood,



which was earlier introduced along with its approach to Food Apartheid. Asiaha Butler has rightly pointed out that food insecurity exists in large part due to historical actions by the city government; as a result, she only trusts locally-owned businesses to protect the community.<sup>58</sup> Further, it is not enough to recognize that residents want a grocery store: they want a grocery store that meets their needs. Without involving community members at every step of the process, a city-owned grocery – or any other type of grocery store – could set itself up for failure.

A recent case in point with respect to bad outcomes connected to a lack of community input is the Englewood neighborhood's Save-a-Lot grocery store. After the closing of the Whole Foods in Englewood, a "Yellow Banana" grocery store, which operates under the Save-a-Lot name, was slotted to go into the neighborhood. R.A.G.E organized large community protests and boycotts against the hasty opening of what many viewed as a sub-standard store. The protests delayed the opening of the store for a few weeks, and Yellow Banana has been working to better connect with the community.<sup>59</sup> Chicago's residents will let the city know if a store is not up to their standard, and without community approval, stores are doomed to fail. To prevent this failure, the city should continue to acknowledge the historically racist disinvestment from communities and include neighborhood residents in the decision-making process.

If proposed city-run grocery stores do not include additional policy protections, then the law of unintended consequences may negate or reverse any policy gains: so argues Ethan Bueno de Mesquita, the dean of the Harris School of Public Policy at the University of Chicago. Bueno de Mesquita is concerned that a city-owned store will promote gentrification and an overall increase in the cost of living due to higher neighborhood housing prices.<sup>60</sup> It is true that a new grocery store makes an area more appealing; however, the new store can be accompanied by an increase in local housing units, as seen in the Woodlawn Jewel-Osco case. While this increase in apartment supply may itself offset some of the potential housing price increase, housing protections in gentrifying neighborhoods can be put in place – again, as Woodlawn has done. One of the ironies of the gentrification/housing price concern is that it only possesses traction if the policy works, if the city-owned grocery store does revitalize a neighborhood. At any rate, a city-run grocery store will not operate in a policy vacuum. If Chicago truly intends to reinvest in communities, then city-owned grocery stores will be but one step in protecting and promoting underserved residents.

## Conclusion

Chicago's south and west sides have been relatively starved for resources, and the scars of previous city actions against minority communities remain. The city owns over 10,000 vacant lots, concentrated primarily in the south and west sides.<sup>61</sup> With the start of Mayor Lightfoot's Invest South/West initiative in 2019, the city began addressing Chicago's historical neglect of residents.<sup>62</sup> City-owned grocery stores represent a natural progression of this policy and a promise to residents that the city is trying to take care of them.

Grocery stores have shown they can be a catalyst of development by attracting additional private investment and giving residents stable employment. The city should continue to explore city-owned grocery stores but be cautious in their implementation. Community input is paramount: the city must understand its target demographic and work in accord with neighborhood wants and means. Excessively high prices for groceries will be a recipe for failure. A grocery store is a long-term investment into a community, and city-owned stores would be a "new normal" that could eventually be viewed in the same vein as public utilities.

If a trial run is successful, city-owned grocery stores could be a key intervention targeting food insecurity. A successful city-owned store would have all the benefits offered by subsidized grocery stores but do not need to entail the continued subsidies given by the city to private grocery chains. If implemented, a Chicago-owned grocery store will become a case study that all cities can look to in addressing their own food insecurity issues. Whether the case is taught as a success or a failure is uncertain, but a willingness to learn from the experiences of other non-standard grocery stores will raise the odds that the success version prevails.

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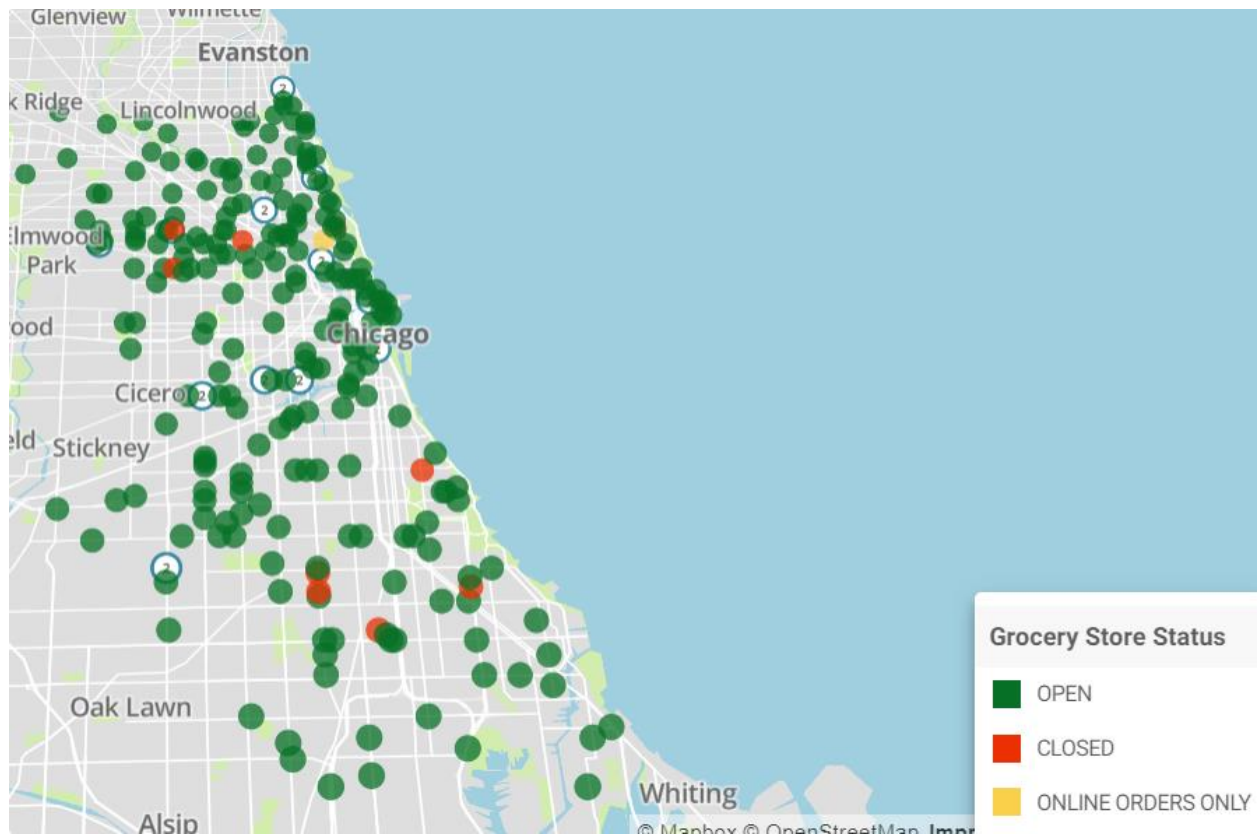
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## Appendix

[“Grocery Store Status Map”](#) from Chicago Data Portal





## CHAPTER TWO

### Chicago Migrant Crisis

Andrea Sanchez Garcia

#### **Introduction**

Chicago received over 23,000 migrants between August 2022 and November 2023.<sup>1</sup> While Chicago has a long history of attracting and aiding migrants, the recent increase of arrivals has caused the city government to struggle to meet their needs.

In response to enhanced crossing by migrants, mainly from Latin American countries, at the US-Mexico border, Texas Governor Greg Abbott launched “Operation Lone Star.” This initiative included a disaster declaration, allowing Governor Abbott to send the Texas National Guard to counties along the Mexican border<sup>2</sup> and increasing his authority over the management of migrants apprehended along the border. Governor Abbott justified his disaster declaration by citing President Joe Biden’s failure to secure the border.<sup>3</sup>

As part of Governor Abbott’s challenge to Democratic Party immigration policies, since 2022 the government of the state of Texas has been placing migrants on buses and sending them to Chicago, New York City, Washington D.C., Denver, Philadelphia, and Los Angeles. These cities were specifically selected due to their size, Democratic Party leadership, and “sanctuary city” status.<sup>4</sup> Cities that have designated themselves as sanctuary cities commit to not asking people about their immigration status, not alerting authorities about undocumented migrants, and not denying services on the basis of immigration status. From April 2022 to October 2023 about 58,000 migrants were bussed by the Texas government to these six sanctuary cities, with New York City receiving about 21,000 and Chicago receiving about 16,000 asylum-seekers.<sup>5</sup>

Following Governor Abbott’s attention-grabbing strategy, other border locations have adopted similar tactics. The city government of El Paso, independently of the Governor’s transfers, has been sending migrants to Chicago and other cities, too, contracting with a busing company for this purpose.<sup>6</sup> Florida also has a program

that sends migrants out of state; however, Florida's program is smaller than that of Texas because fewer migrants make their initial US entry in Florida.<sup>7</sup>

The relocation programs have led to Chicago being in a major migrant crisis, receiving a wave of asylum-seeking migrants unlike any that the immigrant-friendly city has seen before. In this chapter, I will highlight how the City of Chicago is dealing with supporting the needs of the oncoming migrants. The Chicago government has attempted to create reasonable accommodations and provide support for the new arrivals, but the non-stop wave of migrants has pushed their resources to the limit. I will first establish what the government is doing in terms of housing, schooling, and their planned steps. I will also compare the Chicago policy initiatives with those of New York City, which is experiencing a parallel migrant crisis. Finally, the conclusion of this chapter argues that the city governments are unable to adequately support the new arrivals without federal policy changes.

## **Seeking Protection**

Asylum seekers are different from other immigrants to the United States. Asylum seekers are seeking refuge from their home country due to fear of persecution. Usually, they must prove they have a legitimate reason for fleeing their native country to be approved to legally reside in the United States. The standard protocol for those seeking asylum in the US is for the request for asylum to be made once they reach US territory or a port of entry. Asylum seekers have a one-year deadline (from when they first enter the US) to submit their asylum application.<sup>8</sup> This request initiates a process that will eventually result in either the grant or denial of asylum. During the time interval in which an asylum application is pending or being reviewed, the migrant is immune from deportation, and after 180 days, they are able to apply for work authorization.<sup>9</sup> If their asylum application is approved, then they are protected against deportation to their home country; permitted the issuance of a social security card; authorized to work; enabled to request permission to travel overseas; and offered the option of petitioning for asylum status for family members. After a year of receiving asylum, they can apply for permanent resident status, which after four more years, could lead to citizenship. If their application is denied, alternatively, then the asylum seeker is subject to deportation.<sup>10</sup>

The asylum-seeking process is different for officially designated refugees, who do not have to reach the US to begin the approval process. Refugees are people fleeing their country of origin due to a fear of persecution, human rights violations, or

armed conflict and must cross an international border to seek safety.<sup>11</sup> Refugees also must wait a year, however, before applying for lawful permanent residency.<sup>12</sup>

A major policy change occurred in September 2023, prompted by the large number of asylum seekers. Within the current migration wave, a large number of asylum seekers are from Venezuela. Millions have left Venezuela due to its political turmoil and economic instability.<sup>13</sup> In concert with extending the availability of TPS to migrants from Venezuela due to the continuing difficulties in that country, the United States specified that Venezuelans who arrived after July 31<sup>st</sup>, 2023, would not be eligible for Temporary Protected Status. Those who arrived before that date are still able to apply for TPS and work authorization.<sup>14</sup> Some immigrants are eligible for Temporary Protected Status (TPS). TPS is only granted to migrants from designated nations, countries determined to be in a condition that would prevent the safe return of the national or be unable to handle the return of the migrant. The designated countries are usually in ongoing armed conflict, struggling with an environmental disaster, or otherwise temporarily subjected to very difficult situations. With TPS, immigrants are protected from removal or detention and can obtain work or travel authorization. TPS does not include a path to legal permanent residency, and must regularly be renewed, with the renewal threatened by improving conditions in their home country.<sup>15</sup>

The influx of Venezuelans into the US is also reflected in the demographics of Chicago migrants: Venezuelan asylum seekers are the main group of migrants who are arriving in Chicago. Surely the large non-migrant Latino population in Chicago provides a major advantage for the newcomers: about 765,000 people, or 28.7% of Chicago's total population, are Latino. Even with significant cultural and linguistic overlaps, however, providing housing and other services to large numbers of new arrivals remains a challenge.<sup>16</sup>

### **Housing Migrants in Chicago**

One result has been a serious crisis, with the city government unable to adequately service the influx of newcomers in a timely fashion. The main struggle concerns finding adequate shelter, and shelter that is conducive for the provision of services (such as healthcare and security) needed by the arriving migrants.

As of November 2023, the City of Chicago set up about two dozen temporary shelters for newly received migrants, holding about 12,000 people.<sup>17</sup> (By early October about 3,200 migrants were awaiting placement into a shelter, by congregating

either at a police station or one of Chicago's airports.<sup>18</sup>) These temporary shelters provide three meals a day, access to community showers, and security.<sup>19</sup> Additionally, the shelters serve as a nexus for the provision of medical care and other requisite services, some provided by volunteers.

The flow of new migrants continues. The Texas state government has communicated with Illinois Governor J. B. Pritzker to expect more migrants to arrive each week. The current (mid-October 2023) expectation is about 25 buses to be arriving each day with a combined potential capacity of up to 1,250 migrants -- more than double the amount Chicago has been receiving.<sup>20</sup>

With the incoming wave of migrants, Chicago is attempting to prepare new accommodations. In September 2023, the City of Chicago government agreed on a contract with Garda World, a private security company, to create tent cities for the incoming arrivals. The tents would be winterized -- though there are major doubts as to how effective the installations will be against the Chicago winter.<sup>21</sup> Migrants housed in the tents will also be provided childcare if needed, along with transportation to necessary appointments. The tents will be able to house up to 1,400 people each, providing space for the thousands of migrants currently awaiting shelter. In November 2023, the Chicago City government approved land in Brighton Park and Roseland for the two camps; however, construction for the Brighton Park camp was abruptly stopped when heavy metal contamination was found on the site following concerns raised by the public.<sup>22</sup> Plans for the Roseland tent camp continue as the city government searches for another appropriate site.

The Garda contract has received some criticism due to Garda World's experience with other states in building migrant detention centers.<sup>23</sup> While the plan to establish small tent cities would be helpful in shifting migrants from police stations and airports into safer conditions, there is the potential for the tented areas to take on the characteristics of detention centers. Isolated encampments, even if comfortable and secure, could reduce migrant access to transportation and possibly restrict their freedom of movement.

The Garda World tents are not the only avenue Chicago is pursuing to resolve the migrant housing crisis. The city has solicited applications from agencies that can operate temporary shelters and meet additional requirements, including being able to staff sufficient Spanish-speaking workers. The accepted agencies will be reimbursed at a bed rate of \$22-35 per night. The city intends to make up to 15 agency awards, indicating support for many new temporary shelters.<sup>24</sup> This initiative illustrates how



the Chicago government is working to overcome the current shortage in accommodations for the incoming migrants.

While new shelters being constructed, thousands of individuals, as noted, were awaiting placement (as of October 2023), while being housed in even more temporary conditions.<sup>25</sup> The majority of the otherwise unhoused, around 2,400 migrants, are living at Chicago Police Department stations; about 800 are living at the O'Hare Airport, and a few others are at Midway Airport.<sup>26</sup> All of these arrangements are intended to be temporary, with migrants staying for short periods of time until they are selected for a spot in the shelters; even if short-term, however, these expedients have been leaving the migrants in potentially unsafe, inadequate conditions. At O'Hare airport, the people are given cardboard pads to sleep on in the shuttle bus center. Airport security conditions make it more difficult for volunteer groups to be able to help the migrants. Additionally, the private company in charge of monitoring the migrants provides only rudimentary health care, with first aid or calling an ambulance being the sole options. (Further, sicknesses can spread quite quickly in cramped living conditions.) Migrants housed in Midway airport must walk 2 miles to the nearest police station if they need any clothes or services.<sup>27</sup>

The migrants living at police stations also find themselves in a complicated situation, where there can be inadequate communication or cooperation between the officers and the migrants. In some cases, the lack of cooperation can lead to conflicts, which have escalated to the point of asylum-seekers being arrested.<sup>28</sup> For many precincts, while the migrants are allowed to sleep at the station, they must vacate the premises every day by 10 am for cleaning -- and remain away until it's time for bed again. At precinct 12 in West Chicago, there is one bathroom containing only a toilet, a sink, and a mirror -- and technically the 10-15 families living in the station are not meant to use that bathroom.<sup>29</sup> One asylum-seeker with two children stated to a reporter from The Guardian that she fills up a cup of water to pour over her and her kids to get clean, given the absence of access to showers. Like her, many migrants do their best to not be noticed in these precincts, out of fear that they will no longer be allowed to sleep there. Migrants living in the police stations are heavily dependent on the work of volunteers, who drop off clothing and other necessities.<sup>30</sup>

Temporary residence in a police station presents a risk of conflict with the police. In such conflicts, the migrants are disfavored, as any arrest could potentially affect their immigration case.<sup>31</sup> In July 2023, the Civilian Office of Police Accountability (COPA) in Chicago began an investigation after there were multiple

allegations of sexual misconduct from police officers. One allegation was that a 29-year-old officer engaged in a sexual relationship with a 17-year-old female migrant, who was being housed at the police station.<sup>32</sup> During the investigation, allegations emerged of other officers also engaging in sexual misconduct. Several months later, COPA closed the investigation due to a lack of evidence. COPA indicated that no victim had come forward, nor had any witnesses.<sup>33</sup>

Asylum seekers are already in a vulnerable position: they are not guaranteed legal status in the US and often they faced major challenges in reaching Chicago. Housing migrants in the police stations is an untenable policy, one that places migrants in potentially difficult situations, with compromised opportunities to advocate for themselves.

For migrants currently residing in city shelters, the situation became even more precarious at the end of November 2023. Chicago's city government announced that shelter stays would be limited to 60 days.<sup>34</sup> For most of the shelter residents, work authorizations will not arrive before the evictions from shelters begin, and could take many months longer. The need to pursue informal employment will become acute. The crisis will not be resolved anytime soon if migrants do not have a legal way to support themselves.

## **New York City**

The City of New York has been hit hard with a migrant crisis of its own. From the spring of 2022 to October 2023, there have been more than 100,000 new arrivals to the city; about 21,000 of the new migrants have been sent to New York through Texas Governor Abbot's Operation Lone Star. About 65,000 migrants are being housed in the city's shelters.<sup>35</sup> While the city government has worked hard to provide housing – opening 213 new housing shelters – it is still struggling to provide adequate help. In March 2023, New York City established a new Office of Asylum Seeker Operations and a 24-hour welcome center.<sup>36</sup> The Office of Asylum Seeker Operations handles the services granted to the migrants living in New York. On its website, it indicates locations where migrants can find free food, help with school enrollment, or be granted identification cards.<sup>37</sup>

Since the 1980s, New York City has recognized a legal obligation to provide housing for anyone who requests it, a "Right to Shelter" mandate.<sup>38</sup> The ongoing migrant crisis has put the mandate to the test, with the City government beginning to

fail in their obligation. New York City Mayor Eric Adams has requested for the suspension of the mandate, as a necessary emergency measure.<sup>39</sup>

In the spring of 2023, Mayor Adams issued an executive order to relax some of the shelter requirements. The order voided rules that require families to be placed in private rooms with bathrooms and a kitchen. It also established a 10 pm nightly deadline to request a bed.<sup>40</sup> The city has also placed limits on how long people are able to stay in their shelters: adults have a 30-day limit, while families have a 60-day limit.<sup>41</sup> At the end of their time, the migrants are forced to leave and find housing elsewhere, or to reapply for housing. Some of the waiting rooms in NYC's emergency shelters are full of people awaiting a placement. The shelter shortage seems to be deterring people from seeking housing in the city: of the 5,000 migrants who have exceeded their time limit as of late October 2023, only about 1,000 have reapplied.<sup>42</sup>

Even first-time seekers of housing in New York are having trouble finding a shelter with available beds. Some migrants are being directed to a "reticketing" office, where the city offers to buy a one-way ticket to a different city, anywhere, for the migrant.<sup>43</sup> The NYC government has also been distributing flyers along the southern border of the US, announcing that there is "no guarantee" that a migrant will be provided housing if they decide to travel to New York. Some flyers state that New York is a very expensive city to live in and advise migrants to travel elsewhere.<sup>44</sup> The NYC government is hoping that this counter-advertising will decrease the number of migrants arriving in New York. Overall, New York is being hit with an unprecedented situation, where the City continues to struggle to find solutions. In an October 2023 interview, Mayor Adams stated that it is unavoidable that migrants will be sleeping on the streets since there is no longer room anywhere in the city.<sup>45</sup>

As New York contends with the migrant crisis, it has made financial and policy requests to the federal government. New York has been struggling to keep up with the financial burden of housing thousands of people, spending about \$5 billion from 2022 to 2023 for housing and feeding migrants. New York expects that the response to the migrant crisis will cost the city \$12 billion over the next couple of years if the migrant flow continues at the current pace.<sup>46</sup>

The state government is also struggling to help New York City; the Governor Hochul administration has publicly stated that it will cut back on how much financial help the state will provide.<sup>47</sup> This statement comes after months of speculated tension between Governor Hochul and Mayor Adams, both blaming the other for the gravity of the crisis in New York. Governor Hochul claims Mayor Adams was slow to act on

establishing housing (like more tent camps) and that the City does not adequately support migrants in filling out important paperwork such as work permit applications, leaving thousands who could potentially already be working unable to.<sup>48</sup> On the other hand, Mayor Adams has criticized Governor Hochul for not doing more to help the city, like requesting other cities in the state take in migrants to ease the serious NYC crisis.<sup>49</sup> While there is some disagreement on how to handle the situation in New York, both city and state administrations have turned to the federal government to provide help.

The perceived lack of response by the Biden administration has frustrated the New York state and city governments, especially after the Department of Homeland Security (DHS) investigated the NYC emergency housing operation. The DHS recommended that the city increase its collection of information on migrants, increase access to information about work permit applications, and provide additional support (such as legal assistance) to help migrants leave the shelters.<sup>50</sup>

### **Chicago's Call for Help**

The City of Chicago government is trying to meet the needs of the migrants while still caring for its established residents: some 5,100 asylum seekers were resettled in Chicago between May and October 2023.<sup>51</sup> In an effort to increase public resources for migrants, Illinois Governor J. B. Pritzker wrote to President Biden in October 2023, requesting additional federal funds and for TPS application fees to be waived for those who cannot afford them since migrants must pay \$50 to \$545 (depending on age and whether requesting a work permit). Pritzker also urged the President to decrease the wait time for work authorizations to be approved.<sup>52</sup>

Work authorizations are vital. Without them, migrants are pauperized, with no ability to work legally until their asylum or TPS case has been resolved. Migrants now are typically waiting about 15 months after their US arrival for work authorization.<sup>53</sup> Migrants who are willing and even eager to work to support themselves and their families, while awaiting authorization, face increased dependence on the government and private volunteers. The importance of the work permits grew following Chicago's 60-day shelter limit beginning to be implemented in late November 2023. As migrants are kicked out of their temporary form of housing, they are not provided enough time to legally work, leaving many without a way to support themselves.

Those migrants who pursue under-the-table jobs put themselves at risk of not being properly paid or fairly treated. One 65-year-old asylum seeker told a Chicago

Tribune reporter that he worked for two weeks completing various jobs for a single employer; however, that employer suddenly stopped contacting him, and the migrant was still owed about \$600.<sup>54</sup> Dangerous work or exploitative conditions are other risks, beyond wage theft, that threaten migrants working without authorization. Further, a migrant with a pending asylum or TPS case who is found to be illegally working could find their asylum case compromised – especially if the work was undertaken with false documentation.

Humanity is not the only spur to speeding up work authorizations. The labor market in the US and in Chicago is extremely tight by historical standards: some industries are desperate for workers. The hotel industry has 1,800 open jobs available throughout Chicago – jobs hotels hope to fill once more migrants become eligible for legal employment. Some business owners have even handed out their phone numbers to migrants, so the migrants can reach them immediately when their work authorizations come through.<sup>55</sup> Legislation to shorten the work authorization waiting period could alleviate the ongoing migrant crisis as well as the labor shortage.

### **Instability for Migrant Children**

While the Illinois state government is advocating for quicker processing of work authorizations for migrant adults, migrant children are still stuck dealing with the negative repercussions of housing insecurity. Many families currently await placement into temporary shelters. Their children not only struggle from the lack of a stable and safe residence, but they can also face difficulty enrolling in and regularly attending school. Reliable access to transportation to school is an additional source of uncertainty for children residing in the temporary shelters.

Chicago Public Schools (CPS) is itself struggling to serve the influx of migrant children, given the limits to CPS resources. CPS attempted to prepare for the 2023-2024 school year by opening a welcome center at Clemente High School, in the west of the city, in July 2023. The center aids newly arrived families with enrolling their children in nearby schools. At the center, CPS can measure the child's English proficiency, provide free meals, and conduct trauma assessments.<sup>56</sup> CPS is hoping this center streamlines the enrollment process for the many children they are expecting to continue arriving, children whose parents are unlikely to know what steps to take to enroll their kids into a Chicago school. The center requires an advance appointment, however, making it somewhat less accessible for parents.<sup>57</sup>

Along with enrollment struggles, Chicago Public Schools seem to be having difficulty providing adequate language and trauma support for the newly arrived students. CPS is working to increase the staff at schools who can provide language support by allocating \$15 million for bilingual instruction for the 2023-2024 academic year in preparation for the increased enrollment of children who need language assistance.<sup>58</sup> Nonetheless, certain schools appear to be insufficiently prepared. At Emil G. Hirsh High School, two students who temporarily live at a nearby police station enrolled -- but did not receive any help with language learning. A couple of the Hirsch teachers spoke Spanish and were able to help at the beginning of the day, but for most of their school day the students must rely on Google Translate to understand the content of their classes.<sup>59</sup>

Other schools have turned away migrant students, partially due to a lack of Spanish-speaking support. Emmet Louis Till Science and Math Academy, a public school near Woodlawn, did not allow eight migrant children to enroll, even when they arrived with the necessary filled-out forms. The eight children had been living in the 3<sup>rd</sup> district police station with their parents. The parents had gotten help on the paperwork from volunteers; however, when the students arrived at the school, they were told that the specific, completed forms were outdated. Instead of simply completing the updated forms at that time, however, the families had to return at a different time: the student enrollment was postponed because no school officials spoke Spanish.<sup>60</sup>

In response to public outcry, the Till Science & Math Academy indicated that they were working to recruit help for the enrollment of newly arrived children, yet volunteers in that district stated they had not been approached. Chicago Public Schools also released a statement, emphasizing that they are prioritizing the enrollment and transition for students with temporary living situations. CPS indicated that such students could immediately enroll into any school, even if they lack immunization or school records, proof of guardianship, residency, or other normally required paperwork.<sup>61</sup>

Another challenge for CPS is providing sufficient trauma support for their students. The newly arrived children often have endured a very complicated and harsh journey to reach Chicago. Months of upheaval in their lives would be hard for anyone to adapt to, and more so for young children. In addition to the language support budget, CPS increased the funding to support students' social and emotional health by \$35 million. With the funding, 123 new counselors have been hired, mainly at

elementary schools. CPS is also working to ensure each school has a full behavioral health team, which includes a nurse, a psychologist, along with a counselor or social worker.<sup>62</sup> Behavioral teams could also potentially be helpful if students must transfer schools as their living situation changes.

### **Challenges with Public Opinion**

As the Chicago government is working to be able to serve the new arrivals, some tensions have arisen with existing residents. Several lawsuits have been filed challenging the housing of migrants. One September 2023 lawsuit argues that using public buildings for migrant residences creates a nuisance for the community and violates federal Occupational Safety and Health Administration standards.<sup>63</sup> Another lawsuit was filed by residents in West Town in October 2023, arguing that the city government's plan to waive zoning laws to establish a temporary shelter in an industrial building is a wrongful use of the mayor's emergency power. The lawsuit also asserts that the migrants who will be housed there could pose safety and health risks for the community.<sup>64</sup> Moreover, following the approval of the Brighton Park land, a lawsuit was filed stating that the land was contaminated and unsafe for anyone to live on. This eventually led to the cancellation of construction on the site given that there was heavy metal contamination which could not be properly removed.<sup>65</sup> These lawsuits and other forms of neighborhood opposition could make it more complicated for the Chicago government to create new temporary shelters as migrants continue arriving.

Some Chicago government officials have also expressed reservations or opposition to the City's plans for dealing with the migrant crisis. In November 2023, as Chicago begins experiencing the first of its cold winter weather that is very threatening to those who live or must spend a lot of time outdoors, the now abandoned Brighton Park tent area plan met opposition within the City Council; some of the opposition was based on perceived zoning violations.<sup>66</sup> Further, there has been a broader debate over Chicago's sanctuary city status. Some aldermen urged for a referendum to be placed on the March 2024 election ballot, asking voters if Chicago Eventually, the Council chose not to go forward with the sanctuary city referendum, which applied directly only to undocumented immigrants, not legal asylum-seekers.<sup>67</sup> (The sanctuary referendum was unlikely to take place in any event, as there were already three referenda questions planned for the Spring 2024 ballot, the maximum quantity allowed. All three were put on the ballot by Mayor Brandon Johnson, leading

to questions as to whether this was a purposeful tactic to preclude a vote related to the sanctuary city status; Mayor Johnson denies having such a motivation.<sup>68</sup>) Other aldermen noted that official sanctuary city or not, the buses of migrants will continue to arrive in Chicago.<sup>69</sup> Continued or enhanced political divisiveness could make it more difficult to craft and implement policies to adequately assist migrants.

A further challenge will occur as the city's allocated money for the crisis runs out. In November 2023, Mayor Johnson's first budget was voted on and approved, though some aldermen raised concerns over how the money was appropriated. The \$16.77 billion plan designates \$150 million to the migrant crisis; however, the crisis is currently costing about \$40 million each month, prompting some questions as to what the plan will be in a couple of months when the earmarked money is expected to run out.<sup>70</sup> The city government is hoping that state or federal aid will come in before they exhaust their funding. If there is no aid before that occurs, the political divide will likely increase as more money will need to be spent on the crisis.

## **Conclusion**

Chicago has been hit with a migrant crisis, straining the resources of the city government. After looking into the city's struggle, it seems that they are unable to provide sufficient assistance to the new arrivals without increased support from the federal government. For both New York and Chicago, being able to provide housing for migrants is their main challenge. Chicago and NYC have resorted to enacting limits on how long people can stay in shelters, placing more pressure on migrants to find jobs or relocate. The Chicago and the New York limits of 60 or 30 days are not enough time for work authorizations to be issued, likely causing many migrants to turn to under-the table employment with its own attendant risks.

Chicago is dealing with an unprecedented situation, which requires help from multiple levels of government. Since the beginning of the crisis, the city government has attempted to provide adequate support for arriving migrants; however, it falls short in some areas due to the large amount of people requiring the help. As the crisis continues, it is up to the Chicago government to work to prepare for the continued flow of migrants and establish a long-term plan for housing. Compared to New York, Chicago seems to be experiencing more cooperation, or less tension, with the state government. As mentioned, both Illinois Governor Pritzker and Chicago Mayor Johnson have turned to advocating for shorter work authorization wait times to alleviate the number of migrants dependent on the help of the city government.



Without any federal policy change soon, especially following the implementation of the shelter limits, migrants in Chicago will be left to fend for themselves – and possibly forced into homelessness – since their legal form of income will be months away. Now the challenge for the Chicago government will be to provide shelter, potentially including tent camps, that can stand up against the full range of Chicago’s annual weather, and before the number of unhoused migrants escalates.

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## CHAPTER THREE

# Waiting for the Workers: How Labor Policy Can Better Protect Unionizing Employees

Luz Rosado

### Introduction

Organized labor exploded in the United States in 2022. While industries in the US created thousands of brand-new non-union jobs that year, the number of Americans who became represented by a union grew by 200,000 individuals and demonstrations such as strikes grew by 52%.<sup>1</sup> During this cascade, unions added a surprising group of Chicago workers to their ranks: museum workers. In early August of 2022, workers of The Art Institute of Chicago (the second largest art museum in the United States) and its associated school voted to unionize.<sup>2</sup> The workers cited concerns with a hierarchical work culture, pay, workloads, and the museum's response to the COVID-19 pandemic.<sup>3</sup> The Art Institute of Chicago represented the first of a coming wave of cultural institutions in Chicago whose workers have sought or are seeking to unionize.

These Chicago cultural workers have been organizing under the American Federation of State County and Municipal Employees (AFSCME) – a national union that represents public service, municipal, and cultural workers across the country.<sup>4</sup> These unionizing efforts, many of which are still being adjudicated by the National Labor Relations Board (NLRB), have been challenging for the workers involved. As the United States moves into nearly a century since the passing of the original policies that created the current body of worker rights, a new generation of voters and legislatures has begun to renegotiate the protections organizing workers receive.

Employers, employees, and unions derive their bargaining rights from the Wagner Act of 1935, and its few succeeding amendments. These rights are enforced by the NLRB – an independent agency of the federal government responsible for refereeing labor disputes across the US<sup>5</sup> - and apply to all workers in the US, regardless of which state they work in. Individual states (and even municipalities) can contribute more worker protections in their laws if they wish. In Illinois, in 2022, the

state legislature passed, and voters approved, a state constitutional amendment called the Illinois Workers' Rights Amendment. The amendment enshrines employee rights to collectively negotiate with their employers and outlaws the passage of laws that make collective bargaining more difficult for workers, such as "Right-To-Work" laws.<sup>6</sup>

Chicago's City Council has also made it a point to weigh in on labor disputes and protect worker rights to form unions. Most recently, in March 2023, the Council passed an ordinance to safeguard the rights of workers in human service agencies to organize and form unions. The ordinance also prohibits strikes and picket lines from the workers in these agencies in exchange for these new protections.<sup>7</sup>

At the national level, workers may see an amplification of their rights to organize within the next year. Legislation introduced in the Summer of 2021, the "Protecting the Right to Organize Act", outlines the expansion of rights to employees to participate in secondary strikes; prohibits employers from hiring replacements during strikes; prevents employers from making employees attend mandatory anti-union or "informed choice" meetings; and establishes harsher penalties for companies that violate worker rights.<sup>8</sup>

The current body of policies governing worker rights intends to assure workers of their freedom to organize without fear of coercion from unions nor retaliation from the companies they work for; however, in practice, these policies are insufficient to meet that goal. The experiences of the ongoing unionization efforts in Chicago's cultural institutions provide insight into how collective bargaining within the current legal framework plays out in practice. More specifically, close examination of the status quo national labor policy through its manifestation in these proceedings will appraise the efficacy and shortcomings of worker rights policies. These policies will prove to be antiquated and insufficient for protecting worker rights in challenging contemporary circumstances. The contemporary political landscape is allowing the reexamination of labor policy to begin to reform laws to grant workers more agency. The conclusion of the chapter will look at the promise and potential pitfalls of the Illinois Workers' Rights Constitutional Amendment and the national Protecting the Right to Organize Bill, in this moment of revitalization for labor organizing.

## **Current Union Protections**

In 1935, the US Congress passed the Wagner Act in response to the lack of enforceability of previous worker rights policies. The Wagner Act outlined the rights of employers and employees during labor disputes and created the NLRB to help

enforce these rights. The Wagner Act guarantees workers the right to collectively bargain with a union that is selected by a majority of employees; establishes the principle of exclusive representation by majority rule; and provides enforcement for NLRB rulings.<sup>9</sup> Major changes to the Wagner Act were made in 1947 during the Truman administration, expanding the explicit rights of both workers and employers.

The Taft-Hartley provisions added six new unfair labor practices, which applied to both labor unions and employers. At the time, Congress's dominant perception of labor unions was that they were organizations that operated by coercion, and that the NLRB should act to protect employees from unfair labor union practices. The perception largely stemmed from the influence organized crime (particularly the Italian Mafia) had on some large unions in prior decades. While still monitored, the issue of racketeering in labor unions is not as prevalent as it was in the past.<sup>10</sup> The Taft-Hartley provisions greatly limited unions' power to strike, and included a "free speech" clause, which exempted the expression of non-coercive views, arguments, and opinions from being considered as evidence of unfair labor practices. Taft-Hartley also altered union election procedures, outlawing supervisors from joining bargaining units, but also expanding employee powers to vote on union decisions.<sup>11</sup> While preventing supervisors from joining unions may have helped prevent labor racketeering, today it tends to preclude union membership for employees holding low-level managerial positions.

The Taft-Hartley provisions constituted an effective power shift towards employers: the number of unions that won their election campaigns dropped by 10 percent after its passing. Reforms in 1959 accentuated this power transfer to employers. The legislative adjustments following the Wagner Act reflect a sentiment that the government must protect workers from two parties who may be interested in exploiting them: their employers and unions. Sections 7 and 8 (in the current iteration of the amended Wagner Act) define what unfair labor practices the NLRB disallows by employers and unions.<sup>12</sup> What this sentiment of potential exploitation forgets, however, is that even though unions exist as independent organizations, they typically are representative of the workers, not of the interests of the company or institution. Unions are not entities entirely separate from the workers – they are the workers.

Historically, labor unions have faced perceptions of being coercive entities. High profile instances of unions having ties to organized crime surely have helped to create these perceptions. But sometimes a powerful union becomes misconstrued as coercive, whenever it wields substantial influence in negotiations or strikes.

Corporations are often powerful, and the primary purpose of unions is to provide a counter to corporate power. A union would not exist at a workplace if the employees had not voted to bring the union in. Unions derive their bargaining strength from the solidarity of workers. When workplace conflicts arise, unions serve as mechanisms for dialogue and negotiation, seeking to address employee grievances and advocate for fair treatment: this is not the same as coercing employers or employees.

### **Shortcomings of Current Worker Rights**

Unions are born among workers in companies, but the NLRB oversees their upbringing. Unions begin with workers conducting a union drive, where they publicly announce their intentions to form a union and begin to gather support from fellow employees. When a union organizing drive goes public, the company becomes aware of the employees' actions and aware of the union the employees are trying to join. Employees working with the union collect petition signatures from other employees to show interest in forming a union, or assemble signed union membership cards. When enough employees in the company show that they have an interest in forming a union, the organizers may send the petitions or cards as evidence to the NLRB; approval from the NLRB will trigger an election. Strictly speaking, the election is not a necessary component for the formation of a union, because an employer may bypass the election and accede to union formation – but this almost never happens.<sup>13</sup>

During the organization drive and the electioneering, employers typically run their own campaigns to dissuade workers from voting to join the union. Actions the employer takes to undermine support for a union within the company are pejoratively known as union busting. Union busting in the US has become its own industry, with law firms advertising their ability to bust union election campaigns as a specialty they offer to companies. Companies hire these law firms to devise lawful strategies that take advantage of the limitations of worker rights laws to reduce the likelihood that the union vote will succeed.<sup>14</sup>

In the case of the Museum of Science and Industry (MSI), the museum hired the law firm Jackson-Lewis to help prevent a union win; a representative from AFSCME estimated that the MSI spent about fifty-thousand dollars in fees for this legal assistance.<sup>15</sup> The Jackson-Lewis firm has successfully worked to prevent unions from forming in large companies such as Google and Amazon and in graduate student populations in several universities.<sup>16</sup> They also actively advertise their union

busting services on their website.<sup>17</sup> Labor organizers and workers have reported that Jackson-Lewis's techniques have successfully undermined organizing power in unions, identifying the law firm as a prominent player in the union busting business.<sup>18</sup>

Anti-union strategies can be perfectly legal. Union busting scare-tactics, for instance, are actions that skirt the definitions of unfair labor practices, while being protected by free speech commitments, in a way to persuade employees to vote against the union. Companies have historically implemented these tactics by convening mandatory all-staff meetings where they disseminate material that is critical of unions. The NLRB cannot deny companies the freedom to hold mandatory meetings. The NLRB, however, does not allow these gatherings and the associated material to be overtly anti-union. Nonetheless, the NLRB cannot prevent companies from highlighting criticism of union organizations (including by portraying unions as potentially coercive) during these "captive audience meetings."<sup>19</sup>

In the case of the MSI, the museum implemented a strategy known as an "informed choice" campaign. Informed choice campaigns are a pre-election strategy that intends to help employees understand all the facts about joining a union. Companies present these facts in mandatory meetings and signage with messaging that paints the company as having the workers' best interests at heart. The facts that a company may present are not always fully correct or leave out important context, painting the union in a bad light. Companies also typically deliver this information in the form of disturbing but hypothetical scenarios – scenarios that are not impossible, but which generally would arise from noncooperation with the union on the part of the company.<sup>20</sup>

At the MSI, there were posted notices warning employees that union dues may be burdensome, that union membership overall is declining, and that AFSCME is running a campaign on false promises that their collective bargaining will automatically make them effective at negotiating with the museum.<sup>21</sup> At other institutions, such as The Art Institute of Chicago, distributing literature about the possibility of losing benefits and disseminating potentially misleading information about union eligibility was part of the museum's strategy.<sup>22</sup> The rules against unfair labor practices prohibit threatening employees with loss of benefits, with the closing of the company, or calling a union futile, but the law allows this type of language to be used when presented within hypothetical scenarios. Unions can disseminate their own literature and talk to employees about their views of the union. At work, however, firms can impose restrictions on where employees may be able to conduct union-

related conversations while on the clock.<sup>23</sup> The asymmetric restrictions against union organizing at work may have been adopted to combat coercive practices by unions at the workplace, but they operate at the cost of putting unions at a significant disadvantage during the election campaign.

The unfair practices policies provide protections for workers against retaliation from employers. Nonetheless, companies often seem able to retaliate in ways that are consistent with the rules. Companies have many internal rules, and they have wide scope in enforcing them. Workers who support unions have historically seen retaliation from employers in the form of companies assigning increasingly difficult and impossible duties or being subject to stricter or more punitive forms of existing policies.<sup>24</sup> The current worker rights legislation does not address internal policies, which effectively creates a huge vulnerability for workers and creates what is essentially a loophole for companies to use to root out employees who are leading unionization efforts.

In the case of the MSI, a representative from AFSCME reported that employees noticed a substantial increase in the strictness of enforcement of policies outlined in the employee handbook. The AFSCME representative claimed that employees reported that the MSI did not enforce these policies as harshly in the past, and that they believed that the intensified enforcement was adopted in response to the election results. This observation is consistent with claims made to the Chicago Sun-Times following the results of the union election in July of 2023.<sup>25</sup> The AFSCME representative reported that the museum has penalized or fired employees for rule infractions that range from tardiness of two minutes to wearing the wrong type of shoes. The representative from AFSCME discussed that the union has plans to bring forward a grievance to the NLRB regarding these policy changes and firings -- but the limitations of the regulations concerning unfair labor practices renders the outcome uncertain. The Chicago Sun-Times also reported similar practices at the Art Institute in 2021 in response to unionization efforts. Employees claimed that the Art Institute used their performance review system to retaliate against unionizing employees through a sudden increase in poor review scores.<sup>26</sup>

Worker rights that are officially protected might nevertheless suffer from enforcement shortcomings. While the rules are effective at shielding workers from various sources of coercion and retaliation, the processes for accessing adjudication and redress are tedious, slow, and cumbersome. Unionization disputes and grievances can take months and even years for NLRB resolution. Companies, being long-lived



organizations, possess the resources that enable them to be comfortable with delays, but employees fighting for something like a living wage or health insurance may not have the same luxury. Companies, likewise, tend to opt for a federally controlled blind election for employee unionization in part because these formalities can help companies draw out the process.

In July of 2023, the NLRB held a blind election to determine if employees at the MSI would be able to form two bargaining groups to form a union under AFSCME. The election results for both bargaining groups were in favor of unionization, but the NLRB has not yet certified the election results. The MSI challenged the vote for both bargaining groups, the crux of their argument being that three individuals who voted in one of the bargaining groups are not eligible for union representation.<sup>27</sup> The MSI based this claim on their view that the three individuals were temporary contract employees. AFSCME and the MSI have submitted rebuttals and are awaiting a final ruling from the NLRB on the matter to be issued later. While the election for both bargaining groups remains uncertified, the NLRB has also ruled that the challenged votes for the other bargaining unit are non-determinative, meaning that once the NLRB releases its final decision, 115 employees at the MSI will be unionized under AFSME.<sup>28</sup> In the interim, AFSCME cannot legally negotiate a contract with the MSI, nor can they respond to grievances that employees may bring against the museum.

Unionization at Chicago's cultural institutions has come a long way but has faced significant challenges along the roads to contract adoption. As of November 2023, the Art Institute is the only Chicago cultural institution to have a union contract in place at their institution. At present, the Museum of Science and Industry, the Field Museum, the Chicago Academy of Sciences (Peggy Notebaert Nature Museum), and the Newberry Library are in various stages of unionizing, each with their own set of challenges and roadblocks. What these institutions have in common is that the roadblocks to unionization have stemmed from worker rights policies that place substantial burdens on union organizing.

Policymakers have recognized that change must occur to address these shortcomings, and since 2022 have introduced both national and state policy changes in response. At the national level, the "Protecting the Right to Organize Act" seeks to address many shortcomings in preventing unfair labor practices and other aspects of the Wagner Act. The Protecting the Right to Organize Act has passed the US House but has yet to be taken up by the Senate. In Illinois, protections for workers became

more robust in 2022 with the Workers' Rights Amendment to the state constitution (see below). While these policies represent the biggest labor rights reforms at both the national and state levels since 1974, it is important to address how these policies respond to the shortcomings of their predecessors and to identify their own limitations.

## **New Labor Policies**

At the end of 2022, Illinois Governor J.B. Pritzker issued a Proclamation of the passage of the Worker's Rights Amendment to the Illinois constitution, after Illinois voters supported the new amendment in a referendum. The amendment outlaws policies that would otherwise restrict peaceful organizing efforts by unions in Illinois. According to the Economic Policy Institute:

The Illinois Workers' Rights Amendment adds language to the state constitution affirming that "employees shall have the fundamental right to organize and to bargain collectively through representatives of their own choosing for the purpose of negotiating wages, hours, and working conditions, and to protect their economic welfare and safety at work." The new clause also specifies that "no law shall be passed that interferes with, negates, or diminishes the right of employees to organize and bargain collectively." (Scherer, 2023)

The text of the bill is only two paragraphs long and vaguely gestures towards employees (without specifying which) and codifying rights and bans to laws that are undefined. The amendment's vagueness speaks to its purpose of providing broad protections that can be interpreted to apply to a wide range of actions and laws. Simultaneously, the vagueness presents questions about the legality or future interpretations of the amendment, given that laws are supposed to provide notice about what acts are legal or illegal.

The Workers' Rights Amendment was introduced and ratified in response to possible threats from federal and state governments to repeal long-standing worker rights policies and to preclude the passage of "Right-to-Work" laws in Illinois.<sup>29</sup> Right-to-Work" laws already exist in many states with conservative-leaning legislatures; these laws prevent unions from negotiating agreements that require workers to join a union as a condition of employment in a company – agreements that sometimes are referred to as union security agreements. While there is no federal "Right-to-Work" law, there have been several attempts in Congress to introduce bills

that would enact such a policy, with the most recent bill being introduced in the Senate in early 2023.<sup>30</sup>

In “Right-to-Work” states, workers have a right to extract benefits from unions, such as legal representation for grievances, without paying dues. This legitimated free riding tends to cripple unions, that devote resources to employees who do not contribute funds for union operations. In other words, employees have the right to work at a job they are hired at and be protected by collective bargaining regardless of their affiliation with a union.<sup>31</sup> Dues paying under such circumstances is voluntary, while those who choose not to pay still reap union benefits; as a result, the incentive to join and support the union with dues diminishes.

“Right-to-Work” laws result in lower wages and reduced unionization rates. In states without “Right-to-Work” laws, often an employee would not be hired if they object to joining the union and paying dues.<sup>32</sup> “Right-to-Work” laws go beyond a ban on compulsory union membership, as such a nationwide ban is already in effect. If a worker were to object to joining a union in a workplace with a security agreement, then the employee would not have to pay full dues; rather, these employees would pay reduced rates designed to cover the costs directly associated with representation. Further, if an employee possessed certain principled objections to union membership, such as for religious reasons, then the money they would otherwise pay for dues would be donated to a nonreligious charitable organization.<sup>33</sup>

The Illinois Workers’ Rights Amendment also encompasses the protection of all workers’ rights, regardless of industry or occupation. The initial Wagner Act did carve out sectoral exceptions (hence the 1974 reforms repealing the exceptions for healthcare workers), leaving states the responsibility for deciding how much protection they wanted to offer unions in excepted sectors, but also prohibited supervisory employees and workers with temporary or independent contracts from joining unions or collectively bargaining. Explicit sectoral exceptions include workers in agriculture, domestic labor, and the public sector (the type of workers that AFSCME organizes), as well as supervisors and independent contract workers. The Illinois Workers’ Right Amendment eliminates these exceptions in the state of Illinois.<sup>34</sup>

The Illinois amendment cannot contravene or override federal law: it can add to worker protections as long as these additions are consistent with federal rules. If courts decide that some new collective bargaining options presented by the Workers’ Rights Amendment are pre-empted by the National Labor Relations Act, then those

options will not be legally available. The Amendment's vague language might inspire future litigation concerning its application to private sector employees, given the potential for federal pre-emption. The Wagner Act allows private sector employees the right to organize under a union, but the Workers' Rights Amendment would alter these rights to allow employees to bargain collectively with employers without using a union as an intermediary.<sup>35</sup> Whether this component of the Amendment expands union rights or restricts them (and therefore would be pre-empted by the Wagner Act) is a debate that has yet to be settled.

The new constitutional protections in Illinois do not address all the union-restricting limitations of the Wagner Act. For example, the amendment does not speak to employer captive audience meetings, override the Taft-Hearly restrictions on union demonstrations, nor directly affect the NLRB's enforcement powers and policies during union drives. Nevertheless, the Amendment generally is considered a victory by organizing workers, as their rights to collectively bargain with employers are now constitutionally protected in Illinois. The Illinois Workers' Rights Amendment should be celebrated by union supporters as providing a foundation for the development of more reforms.

The national Congressional docket now features bills that go further in addressing the limitations of the Wagner Act. The "Protecting the Right to Organize Act" of 2023 was submitted to the Senate in early 2023 and is currently, as of October 2023, in committee. The bill seeks to amend current federal labor law to offer more protections for workers' rights; the Senate bill currently has forty-seven cosponsors.<sup>36</sup> The potential federal reforms would pursue at the national level the goal that motivated the Illinois Workers' Rights Amendment: broadening the scope of union protections to supervisors and some independent contractors. Unlike the Workers' Rights Amendment, however, the Senate bill does not extend the Wagner Act protections to employees in all industries – exempt industries are untouched.<sup>37</sup> Nevertheless, the federal bill, should it become law, would pre-empt "Right-to-Work" laws nationwide, via a provision that requires all employees who extract benefits from a union to pay dues.

The federal bill also would repeal the Wagner Act's ban on secondary strikes and prohibit employers from bringing claims against unions that conduct secondary strikes. Secondary strikes (or "sympathy strikes") are strikes that workers in a union elect to conduct to show solidarity with a related industry or a cause they feel strongly about. Such work actions were initially prohibited because of Congressional fear of

economic instability, and their inclusion in section 8 enumerating unfair labor practices indicated a reflection of the sentiment that unions were coercive organizations that could indirectly pressure employers.<sup>38</sup> Under the proposed federal legislation, striking employees would also benefit from protections against replacements from permanently taking their jobs. The bill's new policies on strikes would represent a shift away from the notion that unions are coercive organizations, while expanding the freedom of speech for workers as well.

The Wagner Act does not prevent employers from disseminating union-critical information in mandatory meetings. These “captive-audience” meetings would be prohibited as an unfair labor practice under the new federal bill. Further, under current rules, workers waive their rights to bring class action suits against employers if the workers were represented by a union, but the proposed amendments would eliminate that waiver requirement.

Perhaps one of the most important provisions in this bill concerns the mild penalties that the NLRB is able to bring against companies that violate the law. Currently, the consequences to employers for breaking the laws enforced by the NLRB are quite small. If a company were to illegally fire an employee for unionizing, for example, the company would only be required to provide backpay: a tiny penalty relative to the thousands of dollars companies spend a year in anti-union consulting fees.<sup>39</sup> In addition, companies that have knowingly violated the law may be required to publish a public notice that they have violated the law, and promise not to do so again.<sup>40</sup> Intentionally violating unfair labor practices laws, therefore, can be highly effective at interrupting momentum, destroying morale, and ultimately scaring employees into voting against unionization, with only a very limited downside. These tactics are so effective and inconsequential to employers that in the U.S., employers are charged with violating federal law in 41.5% of union election campaigns.<sup>41</sup>

The federal bill seeks to better deter employers from breaking the law through harsher penalties. Under the proposed policies, penalties could reach up to \$50,000 for first-time offenses and up to \$100,000 for additional offenses. Employers would also have to compensate any financial damages an employee may incur (including back pay) on top of the fines. The bill provisions also provide a framework for the NLRB to secure injunctions and fines against employers who refuse to comply with their rulings. The new injunctive powers the amendments give the NLRB would significantly increase its authority in labor disputes.<sup>42</sup>

In brief, the Protecting the Right to Organize Act would provide workers with protections yet to be seen at the national level and will work to strengthen the Taft-Hartley union protection policies. The bill, if passed, would help secure the ability of employees to form unions if they want them, with little interference from employers.

While the Protecting the Right to Organize Act does reinforce worker rights, there remains room for further reforms to expand their reach. The Senate bill, for instance, does not address the exemption of some industries from the Wagner Act, which leaves thousands of agricultural, domestic, and public service laborers without federal rights to form a union. The proposed rules also do not eliminate the legal tactics that companies use to retaliate against unionizing workers. These workers could still be vulnerable to overloaded duties or harsh punishments for minor work rule infractions. While the increase in financial penalties would be a meaningful change, the \$100,000 maximum fine that the NLRB can impose on non-compliant employers might be too small for larger companies to be deterred from unfair labor practices. Unionization efforts are occurring in Amazon warehouses and Walmart stores across the country; these large companies make billions of dollars annually. Compared to those revenues, potential penalties up to \$100,000 may seem like a risk worth taking for a labor law violation that might help forestall unionization.

## **Wrap Up**

The labor landscape in the United States is evolving, with a significant increase in workers seeking representation through unions since the beginning of the COVID-19 pandemic. The surge in unionization efforts in various industries, including cultural institutions in Chicago, highlights the ongoing struggle for worker rights and the need for the reformation of existing labor policies that are ineffective at protecting workers during their unionization drives.

The Wagner Act of 1935 laid the foundation for protecting worker rights and enabling collective bargaining. Subsequent amendments, such as the Taft-Hartley provisions, born out of fear of the potential for unions to exploit workers and lead to racketeering, have proven incapable of providing sufficient protections to worker rights to bargain collectively. In particular, both the certification process and organizing efforts are unduly hindered. Current rules and their implementation harm independent grassroots worker movements attempting to unionize their workplaces, a scenario that has become more common since the COVID-19 pandemic.

The shortcomings of current worker rights policies include insufficient controls on employer union-busting tactics, the under-deterrence of employer retaliation against unionizing workers, and the often slow and cumbersome NLRB adjudication process. As unionization efforts develop in Chicago's cultural institutions, these theoretical shortcomings become quite concrete, affecting workers who take care of Chicago's most important cultural landmarks.

The ratification of the Illinois Workers' Rights Amendment to the state constitution and the introduction of the federal "Protecting the Right to Organize Act" represent the emerging sentiment among voters and policy makers in the US that the current laws require wide-reaching reforms. The Illinois Worker's Rights Amendment leads the way for the state to broaden the scope of protections for workers and guard against "Right-to-Work" laws. The amendment, however, does not redress all the shortcomings of existing collective bargaining rules, and its broad language may pose challenges for further policy reforms.

The "Protecting the Right to Organize Act" at the national level would grant workers in the entire country rights they have never seen before. The proposed changes aim to ban "Right-to-Work" laws, allow secondary strikes, enhance protections for striking employees, and provide harsher penalties for companies violating labor laws. Despite these positive steps for worker rights, challenges remain. Workers in industries exempt from the Wagner Act still lack the necessary rights to form unions, and internal company policies that retaliate against unionizing workers can persist. The financial penalties imposed on companies may not be sufficient to deter larger corporations with significant resources from being less-than-scrupulous in their anti-union activities. These new policies have the potential to significantly improve the bargaining power of employees, fostering an environment more conducive to organizing and unionizing for workers nationally.

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## CHAPTER FOUR

# To Tip or Not to Tip: Removing Chicago's Subminimum Wage

Aneesh Bafna

### Executive Summary

On Friday, October 6<sup>th</sup>, 2023, the Chicago City Council voted to phase out the subminimum (a.k.a. tipped) wage, the mechanism by which restaurants pay their tipped staff below the standard minimum wage.<sup>1</sup> Currently, Chicago businesses are allowed to pay tipped workers \$9.48 per hour, while the normal Chicago minimum wage is set at \$15.80 per hour.<sup>2</sup> The plan passed by the City Council institutes annual increases in tipped minimum wages until both minimum wages reach parity in 2028.<sup>3</sup> The effects on key parties are still uncertain, with stakeholders including restaurants, tipped workers, consumers, and the overall business community in Chicago both worried and hopeful about the historic change. This chapter will analyze the arguments presented in favor of and against the removal of the subminimum wage for tipped workers in Chicago to understand the real-world effects of this change. Additionally, the experience of Washington, DC informs the analysis: the tipped subminimum wage was recently eliminated in Washington, DC, so some of the effects of the policy change can already be glimpsed in that jurisdiction. Washington serves as a case study, allowing a comparison of the various theoretical arguments with DC experience.

### Background on the Subminimum Wage

The practice of tipping in the United States dates to the early 19th century.<sup>4</sup> While the origins of modern tipping lie in Europe, tipping was implemented in the U.S. by wealthy American travelers who imitated the European practice of giving small amounts of money to servants in exchange for good service.<sup>5</sup> In the post-Civil War U.S., tipping became intertwined with a race-based class system. Black men and women often worked for lower wages in tip-based roles. These workers, then, were expected to rely on tips from patrons rather than fixed wages to earn a living, an expectation that was meant to reinforce a sense of economic servitude.<sup>6</sup> In the early 20<sup>th</sup> century, tipping entered the U.S. mainstream, with restaurant and hotel owners

viewing the practice as a way to save money by shifting wait staff costs onto customers.<sup>7</sup> Legally, tipping was recognized and bolstered through the Fair Labor Standards Act of 1938 and 1966, which created distinctions between the minimum wages required for tipping and non-tipping hourly roles.<sup>8</sup> As a result, the idea and practice of two distinct minimum wages became normalized in the U.S.

The U.S. economic landscape evolved, and tipping gradually became expected, with social norms placing the onus of tipped workers' pay on the customer rather than the employer. In fact, the U.S. is the only country to have a separate minimum wage for tipped workers, reinforcing a tipping culture that is much stronger than in most other countries.<sup>9</sup> The predominance of tipping is not uncontroversial, with many consumers recognizing that it is expected, but at the same time being unhappy with the institution and the prevalence of tipping in society. The reasons for this discontent include consumer beliefs that higher wages for workers would be better than a tipping model; the relatively recent spread of pre-entered tip screens; and not knowing how much to tip or who ultimately receives the rendered tips.<sup>10</sup>

The creation of a separate, lower minimum wage for tipped workers has long been debated: viewed by some as unfair, unsafe for employees, and responsible for tilting employer/employee bargaining power in the direction of the employers.<sup>11</sup> These sorts of concerns have led California, Washington, Oregon, Nevada, Montana, Alaska, and Minnesota to adopt a uniform minimum wage, with no subminimum wage for tipped workers. Similarly, Washington D.C. is transitioning to a uniform minimum wage.<sup>12</sup> Chicago has recently joined the uniform minimum wage jurisdictions with the City Council's October 2023 vote, making Chicago the largest individual city in the U.S. to eliminate its subminimum wage.<sup>13</sup>

Before the Covid-19 pandemic, proposals for removing the tipped wage never gained sufficient enough traction to win approval in Chicago. With the onset of Covid-19, conditions such as less stable employment and increased confrontations between workers and customers resulted in an accelerated grassroots push to implement an equal minimum wage for tipped workers.<sup>14</sup> A prime example of the newfound momentum is the activity of *One Fair Wage*, an organization that boosted its efforts during the Covid-19 pandemic to remove the tipped minimum wage across different U.S. states.<sup>15</sup>

Pushing for the removal of the tipping wage is especially relevant due to how the restaurant industry has changed as a result of Covid-related shutdowns. During these closures, many tipped wage workers did not receive unemployment benefits, in

part because their wages were too low to qualify.<sup>16</sup> Additionally, restaurant staff often find themselves in a state of employment limbo. Job security for waitstaff has been compromised by the continued popularity of delivery and takeout options. The hardships and stresses of waiting jobs have been compounded by an increase in verbal and sexual harassment from customers post-pandemic; with the need to make an income via tips, responding appropriately is made more difficult.<sup>17</sup> The strains in tipped-based jobs, in combination with progressive results from the 2023 Chicago mayoral election, have helped to bring about the *One Fair Wage Ordinance* which will mark the end of the subminimum wage in Chicago.<sup>18</sup>

### **Case Study: Washington D.C.**

Prior to the approval of the universal minimum wage law in Chicago, Washington D.C. was the largest city in the U.S. with a uniform minimum wage law. Many of the arguments proffered in the lead-up to the legislation eliminating subminimum wages were common to both cities. Simultaneously, the differences between Washington D.C. and Chicago help to highlight the relevance of the arguments used in the different locales. The fact that Washington D.C. moved earlier to a uniform minimum wage can also bring its experience to bear on the prospects for Chicago's reform.

In Washington D.C., the 2022 ballot proposal, known as Initiative 82, is responsible for creating a path to an equal minimum wage for tipped workers. The passage of Initiative 82 led to a process whereby the current subminimum wage will be gradually increased until it equals D.C.'s regular minimum wage in 2027. At that point, tipped workers will be subject to the same minimum wage that is required for non-tipped employees. As the proposal was a ballot measure, the proposal's fate was left up to Washington D.C. voters, who endorsed it by the significant margin of 74% to 26%.

The 2022 vote marked the second occasion for a subminimum wage initiative in D.C. In 2018, the voters of the city passed a similar initiative by the slimmer margin of 55% to 45%, but the measure was rejected, in the face of considerable restaurant industry lobbying, by the Washington D.C. City Council. With the lopsided 2022 vote, the support for paying an equivalent minimum wage was too strong for Council members to vote against it without incurring a substantial re-election risk. Nonetheless, the issue remained contentious in 2022, especially among those who were directly affected by its passage. Restaurant owners were concerned about how

the labor cost increases and potential price increases would affect their businesses. Additionally, some tipped employees were concerned that the minimum wage unification would result in lower tips, potentially outweighing the wage increase in terms of their overall compensation.<sup>19</sup> The broader D.C. community was likewise concerned, generally viewing the unified wage as promoting fairness but also nervous about higher prices at restaurants. We will see that parallel arguments were raised in Chicago.

In both the Chicago and Washington D.C. contexts, tip wage theft is a prevalent issue for tipped workers. This form of wage theft occurs when employers fail to ensure that their employees receive the full amount of tips rendered, or manipulate tip-related income to decrease overall compensation to less than the legally mandated minimum wage. Employers sometimes engage in practices such as misreporting or withholding tips, requisitioning employees' gratuities, or forcing workers to share tips with non-tipped staff. Such actions can result in tipped workers receiving less than the minimum wage after factoring in their tips, violating labor laws. These common abuses within the tipping system provided the basis for arguments supporting the abolition of subminimum wages in both Washington D.C. and Chicago: reducing worker reliance on tips combats the negative effects of wage theft on workers. In this sense, shortcomings in enforcement of current rules around tipping became reasons to reduce the role of tipping by eliminating subminimum wages.

In both Chicago and Washington D.C., the risk of restaurants closing due to subminimum wage increases was a significant concern often raised by opponents of eliminating the subminimum wage, especially restaurant groups. Labor costs comprise a substantial portion of restaurant expenses, and with many employees being tipped workers, minimum wage unification would involve higher direct pay for a large portion of restaurant staff. Small or independent dining establishments with thin profit margins might be particularly impacted, with higher official wages potentially undermining their financial viability. Restaurants that can absorb the higher labor costs might still face tough decisions, including reducing staff numbers or work hours. Some experts, however, argue that the effect of minimum wage increases on restaurant closures might not be as dire as feared, pointing to other factors such as increased consumer purchasing power due to higher wages and potential savings from reduced employee turnover.



One argument in the subminimum wage debate that is rooted in the history and morality of the tipped minimum wage is related to how the tipping practice is intertwined with racial discrimination in the United States. Dating back to the post-Civil War era, the subminimum wage for tipped workers was established to avoid paying formerly enslaved people fairly for their work. At the time, this subminimum wage, intended for occupations where freed slaves were predominantly employed, was deliberately set lower to allow business owners to profit while perpetuating economic oppression.<sup>20</sup> This practice not only sustained racial inequities but also cemented the reliance on tips, shifting the burden of fair compensation from employers to customers. The legacy of this system has preserved inequalities, disproportionately affecting people of color who make up a significant portion of the service industry workforce. Many proponents of minimum wage unification in both Washington D.C. and Chicago make the argument that maintaining this legacy of racial oppression harms those currently employed in the industry and that subminimum wages should be scrapped altogether.

The last major argument that holds relevance in subminimum wage debates is the concept of “border wards.” Border wards come up in both Chicago and Washington D.C. The argument here is essentially that restaurants located in wards (city political districts) on the outskirts of Chicago will be put at a disadvantage because they compete with restaurants in the suburbs, which are not required to pay the full minimum wage. The fear is that customers will start dining out in the nearby suburban restaurants and that Chicago restaurants will themselves relocate to the nearby suburbs to take advantage of the legal differences between the two jurisdictions. Based on the proximity and ease of access between Chicago and Washington D.C. to their surrounding areas, the border wards argument presents a serious concern for both cities.

## **Arguments For and Against the Removal of the Subminimum Wage**

### *Tipped Worker Wage Insecurity*

A major argument used by proponents of the removal of the tipped wage is that separate tipped minimum wages result in more financial insecurity for tipped workers.<sup>21</sup> The logic is that due to tipped workers having a separate lower minimum wage, they have less security in how much they take home at the end of the day, leading to more stress and poverty as well.<sup>22</sup> Pay insecurity especially plays a role in regards to young women, who are often the primary employees in tipped wage roles.<sup>23</sup>

Looking specifically at young, prenatal women, Andrea et al. shows that increases in the subminimum wage resulted in reductions in negative birth outcomes, as well as reductions in stressors among women employed in subminimum wage work.<sup>24</sup> That is, increases in the subminimum wage seem to reduce poverty-related stress for expectant mothers.<sup>25</sup> Andrea et al., then, suggests that bringing the subminimum wage to parity with the overall minimum wage would have measurable positive effects on stress-related factors among tipped wage workers.

### *Restaurant Operations and Consumer Activity*

One of the most common arguments against increases in the tipped minimum wage comes from restaurant owners and management who argue that such increases will result in them being forced to either shut down due to a lack of financial viability, or to raise menu prices and thus drive away customers. While this argument is surely sensible – higher costs can lead to both lower profits and fewer customers – in practice the size of the overall restaurant industry does not seem to change with variations in the subminimum wage.<sup>26</sup> Lynn and Boone find that, while increases in subminimum wages and minimum wages do lead to higher wage bills at full-service restaurants, the number of these restaurants does not decline.<sup>27</sup> Much of the evidence, however, is drawn from relatively small changes in minimum statutory wages: larger and larger hikes in minimum wages would be more likely to eventually alter restaurant employment and the number of establishments.<sup>28</sup>

### *Tipping Discrimination by Race and Sex*

One of the arguments which supporters of a tipped wage often use is that tipping reflects quality service and promotes such service, but this incentive-based argument is often not borne out in practice. Studies show that a portion of tipped workers' take-home pay is determined by discrimination on the part of the consumer.<sup>29</sup> This implicit and potentially explicit discrimination has been found to be based on factors such as race, sex, and the physical appearance of a server.<sup>30</sup> While studies on employer-based discrimination toward employees are plentiful, the literature on how consumer biases manifest themselves in the take-home pay of tipped staff is less common. Still, it is an important aspect for understanding the factors that determine overall worker compensation. For example, researchers have found that white workers receive more tips than Black workers after controlling for factors such as service quality and restaurant atmosphere.<sup>31</sup> The same disparity can be

found when looking at the attractiveness of tipped workers. Customers outside of several restaurants were asked to fill out a survey about the amount of the bill and tip, characteristics of the dining experience, and server and own demographics.<sup>32</sup> Even after controlling for factors such as dining experience and the cost of the bill, the more attractive servers earned more in tips by nearly 1.5 percentage points.<sup>33</sup> Such studies show that factors unrelated to service quality often determine the amount of tips a worker receives. Given this data, proponents of doing away with the tipped minimum wage often note the lack of agency for some tipped workers, making the case that tipped staff should be paid fairly, irrespective of non-service factors.

### *Worker Safety and Sexual Harassment*

Another key argument in favor of removing the subminimum wage is to reduce sexual harassment and other threats to worker safety faced by tipped staff, as well as increase the ability for workers to advocate for themselves. Covid-19 raised the stakes and prevalence of these threats: workers routinely receive less in tips when they enforce Covid-19 safety precautions when interacting with customers.<sup>34</sup> The fact that tipped staff have to decide between earning a livable wage and enforcing safety policies results in many workers understandably opting for the former, increasing their level of exposure and risk.<sup>35</sup> While Covid-19 related safety issues are new, cases of sexual harassment on the part of customers are not, and over the course of the Covid-19 pandemic, cases of sexual harassment have increased.<sup>36</sup> With the pandemic, there has been a surprising number of customers asking waitstaff to remove their masks so that the customers can better judge their looks.<sup>37</sup> While workers should be able to respond and retaliate appropriately to suggestive comments and actions by customers, waitstaff have reported a reluctance to do so, given their reliance on tips for their incomes and livelihoods.<sup>38</sup>

These sorts of distressing personal dynamics are reflected in surveys of how waitstaff are treated by customers, how waitstaff actions affect their tips, and how deciding to appease or not to appease an inappropriate customer can affect tips.<sup>39</sup> Removing the subminimum wage would help workers to advocate for themselves in the wake of bad customer behavior. The subminimum wage and the enhanced reliance on tips for compensation empowers customers and disempowers servers, undermining the wellbeing of waitstaff.

### *Wage Effects on Fringe Benefits*

One argument often deployed against increasing the subminimum wage for tipped workers is that while monetary wages will increase, overall compensation might stay the same or even fall as employers respond by cutting fringe benefits. This argument is a specific instance of the broader argument that mandating certain employee benefits or pay increases will crowd out benefits that are not required of employers. While there is not much research on how an increase in the tipped wage impacts fringe benefits, Simon and Kaestner examine the effects on fringe benefits of increases in the regular minimum wage and sick pay mandates. Increases in the minimum wage appear to have negligible effects on non-wage forms of compensation.<sup>40</sup> For instance, researchers found that there are no significant changes in health benefits after increases in minimum wages were implemented.<sup>41</sup> Similarly, another study finds that when mandatory sick pay benefits are implemented they are not accompanied by a crowding out of non-mandated benefits.<sup>42</sup> While traditional economics suggests that in perfectly competitive situations, mandatory increases in pay will be offset by decreases in non-monetary compensation, the existing empirical evidence shows that the changes in non-monetary pay are insignificant.

### *Interpersonal Restaurant Dynamics – Tip Skimming*

Wage theft is a relatively common problem in restaurants, with establishments often trying to cut corners to save money in an industry that is very competitive.<sup>43</sup> Wage theft costs U.S. workers approximately \$50bn per year in lost wages, with over 80% of restaurants violating wage and hour laws in some form.<sup>44</sup> Tip skimming, along with improperly recorded hours and overtime, is one of the most common ways in which workers experience wage theft.<sup>45</sup> Tip skimming is the practice of taking a portion of worker tips and distributing them to non-tipped workers. While the practice is illegal, as tips can only go towards hourly, tipped employees, there have been numerous cases of restaurants either adding managers to the tip pool or taking a percentage of tips to pay other restaurant costs.<sup>46</sup> While there have been some notable instances of workers suing their employers for their tips – and winning – many of these industry practices go unreported. Employees might fear possible employer retaliation, not know their rights, or not possess solid evidence of the illegal practices.<sup>47</sup>

Another form of wage theft that occurs for tipped workers is underpaying. While the subminimum wage law allows businesses to pay tipped workers less than

the standard minimum wage, the employers must still ensure that tipped workers' income from wage and tips reaches or exceeds the minimum wage. Nonetheless, a recent report found that in Washington D.C., only 35% of businesses tracked tips in order to ensure their tipped workers earned at least the regular minimum wage after factoring in tips.<sup>48</sup> While it is unclear whether raising the tipped minimum wage would change the behavior of restaurants, a uniform minimum wage would shift workers' wages into a more consistent income stream, ensure workers are taking home at least the minimum wage, and limit opportunities for wage theft in the restaurant industry by reducing the importance of tips.<sup>49</sup>

### *Restaurant Relocation Risk*

One of the major points of contention that came up with the passage of the *One Fair Wage Ordinance* in Chicago is the idea that border wards would face declining numbers of diners and restaurants. The fear is that restaurants and their customers would flee to the proximate suburbs, where subminimum wages would remain legal.<sup>50</sup> The concern is understandable: restaurants that do not have to pay above the subminimum should be able to control labor costs more effectively than those restaurants that must pay higher wages. At the same time, however, the data suggest that the fear of relocation is misplaced.<sup>51</sup> Luca and Luca find that changes in the minimum wage in a city do not have a meaningful impact on restaurants shutting down.<sup>52</sup> While it seems that when stratified by restaurant rating, the lower rated restaurants may be more likely to exit, this correlation is weak and statistically indistinguishable from zero.<sup>53</sup> While more research is needed, the Luca and Luca results somewhat weaken the prevalent argument presented in the Chicago context, where many "border ward" aldermen were concerned about the economic impact of the *One Fair Wage Ordinance* on their districts.

The "border" argument, quite prominent in Chicago, exists in the Washington D.C. context, too, but it has not been a point of focus, even though both Chicago and Washington D.C. are cities with immediate access to the surrounding suburbs with commercial districts. One would expect that border concerns would serve as a major argument in Washington D.C. for those opposing the elimination of the subminimum wage, but this turned out not to be the case – perhaps due to a capitulation to the popular will. The border ward argument in Chicago was largely promoted by individual aldermen of those boundary wards, rather than by other groups opposed to the change. In Washington D.C., alternatively, 2022 marked the second time the city

voted to remove the subminimum wage, and while the council repealed the first initiative, the overwhelming popular support for it the second time around meant that it became politically imprudent to oppose the public sentiment.

Further, border wards are themselves a larger presence in Chicago than in Washington. In Chicago, each of the 50 aldermen are representatives of particular wards, with their duty being dedicated to the interests of their specific areas. In Washington D.C., eight of the 13 council members represent a specific city district. That is, many more local politicians represent Chicago border areas than those who represent D.C. border areas. The notion of a “border ward” has more public and political resonance in Chicago than in Washington, D.C. One manifestation of this enhanced resonance is that concerns with border wards is a more compelling argument against implementing a uniform minimum wage in Chicago.

## **Conclusion**

The Chicago City Council's historic decision to phase out the subminimum wage for tipped workers marks a transformative moment in minimum wage history, as well as for Chicago's relationship to worker rights. This action positions Chicago among a growing number of jurisdictions questioning the value of – and doing away with – the dual minimum wage system.

The arguments surrounding the removal of the subminimum wage reveal reasonable concerns on the part of both proponents and opponents of the policy. While opponents of removing the subminimum wage are concerned with the health of the restaurant business in Chicago, it seems that other jurisdictions that have pursued tipped wage increases have remained strong in terms of restaurant activity. On the other side, instituting a unified minimum wage seems to bring the benefits of increasing tipped worker physical, emotional, and financial security by rebalancing the power dynamic in service situations to be less skewed towards customers. Chicago's commitment to equalizing minimum wages aligns with the changing societal preferences for fairer compensation and more equitable treatment for all workers, irrespective of their roles. By scrutinizing the historical context of tipping in the United States, the dismantling the subminimum wage system appears to be more than just another policy tweak, but rather a step towards rectifying the entrenched racial and economic inequities that have persistently plagued the service industry.

Drawing insights from the Washington D.C. case study enriches our understanding of the potential consequences and benefits associated with this meaningful policy shift. While apprehensions about restaurant closures and economic challenges were voiced, the growing empirical data provide reassurance. The lack of a significant correlation between minimum wage increases and restaurant closures challenges the narrative that equalizing wages would jeopardize the economic viability of the restaurant industry. This observation offers a practical counterpoint to the concerns raised by opponents of the subminimum wage removal.

Arguments in favor of eliminating the subminimum wage highlight pervasive issues like wage theft, discriminatory tipping practices, and compromised worker safety. These concerns are further amplified by the disruptions caused by the Covid-19 pandemic. The decision to equalize the minimum wage not only addresses these pressing issues but also demonstrates a commitment to the overall well-being of tipped workers. The potential positive impacts on mental and physical health, too, identified in empirical studies, provide a compelling rationale for the policy transformation.

Further, restaurant relocations to suburbs, driven by increased labor costs, is a potential effect worth keeping an eye on; nonetheless, this prospect should be weighed against the potential benefits for workers that may come with the removal of the subminimum wage. So far, there is little evidence that such induced relocations are significant. Overall, the potential benefits seem sufficiently weighty, and the costs sufficiently contained, that removing the subminimum wage is a positive policy development.

As Chicago embarks on this path of change, it becomes imperative to closely monitor and assess the longer-term, real-world impacts. The city's experience, even any unforeseen disadvantages that reveal themselves later, will serve as a valuable guide for other jurisdictions contemplating similar reforms. In dismantling the subminimum wage, Chicago cannot only rectify some historical injustices, but also set a precedent for fostering a more just, equitable, and humane work environment within the service industry.

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<sup>47</sup> Kronenberg, “Tip of the Iceberg: Tip Skimming Is an Underreported Problem.”

<sup>48</sup> Moyer, “D.C. Voters Approve Higher Minimum Wage for Tipped Workers.”

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## CHAPTER FIVE

# Bilingual Education Policies in Chicago Public Schools

Hira Baig

### Introduction

Educational institutions in Chicago enjoy a history of embracing a mosaic of cultures, languages, and heritages. The city has long been a hub of migration and global connectivity, reflected in its language pool. Chicago students' home lives feature more than 180 distinct languages, underscoring a growing educational need as the population became less homogenous.<sup>1</sup> Consequently, the institutions of Chicago face a multifaceted quandary: how to educate such a diverse population, a substantial contingent of whom are English language learners? The proposed solution to the quandary has been the introduction of “bilingual education” in schools.

“Bilingual education” in Chicago Public Schools (CPS) is defined as a “program of instruction designed to promote meaningful access to core content through Transitional Bilingual Education, Transitional Programs of Instruction, or Dual Language Education. English Learners are provided with tools, resources, and program structures to ensure that students are fully engaged in rigorous instruction preparing them for college, career, and life.”<sup>2</sup> The CPS definition of “English Learner” (EL) is a student “whose home language background is a language other than English and whose proficiency in speaking, reading, writing, or understanding English may be insufficient” as determined by assessments or general performance.<sup>3</sup> The availability of bilingual education services is required for every student in CPS, from kindergarten through the end of high school.<sup>4</sup>

This chapter will scrutinize the policies linked to bilingual education at Chicago Public Schools, including their historical evolution, contemporary implementation and efficacy, and their implications for the city's educational landscape. More specifically, I investigate the historical foundation of the CPS bilingual education programs, their current implementation, and the unforeseen/unaccounted for problems. The analysis confronts the persistent difficulties and disparities within the system, along with the proposed “gold-standard” of CPS bilingual education programs: dual-language schooling.<sup>5</sup> The goal is to understand the problems in hopes of remedying and improving bilingual education in Chicago – with the ultimate aim of ensuring that English Learner students are given the best

chance to succeed in an English-speaking Chicago while preserving their own cultural heritage.

### **Historical Policies and Motivations Shaping CPS Bilingual Education**

Chicago has continued to grow more diverse and over time, the policies related to bilingual education have adjusted to meet the unique requirements of students representing varied linguistic backgrounds. The first notable federal measure is the Bilingual Education Act of 1968, which played a crucial role in providing financial support for bilingual programs, describing such programs as “new and imaginative elementary and secondary school programs” “designed to meet the special educational needs of children of limited English-speaking ability.”<sup>6</sup> The next notable federal development was the adoption of the Lau Remedies in 1975, emphasizing the *equitable access* to education for students with limited English proficiency.<sup>7</sup> Following an investigation concluding that most schools were failing to meet the needs of their English-learner students, the remedies provided specific policy guidelines for the education of this population. In the wake of the landmark 1974 Supreme Court decision in *Lau v. Nichols* (which found language barriers to educational access to conflict with civil rights), these remedies translated legal obligations into pedagogical directives, specifying the appropriate methods to distinguish whether a student is an English-learner, and creating standards for the types of programs that must be provided for them.<sup>8</sup>

In 1968, Lafayette Elementary School was the first CPS facility to open a bilingual program. By 1973, “more than 12,000 preschool through high-school children were enrolled in 64 bilingual programs serving Spanish, Arabic, Cantonese, Greek, and Italian-speaking students” in the city.<sup>9</sup> By 1980 there were 183 schools providing bilingual programs, serving 28,337 students in 19 different languages.<sup>10</sup> The top five language groups included Spanish, Polish, Korean, Vietnamese, and Assyrian.

A major milestone in the evolution of bilingual education policies within CPS is the 1990 establishment of the Office of Language and Cultural Education (OLCE), the committee that continues to oversee Chicago Public Schools’ bilingual education programs today.<sup>11</sup> This move centralized Chicago bilingual programs, with the goal of providing equitable educational opportunities for all limited-English-proficient (LEP) students. At the OLCE’s inception, 44,955 students in Chicago were identified as needing bilingual education; in autumn 2023, this population now numbers 70,400, or 22% of all students.<sup>12 13</sup>

## **The 2016 Bilingual Education Policy in Chicago Public Schools**

The CPS Bilingual Education Policy attempts to “ensure that students in Pre-Kindergarten through grade 12 whose home language is not English have equity in education and language acquisition opportunities” and “recognizes bilingualism as a desirable goal and a reflection of cultural heritage.”<sup>14</sup> Chicago Public School policy provides three options for the bilingual program, at least one of which each CPS school is required (by Illinois State law) to implement.<sup>15</sup>

CPS’s three bilingual program models are: Transitional Bilingual Education (TBE), Transitional Program of Instruction (TPI), and Dual Language Education (DLE).<sup>16</sup> Every traditional CPS school is required to have either a TBE or a TPI program (Article 14C of the Illinois School Code).<sup>17</sup> The choice of program hinges on the number of ELs in a given school/institution, with TBE accommodating schools with 20 or more ELs sharing the same language classification, and TPI servicing schools where the number of ELs in a single language classification falls below 20.<sup>12</sup> TBE requires that English Learner students be taught core subject areas (Language Arts, Social Science, Science, and Math) in their native language. Alternatively, TPI only requires that core subject areas be modified for the English-learner’s English proficiency level: no native language instruction is required. Aside from this key distinction, TPI and TBE are similar: they both require English as a Second Language (ESL) guidance along with introduction to US history and culture classes.

Dual-Language Education (DLE) is an option, not a requirement, for CPS schools: currently there are three dual-language high schools and 36 DLE elementary schools.<sup>18</sup> The DLE program endeavors to cultivate bilingualism and biliteracy among all students (English learners and English-proficient students) by imparting instruction in both English and another language. As of autumn 2023, all 39 dual-language schools focus on the goal of biliteracy in English and Spanish.

The rollout of TPI and TBE programs is governed by procedural protocols. For instance, before a new student (of any grade) enrolls, the student is mandated to complete a Home Language Survey. If the results of this survey indicate that the student speaks or is exposed to a language other than English at home, the student must be assessed on his/her proficiency in the English language. Furthermore, the eligibility and placement of transfer students is based upon their previous evaluation results (if they exist) or the application of state-prescribed screening tools. Discretion is also extended to parents and guardians, permitting them to request their child's inclusion in bilingual education services should the initial assessment not categorize the child as an English Learner.<sup>19</sup>

The policy also details how to monitor student progress and implement transitions out of the program. ELs take annual assessments designed to gauge their progress in listening, speaking, reading, and writing. ELs are deemed eligible to transition out of bilingual education programs once they attain the prescribed level of proficiency in the English language. Transition does not end the scrutiny of the language capabilities of transitioned students. If academic indicators point to a requirement for continued assistance, students can be reintegrated into bilingual education services.<sup>20</sup>

Supervising the bilingual education policy involves a cooperation between the CPS Office of Language and Cultural Education (OLCE) and the Department of Internal Audit and Compliance. Together, these systems monitor the operation of CPS language policy, and its alignment with federal and state regulations. OLCE provides technical guidance and assistance to educational institutions concerning policy, facilitating the execution of services related to bilingual education. Additionally, it aims to extend advice to schools regarding the acquisition of support services from various CPS divisions, to enhance the resources available for ELs. Periodic assessments are carried out to evaluate policy implementation, encompassing the tracking of individual petitions for non-enrollment and disengagement from bilingual education services by parents and guardians. This cooperative monitoring framework aims to secure compliance with the policy and aid in pinpointing areas where supplementary assistance or adjustments may be needed.<sup>21</sup>

The funding for the CPS Bilingual Education Policy comes from a composite of federal, state, and local resources. On a federal scale, Title III of the Elementary and Secondary Education Act (ESEA) extends monetary backing to institutions catering to English learners, aiding the execution of bilingual education initiatives.<sup>22</sup> Furthermore, CPS secures state funding tailored to enhance their endeavors in bilingual education.<sup>23</sup> These monetary provisions play a pivotal part in delivering essential resources, competent personnel, and educational materials aimed at meeting the diverse linguistic requisites of students. Notwithstanding the availability of these fiscal channels, the CPS bilingual policy frequently encounters funding shortcomings, some traceable to inequities in the distribution of resources. The funding that schools are supposed to receive doesn't reliably reach schools situated in economically disadvantaged regions – while their more prosperous counterparts are able to access resources.<sup>24</sup> Furthermore, the presence of educators who are appropriately qualified according to the policy is not guaranteed, resulting in increased class sizes and a reduction in the quality of the programs in some areas.<sup>25</sup> These imbalances are crucial to address to guarantee that all ESL students in Chicago can access an equitable educational



experience, aligning the commitment to bilingual education with commensurate financial support.

The bilingual education policy embedded in Chicago Public Schools encapsulates a multiplicity of program models calibrated to address the diverse linguistic needs of students. While the aims of CPS language policy are laudable, tackling inequalities in accessibility and quality emerges as a prerequisite for creating an equitable educational environment for all students across the city. The worthy aims of CPS language policy might not all be achieved in practice.

### **The Challenges for Bilingual Education in CPS: Theory Versus Practice**

The previous section outlined the design of CPS's bilingual education policy. The implementation of the policy, however, sometimes fall short of achieving its intended aims. Here, focusing on the transitional TBE and TPI programs, I examine five continuing challenges to CPS in successfully implementing its bilingual policies.

#### *Outcomes for students: bilingual students falling behind*

Transitional bilingual programs often have questionable effectiveness — particularly related to their capacity to support students in transitioning from their native language to English in preparation for full-time English instruction. That is not to say that bilingual education is a futile endeavor; when programs run as intended, they can have measurable positive effects on test scores, for instance. In December 2019, the UChicago Consortium on School Research determined that “more than one-half of students who began as ELs passed the ACCESS proficiency exam and became former ELs by third grade, and three-fourths passed the exam by the end of fifth grade.”<sup>26</sup>

High performance on the ACCESS test, however, may or may not translate into student success more generally. Consider the case of Christopher, an eighth grader at John Spry Elementary, as related in a 2020 WBEZ interview. Christopher has not received language support in his native language since passing English proficiency tests in the fourth grade. Despite his exam-certified English-proficiency, some years later, the then 14-year-old Christopher still struggled to understand his English-speaking teachers. Christopher's mother highlighted the frustration experienced throughout their journey; she noted that after he passed the test in the fourth grade, “nobody will speak to him in Spanish anymore.”<sup>27</sup>

Christopher's story mirrors more general concerns about the system's ability to cater adequately to individual student needs, potentially perpetuating an educational deficit. The policy focus on overall program structure and clear criteria for entrance/exit creates gray

zones where students like Christopher don't receive the support they need. In 2012, Julia Gwynne, from the University of Chicago Consortium on School Research, found that "long-term bilingual students are more likely to fall behind their peers in high school," further stating that such students "have the lowest course grades, highest number of course failures, the highest number of absences, and the lowest on-track rates."<sup>28</sup> These adverse results can be attributed to a whole host of factors, including inadequate teacher preparation and unsuitable transition timelines for students.

One curious, pertinent fact comes from a 2019 report by the University of Chicago Consortium on School Research: the Consortium found that in term of academic growth, EL's and non-EL's perform remarkably similarly before the 9<sup>th</sup> grade.<sup>29</sup> Yet, about one-fifth of students beginning as EL's never reach the point of transitioning out of the EL classroom.<sup>30</sup> When they do manage to transfer out (as in Christopher's case), support and tracking for students ends. That is, once students are deemed "English-proficient," they are considered marks of success and not evaluated again.<sup>31</sup> The goal of bilingual education is to transition students into success in standard class settings; thus, gauging the effectiveness of the programs requires that former-EL's be monitored after they exit from bilingual classes.

### *The demographic needs of Chicago's EL population*

The circumstances of the English-language learning students – particularly regarding the stability of their living situations – complicates the delivery of the intended high-quality bilingual education. CPS accommodates students from a wide variety of backgrounds, including many recent immigrants who are still unsettled in Chicago. These young newcomers often subsist in very difficult circumstances, sometimes lacking essentials such as clothing, healthcare, and housing. In this context, overcrowded classrooms, a shortage of qualified bilingual instructors, and restricted access to essential socio-emotional support services compound the educational difficulties faced by these students.

At this moment (autumn 2023), Chicago is in the midst of a significant influx of migrants who recently entered the US by crossing the Mexico-Texas border: the number of such migrants exceeds 18,500 since 2022.<sup>32</sup> Many of the children among these migrants live in crowded apartment buildings, with ill-fitting clothing and inadequate medical care.<sup>33</sup>

As the number of recent migrants in Chicago continues to grow, the pressing need to address their educational requirements becomes increasingly apparent. Baltazar Enriquez, the president of the Little Village Community Council, reflects on his personal experiences, highlighting the challenge of helping these newcomers establish a sense of home – a challenge made poignant by a simple question from a toddler he encountered when

distributing food to migrants at a downtown train station: “Mommy, are we home?”<sup>34</sup> Enriquez explains that this problem of housing instability must be addressed if CPS is to be successful in its transitional bilingual programs. Gabriel Paez, a CPS bilingual coordinator, has emphasized that students in CPS also face impediments when seeking essential medical and psychological support. Educators also frequently point other student challenges, with one stating that “the children are in clothes that are too small and shoes that are too big,” and underscore the necessity for resources beyond the purview of conventional academics.<sup>35</sup> Students are legally entitled to transportation services (even if they move) for the school year they enroll in – but lengthy and confusing commute times and instability threaten the feasibility of regular school attendance.<sup>36</sup>

English learners (ELs) grapple with the insufficiency of the current support mechanisms. Substantial efforts have been taken to fortify student well-being, including a budgetary infusion for 630 new social workers and a \$13 million increase in funding for social workers, nurses, and case managers. Nevertheless, needs still outstrip resources, especially for ELs.<sup>37</sup> Only one social worker in the whole CPS district is equipped with bilingual or English as a Second Language (ESL) credentials. Although CPS education policy does not directly comment on the need for such support staff, the lack of consideration for such needs can result in EL students never even enrolling in school: an August 2023 incident at CPS’s Emmet Till Math and Science Academy involved the turning away of eight students due to lack of bilingual support staff.<sup>38</sup> Furthermore, while the school district has made considerable strides in broadening the responsibilities of counselors and case managers, only 5% of over 800 counselors and 28% of about 250 case managers boast bilingual or ESL endorsements.<sup>39</sup> This scarcity of bilingual support staff, even considering augmented funding, brings into question the depth of the district's commitment to tending to the distinct needs of English learners. Linguistic and cultural assistance needs to be augmented in CPS, if ELs are to avoid marginalization.

#### *Teacher deficits and instructor preparation*

CPS possesses inadequate numbers of certified bilingual instructors. An analysis conducted by Chalkbeat Chicago shows a steady decline in qualified professionals in recent years: a decline of 23% in certified bilingual instructors within CPS from 2015 to 2023.<sup>40</sup> This decrease in qualified educators is particularly detrimental when considering the escalating numbers of students requiring language assistance. There are currently (autumn 2023) over 77,000 students categorized as English learners in the district, representing a 5400-student increase over the 2022-23 school year.<sup>41</sup> Gabriel Paez, who serves as a bilingual

coordinator at an elementary school in Humboldt Park and holds the position of chair for the Chicago Teachers Union Bilingual Education Committee, emphasizes the “need to accord [this situation] the urgency it merits.”<sup>42</sup> This sentiment resonates with the apprehensions voiced by educators, who regularly emphasize the necessity for more certified bilingual instructors within CPS. Those bilingual instructors who are on-staff frequently cite a lack of funds and resources as a significant hindrance to successfully undertaking their jobs.<sup>43</sup>

This shortfall of bilingual educators is well-documented. The 2017 Chicago Reporter report found that at least 24 of the 342 schools they audited “that were required to have bilingual teachers had none.”<sup>44</sup> They also noted that across the city, “at least 100 bilingual and ESL teaching positions remain open at the end of each school year.”<sup>45</sup> Of the bilingual teachers who do exist, 1/3 of them are substitutes.<sup>46</sup>

In Illinois, there has been a significant disparity in the passing rates of the basic skills test required for bilingual teaching licensure: the test includes a mathematics portion which would not appear to be relevant for many teachers. Latino teaching candidates are among those who often struggle to pass the test. (Many of these candidates themselves learned English as a second language, putting them at a disadvantage on standardized exams.) The shortage of bilingual teachers is further exacerbated by the additional coursework and costs that non-credentialed teachers have to undertake, even though the school district subsidizes a portion of the expenses.

Many educators find the prospect of working as bilingual teachers unattractive due to the increased workload and responsibilities without corresponding financial incentives or adequate support. In 2017, the bilingual education coordinator at Benito Juárez Community Academy in Pilsen acknowledged that schools are constrained by their hiring options, which has resulted in limited offerings for their bilingual programs. (Benito Juárez Community Academy is a school that was flagged by CPS for having too few bilingual educators). In response to this challenge, 15 Juárez teachers volunteered to undertake additional coursework to obtain the necessary credentials.<sup>47</sup> This situation highlights a problem that continues into 2023; without the necessary support for teachers, creating the workforce necessary to address the needs of Chicago’s many English Learners is a difficult task.

### *Budgetary issues*

For over a decade, state lawmakers have consistently underfunded bilingual education. Funding levels have remained relatively stagnant in recent years, while the increasing population of English learners has resulted in a diminishing allocation per student. In 2017

the state's reimbursement to schools amounted to less than 60 cents for every dollar spent on bilingual education.<sup>48</sup> This lack of funds within Chicago Public Schools' (CPS) bilingual education system raises thorny questions. Teachers in CPS's bilingual programs consistently request additional funding "to hire more teachers and provide current teachers with support to obtain a certificate in bilingual education," in the face of ongoing claims that CPS desperately lacks qualified professionals.<sup>49</sup> Yet around six percent of bilingual education positions remain unfilled, even though they are funded within the budget (due to lack of proper training, and the low salaries of such positions, etc.).<sup>50</sup> Furthermore, Governor J.B. Pritzker recently announced a \$3 million increase in funding for the hiring of qualified educators in bilingual education programs, but the pre-existing unfilled slots raises the question of whether this funding is needed and will be effectively utilized.<sup>51</sup>

Within CPS, there is a steady plea for increased financial backing from state and federal entities. CPS is confronted with the complex task of tending to a multifaceted student demographic, characterized by a tapestry of distinctive backgrounds, scholastic aptitudes, and language proficiencies. Effectively addressing this varied and changing population calls for an adaptable approach to resource allocation.<sup>52</sup> That is, any funds that CPS receives for its English-learner population need to come with flexibility in their utilization, a solution that has proved successful in a dual-language school case study.<sup>53</sup> Nonetheless, the existing infrastructure and protocols are not set up for the sort of discretion that might allow schools to effectively utilize their allocated budget. This landscape of enduring and increasing financial needs coupled with the desirability of a versatile resource allocation system poses a formidable challenge to CPS in its endeavor to educate its diverse student body.

CPS budget allocation practices don't assure that bilingual education programs benefit from systemic budget increases. While CPS has announced an increase of \$290 million in their budget for schools in 2023, about 40% of those schools will still see budget cuts, "in a few cases of \$800,000 or more."<sup>54</sup> CPS indicated that the majority of the \$290 million increase "will not go directly into school budgets but rather into central pots campuses can draw from, such as a \$45 million bucket for educator professional development."<sup>55</sup> Notice that much of what teachers believe to be the most pressing needs – improved housing assistance, medical care, and day-to-day quality of life expenses (like clothes and shoes) – are not considered. Even if bilingual education-specific funding increases, if it is tied specifically to hiring new teachers and not allocated toward resolving the problems that teachers see with their students – the funding is not going to be as effective in addressing issues compared to increased discretionary power on the school's behalf.

### *Accountability and evaluation structures*

CPS faces mounting criticism surrounding its bilingual program evaluation system, used by schools to rate the quality of their bilingual programs including teachers, curriculum, and services provided.<sup>56</sup> Many educators have found this system ineffective in addressing the fundamental challenges within bilingual education – and to be frustrating as well.<sup>57</sup> While the introduction of these evaluations (circa 2018) aimed to monitor and strengthen schools, they have faced backlash for emphasizing bureaucratic processes that detract from in-class support. Educators argue that the systemic issues that hinder education, including insufficient funding and a shortage of qualified instructors, are beyond their control. Eva Corona, a bilingual teacher on the Northwest Side, highlights this frustration and urgency, stating, "[t]here is no way you can be in compliance if you are not being given the funds to make sure the right teachers are being hired."<sup>58</sup>

What happens if a school's bilingual programs are evaluated, and shortcomings are identified? There are no immediate consequences for schools failing to address the problems identified in bilingual evaluations. There seems to be little prod for identified shortcomings to be addressed, but furthermore, some schools can't even get evaluated: in 2017, the state conducted fewer than half of the required compliance visits to districts.<sup>59</sup>

State-level supervision remains inadequate. In 2017, only four individuals were responsible for overseeing numerous school districts and managing approximately \$80 million in state and federal funding allocated for English learners.<sup>60</sup> This situation prompted at least three advocacy groups to bring their apprehensions to the attention of state board officials. Sonia Soltero, an expert in bilingual education and an associate professor at DePaul University, voiced concerns that reduced compliance monitoring conveys a message that English learners are not a priority: "[Districts] are well aware that they can engage in various practices without accountability because there is no one to oversee them. Unfortunately, this is problematic, as there was a period when people were more responsive and took [the state] more seriously in recent years. Now, it feels like we're regressing to a time 30 years ago when nobody cared."<sup>61</sup> Even schools found to be noncompliant are given no penalty and face no sanctions or loss of state funding.<sup>62</sup> In a report following the 342 schools audited in the 2015-2016 school year, nearly 71 percent, or 242, had bilingual programs that were in serious violation of state law.<sup>63</sup>

### **Dual-Language as the Gold-Standard: A Possible Solution?**

The knowledge that bilingual education and Chicago's transitional programs for English Learners fall short of expectations is widespread and longstanding. While increased

funding and exhortations of importance have been the general go-to solutions aimed at these deficiencies, there is another approach that Chicago Public Schools has supported: Dual-Language Education (DLE) programs. As stated in the 2016 Bilingual Education Policy that CPS implements, there are three recognized programs for English-language learners that schools can put in place. This chapter so far has focused on the two transitional programs, Transitional Bilingual Education (TBE) and Transitional Program of Instruction (TPI); these programs are currently the most common among district schools, with 599 out of 638 CPS schools utilizing at least one of TBE and TPI.<sup>64</sup> DLE might offer a better alternative, though its overall efficacy is still up-for-debate.

CPS Dual Language Programs represent specialized bilingual education initiatives offered in designated neighborhood, charter, and magnet schools. The aim of such programs is to cultivate bilingualism and biliteracy among the whole student population. The dual-language paradigm thus distinguishes itself from transitional bilingual programs (TPI and TBE), which primarily emphasize rapid transition from the native language to English proficiency for ELs, with a lesser focus on achieving long-term language maintenance.

There are two types of dual-language programs at CPS: the one-way and two-way model. The one-way model focuses primarily on serving English Learners (ELs), former ELs, and heritage language learners (those who speak the heritage language at home), while the two-way model seeks a balanced mix of ELs/heritage language learners and non-ELs in the classroom (a mixed background student population). In both program types, students receive core instruction in subjects like language arts, math, science, and social science in a second language, such as Spanish, with the overarching objective of fostering bilingualism and biliteracy in both English and Spanish. Moreover, students are encouraged to demonstrate positive cross-cultural adaptability and behaviors.<sup>65</sup> Currently, all CPS dual-language schools are English/Spanish schools.

Dual-language education, often heralded as the gold standard in bilingual instruction, possesses many strengths.<sup>66</sup> For instance, “dual language programs are the only programs that assist students to fully reach the 50<sup>th</sup> percentile in both their first and second languages in all subjects and to maintain that level or higher through the end of schooling.”<sup>67</sup> This dual proficiency and instruction can significantly enhance English reading proficiency, when compared to English-instruction at both the elementary and secondary levels.<sup>68</sup> The role of dual-language education in fostering reading achievement and its efficacy for all students is also emphasized, and many researchers have concluded that “learning to read in the home language promotes reading achievement in the second language” and that a balanced dual-language model is beneficial for English-learners and non-English learners alike.<sup>69</sup>

Despite these advantages, the dual-language education model faces substantial challenges. A study by Nancy Dominguez-Fret (2022) highlights the foremost limitation: the issue of access. Dual-language programs within CPS exhibit glaring disparities in access, resulting in Latina/o/x communities not being served to their full potential.<sup>70</sup> This inequity is exacerbated by physical location, rendering the programs less accessible for the intended beneficiaries. Furthermore, the study reveals a disconcerting connection between the spatial distribution of dual-language programs and gentrification patterns within CPS neighborhoods.<sup>71</sup> The proximity of these programs to areas experiencing gentrification trends poses a risk of displacing Latina/o/x communities. Of the 39 dual-language CPS schools, only 9 are located south of Chinatown, reflecting a continuing pattern of not investing in black and minority neighborhoods (the majority of which are located south of Chinatown).<sup>72,73</sup>

Dominguez-Fret delves deeper into these concerns, unveiling the potentially concerning spatial relationship between dual-language programs and white populations, wherein either the programs congregate in areas of white population growth, or white populations aggregate in areas of program growth.<sup>74</sup> This proximity to whiteness, as corroborated by prior research, has an alarming influence on program distribution, potentially compromising equitable access. The issue of instructor preparation arises here as well, as “few college education programs offer classes to prepare for dual language instruction” even though these programs require that teachers can instruct in two languages in subjects like science and math.<sup>75</sup> A small pool of qualified teachers also means that poorer schools trying to start a dual-language program cannot do so.

Moving from the issue of access, there also exists research that challenges the claimed effectiveness of dual-language programs, raising important questions about their universal success. In contrast to previous studies that have predominantly celebrated the success of dual-language education in enhancing academic achievement and linguistic proficiency, Shajaira Lopez's investigation, contextualized within the CPS system, contests this conventional narrative. Her findings “do not support that dual language education (DLE) programs in the Chicago Public Schools (CPS) yield higher reading achievement for ELs at the third grade level,” with no statistically significant improvement in reading scores.<sup>76</sup> In fact, her research finds that TBE programs actually “significantly outperformed the DLE programs as measured by the ACCESS for ELLs reading proficiency levels.”<sup>77</sup> Lopez's work coheres with Crawford (2004), who found that “any bilingual education program that uses the native language to develop the second language and utilizes a gradual transition to English—such as TBE programs—have often proven superior in promoting long-term



achievement among ELs.”<sup>78</sup> These conclusions cast doubt on the usual claim that dual-language programs are significantly more effective for student achievement. Thus, although dual-language is a highly touted solution, its implementation is challenging, and successes seem to occur in predominantly low-need areas. In addition, the effectiveness of the dual-language approach itself is up for debate, and implementing programs/reforming schools to offer dual-language is a costly investment with doubtful returns. Dual-language should continue to be considered, but more case studies are necessary with a variety of Chicago schools to draw a proper solution on whether DLE is indeed the holy grail of bilingual education.

## **Conclusion**

The CPS bilingual education approach has shown to have trouble addressing the multifaceted needs of the English learner (EL) population, and schools struggle to implement the CPS policy. The issues at hand are far from simple, transcending language barriers to touch upon fundamental aspects of socio-economic disparities, educational infrastructure, and policy effectiveness. The essence of the problem extends beyond mere numbers, budgets, or compliance measures. Many of the policy shortcomings are attributed to staffing deficits and lack of program oversight at the state level, and evidenced by the unsatisfactory experiences of many EL students and teachers working in the system.

The current approach to increase funding toward bilingual education (or, more combatively, to throw money at the problem) – as Illinois Governor JB Pritzker has recently done – has not managed to solve the many issues that the system faces.<sup>79</sup> Increasing funding and expanding teacher preparation will continue and need to continue to be emphasized. However, alongside these obvious measures, the revising of accountability systems and testing mechanisms will be key to diagnosing the specific problems faced by each individual school. When problems are better diagnosed, treatment plans for improved funding and support can be developed.

As with public policy generally, the success of any reforms ultimately hinges on a deeper understanding – one that goes beyond budgets and ideals. Policy makers require a thorough understanding of the holistic needs of the EL student population, a familiarity with their unique challenges, and a commitment to providing them with the tools they need to build a better future. An understanding of EL and teacher experiences would go a long way in measuring the current successes and requisite reforms of programs within Chicago. Bilingual education is situated in an already complex institutional landscape, and any such reforms would need to address the nuances and realities that exist.

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## CHAPTER SIX

# Nudge 2.0: Unveiling Better Health Outcomes with AI-Enhanced Personalized Default Nudges

Sara Roman

### Introduction

Medical mistakes – human errors in healthcare that harm patients – are common.<sup>1</sup> According to research conducted in 2016 by researchers at Johns Hopkins School of Medicine, medical mistakes rank as the third most prevalent cause of death in the U.S.<sup>2</sup> The economic impact of medical error on the U.S. economy is estimated to be around \$20 billion, with 87% of this amount representing direct increases in the medical expenses incurred in treating patients affected by medical error.<sup>3</sup> A 1999 report from the Institute of Medicine approximated that medical mistakes lead to a range of 44,000 to 98,000 avoidable fatalities and an excess of 1,000,000 injuries occurring annually within U.S. hospitals.<sup>4</sup> On a similar note, a 2001 study conducted across seven Department of Veterans Affairs medical centers projected that out of every 10,000 patients admitted to these specific hospitals, approximately one patient's life could have been extended by three months or more in good cognitive health if they had received “optimal” care.<sup>5</sup> Addressing medical mistake is thus of high importance: improvements could save thousands of lives annually in the U.S.

A significant sub-category of medical mistake is diagnostic error, which is characterized by Graber et al. as an incorrect, significantly delayed, or entirely overlooked medical diagnosis.<sup>6</sup> In the same vein as addressing medical mistake, addressing diagnostic error would yield significant benefits for society. Chicago, for instance, is the third-largest city in the United States, with heart disease being the leading cause of death in the region – an issue extensively documented by government data from 2017 and 2021.<sup>7, 8, 9</sup> People die both from heart disease itself but also frequently from the misdiagnosis of heart disease, as concluded in a systematic review of the literature on heart failure misdiagnosis.<sup>10</sup> The literature review emphasizes the necessity for research to improve the understanding of missed opportunities in accurately diagnosing heart disease.<sup>11</sup> Implementing innovative strategies to minimize

diagnostic errors in heart disease could significantly decrease the prevalence of mortality from heart disease in the Chicago area and elsewhere.

A compelling intervention to address the prevalence of mortality from heart disease could be drawn from Chicago sources, specifically from work conducted at the University of Chicago.<sup>12, 13</sup> This chapter will build upon the concept of “nudge,” first introduced by economist Richard Thaler, who is associated with the University, along with another (former) University of Chicago academic, law professor Cass Sunstein. A nudge, according to Thaler and Sunstein, can be defined as “any aspect of the choice architecture that alters people’s behavior in a predictable way without forbidding any options or significantly changing their economic incentives”.<sup>14</sup> I argue for the implementation of what I call Nudge 2.0, a personalized default nudge enhanced by contributions from Artificial Intelligence (AI).

### **Nudge 2.0 Proposal: Addressing Medical Diagnostic Error in Heart Disease**

The concept of a nudge is applicable to health policy and to heart disease, in part because of the unavoidably bounded rationality of doctors, which can lead to diagnostic errors.<sup>15</sup> A nudge in this domain would be a non-coercive intervention that would improve diagnoses. Nudge 2.0 is an example of a personalized nudge<sup>16</sup>, one that uses patient-specific information to provide better guidance. The volume of general and patient-specific information is so great that medical professionals alone cannot process the data and respond appropriately.<sup>17</sup> AI, however, can process this data, and generate a high-quality, personalized diagnostic suggestion.

The medical Nudge 2.0 is an example of a common type of nudge, establishing a default setting. The nudge to the medical team would consist of a diagnostic suggestion, the “default.” In keeping with the notion of default, however, it will be easy for cardiologists to override the suggestion. Doctors will retain their individual judgement in making diagnoses and designing treatment plans; however, Nudge 2.0 would complement the physician's private information, with the goal of leading to improved health outcomes.

The proposal of Nudge 2.0 in this paper builds from a wide range of explorations of past health care interventions, their shortcomings, and nudge-related policies. A closely related notion is explored in an article by Sendhil Mullainathan and Ziad Obermeyer, “Diagnosing Physician Error: A Machine Learning Approach to Low-Value Health Care.” Mullainathan and Obermeyer indicate the potential to use AI for more efficient nudging, within the ambit of medical errors. When applied to

heart disease diagnosis, Nudge 2.0 could reduce the prevalence of mortality from heart disease in Chicago, and hence contribute to better controlling Chicago's leading cause of death.

### **Addressing the Issue: Past Policy Measures Without the Concept of Nudge**

Policy reforms (separate from nudging) have been implemented to address the issue of medical errors, but the problem of medical errors persists. The 2009 article "A National Survey of Medical Error Reporting Laws," documents healthcare policies in light of the Institute of Medicine's (IOM) recommendations for addressing this problem.<sup>18</sup> IOM proposed a two-part reporting system to gather policy-relevant information. First, IOM suggested that Congress create a national system managed by the National Forum for Health Care Quality Measurement and Reporting, which would compile reports from individual states about the most severe errors occurring in healthcare facilities. The IOM hoped to identify serious adverse events, allowing state health departments to hold facilities accountable and assist them in developing protocols to reduce future errors. The IOM also recommended making the analyses of the root causes of these adverse events publicly available. Second, the IOM recommended that the Center for Patient Safety establish a voluntary reporting mechanism for less severe medical errors. This approach would protect the confidentiality of the reports, allowing data to be collected for analysis and identifying the causes of errors, thus facilitating improvements.<sup>19</sup> As a result of such recommendations, by 2014, mandatory reporting systems for adverse medical events were required in 27 US states, including Illinois.<sup>20</sup> The reporting systems aimed to facilitate collaboration between state health departments and healthcare facilities to investigate the factors that lead to error.<sup>21</sup>

Despite such efforts, there is a lack of evidence demonstrating subsequent improvements in health outcomes.<sup>22</sup> While the technologies implemented since the release of the IOM report have been significant, it is evident that they are not producing the same level of benefits as observed in earlier periods.<sup>23</sup> If a better policy to mitigate medical and diagnostic errors had been identified and adopted, there would have been an opportunity to reduce heart disease deaths. New solutions are needed.

## **Nudge Theory for Better Outcomes in Health Care**

Recall that a nudge is defined as “any aspect of the choice architecture that alters people’s behavior in a predictable way without forbidding any options or significantly changing their economic incentives”.<sup>24</sup> A nudge is a sort of suggestion, but it only counts as a nudge if it is easy for people to ignore the suggestion. Nudges lack the coercive element associated with taxes, fines, subsidies, bans, or mandates. “Putting the fruit at eye level counts as a nudge. Banning junk food does not.”<sup>25</sup>

Jean Baptiste Point du Sable Lake Shore Drive provides a surprising illustration of a generalized approach to nudging. Chicago’s DuSable Lake Shore Drive features an S curve, which can pose driving hazards. The risk here lies in drivers potentially failing to slow down sufficiently, leading to a car crash. A policy that takes the form of a nudge was applied to address the problem and improve driving outcomes. Several white stripes were painted onto the road as visual cues. The lines, perpendicular to the direction of travel, appear to drivers in moving vehicles to be equally spaced. As drivers progress, the lines get closer together. These series of white stripes were intended to create the sensation in drivers of increased speed, as the next white line arrives more quickly, an effect designed to occur as drivers reach the riskiest portion of the road. Drivers slow down as a result; they are being “nudged.”<sup>26</sup>

Like drivers, doctors can be nudged toward better health outcomes, too. A nudge is a method of subtly reducing the risk of human fallibility. In the medical field, where misdiagnosis in heart disease is documented to primarily stem from automatic thinking and a doctor’s reliance on coarse rule-of-thumb guidelines in complex cases, appropriate nudges would be well-suited to improve outcomes.<sup>27</sup> Physicians could be guided toward a suggested diagnosis – one that would be as accurate as possible given all the data at hand – rather than relying on the current approaches to medical diagnosis that often lead to errors.

The premise that nudges can work in the medical field has been demonstrated in the past fifteen years, with nudges having been applied to many areas of healthcare. The Center for Health Incentives and Behavioral Economics at the University of Pennsylvania, for instance, has implemented and studied a host of nudges with respect to various public health challenges, such as tobacco dependence, obesity, and medication non-adherence.<sup>28</sup>

## **Defaults: A Crucial Feature of Nudge 2.0 for Better Health Outcomes**

A crucial feature of the Nudge 2.0 proposal is leveraging the stickiness of default settings. The default refers to the option that is automatically applied unless an overt decision is made or action is taken to override the default.<sup>29</sup> In line with the concept of the nudge, default nudges preserve freedom of choice, with no explicit hindrance or prohibition applied to the choice of other alternatives.<sup>30</sup>

Numerous nudges taking advantage of the stickiness of defaults have been implemented in various areas of private and public institutions to promote beneficial behaviors.<sup>31</sup> A classic example of default nudges is in the field of retirement savings: many individuals indicate that they believe that they do not put aside enough savings for retirement. Brigitte Madrian and Dennis Shea's article, "The Power of Suggestion: Inertia in 401(k) Participation and Savings Behavior," analyzes the 401(k) savings behavior of employees in a large U.S. corporation.<sup>32</sup> Madrian and Shea study the effect of changing the default setting from opt-in – where employees had to explicitly enroll in the 401(k) plan – to opt-out, where employees were automatically enrolled in the savings plan but could choose to opt-out. The shift to automatic enrollment had a significant impact on employees' savings habits in various ways. First, under automatic enrollment, 401(k) participation increased significantly. Second, the default contribution rate and fund allocation under automatic enrollment had substantial staying power as well. Notably, employees hired before the implementation of automatic enrollment did not show the same inclination to enroll or to choose what later became the default saving rates and allocations<sup>33</sup>. The findings of the paper point to "the power of suggestion" behind default nudges, where defaults have been employed to encourage numerous beneficial behaviors.

In healthcare, an emblematic example that highlights the powerful impact of default nudges is an opt-out vaccination policy. Consider the context of the Covid-19 pandemic, which, as of November 2021, resulted in over 200 million diagnosed cases and more than 5 million deaths worldwide.<sup>34</sup> Vaccination emerged as a potential solution in this context, standing as a critical infection protective measure. With widespread vaccination uptake, a sufficiently large portion of the population would become immune, generating social "herd immunity" and thereby reducing morbidity and mortality.<sup>35</sup> Nevertheless, many people remained reluctant or unwilling to receive the COVID-19 vaccine, despite the potential personal and social benefits. Liu, Zhao, Li, and Zheng, in their article "Opt-out policy and its improvements promote COVID-19 vaccinations," explore whether using default nudges – specifically, an opt-

out vaccination scheme – could increase intentions to get vaccinated. The results of the researchers’ online survey indicate that a default nudge did indeed increase the willingness of Chinese people to be vaccinated, compared to the opt-in vaccination policy in place at the time; these findings are in line with related research on default nudges in the context of flu vaccination.<sup>36, 37</sup>

### **Default Nudges Applied in Heart Disease Diagnosis**

Nudge 2.0 is a personalized default nudge empowered by contributions from AI. A key characteristic of Nudge 2.0 in heart disease is the default nudge’s power of suggestion, the potential for which has just been illustrated. Applied in the world of heart disease diagnosis, a Nudge 2.0 involves generating a default or baseline diagnosis, individually personalized for patients at risk of heart disease. The sensible choice of defaults is a staple of nudge-based policy, and it would “only” provide a default diagnosis, complementing rather than replacing the doctor’s judgment. The stickiness of the default in the context of heart disease would function as follows: Nudge 2.0, akin to any default nudge, would represent the best diagnosis available to an extremely well-informed (including personalized patient information) and cognitively sophisticated (able to digest the mass of global evidence) physician. The created default nudge would guide cardiologists toward a diagnosis, which could be crucial when an overload of information or a shortage of time might lead to diagnostic mistakes. Nudge 2.0 is, in this context, predicted to produce improved diagnoses. Recommendations generated by Nudge 2.0 could be incorrect, despite the algorithmic sophistication, but it is only a default, medical professionals could override it if they choose. Nudge 2.0, with its default feature, does not replace the doctor’s judgment; instead, it complements the physician’s own analysis.

### **Diving Deeper: The Specifics of Nudge 2.0 and its Default Mechanism**

As previously suggested, with Nudge 2.0, doctors will preserve their freedom of choice. When making a final diagnostic decision, doctors can decide, in light of their private information, judgment and knowledge, to accept or reject Nudge 2.0. Nudge 2.0 would, in other words, offer an opt-out option for physicians. Similar to a GPS<sup>38</sup>, Nudge 2.0 would suggest, but not impose, an effective route: a default diagnosis becomes available for the doctor’s consideration.

The body of research exploring concepts similar to Nudge 2.0 can suggest further design features that could aid in its effectiveness, such as the kind of



information that would be most beneficial to accompany a default diagnosis.<sup>39, 40</sup> “Transparency effects on policy compliance: Disclosing how defaults work can enhance their effectiveness” for example, is a study by Paunov, Wänke, & Vogel. Amidst debate among scholars on whether the effectiveness of nudges might be undermined by transparency, these authors find that transparency can instead enhance the effectiveness of default nudges. Transparency reduces or eliminates the feeling that one is being manipulated. With transparency, policymakers can signal their intention not to trick people into a desired behavior, but rather to assist them in making an informed choice.<sup>41</sup>

A recent working paper by Desiraju and Dietvorst, “Reason Defaults: Presenting defaults with reasons for choosing each option helps decision-makers with minority interests”, aims to explore a default intervention where the option chosen as the default is not the best option for some of the targets of the nudge. Are defaults too sticky, or can people who are not well-served by a default opt-out of the default and into an alternative that is better for them?<sup>42</sup>

Desiraju and Dietvorst’s “reason defaults” examine a standard default – the pre-selected option best suited for most individuals in a population – paired with information that explains why the default was chosen and provides additional information as to the sort of individual circumstances under which an alternative option should be carefully considered.<sup>43</sup> The idea is that reason defaults might improve targeting, where people who are well-served by the default continue to take that option but those for whom the default is unattractive opt into a better choice.

Desiraju and Dietvorst find that reason defaults can be highly effective in directing decision-makers toward suitable options. Reason defaults that provide the reasoning behind the choice of the default enable people to preserve their freedom of choice, while retaining the advantages of sticking to the standard defaults if desired. Reason defaults are themselves a form of transparency, explaining when each option is beneficial and why the default was chosen. The study finds that reason defaults improve participant outcomes,<sup>44</sup> which is in accord with previous studies that establish a link between transparency and the increase in the efficacy of default nudges.<sup>45</sup>

The characteristics of reason defaults could enhance the efficiency and specificity of Nudge 2.0 in the field of heart disease diagnosis. Nudge 2.0 can provide, alongside a default diagnosis, information that communicates to the medical staff, in the spirit of transparency, why the proposed default diagnosis was chosen. Further, it can identify the sort of circumstances in which a different diagnosis would be more

appropriate, guiding physicians on when to be particularly vigilant in looking for signals that suggest the default diagnosis is untrustworthy. The default nudge, along with information used in formulating the default diagnosis, could also provide a quantitative assessment, the level of confidence that the AI algorithm has in the default. By incorporating these features of reason defaults, Nudge 2.0 will have enhanced potential to reduce medical errors in cardiology.

### **Personalized Default Nudge: Default as a Key Feature of Nudge 2.0**

Let us go back to Chicago's Lake Shore Drive example for a moment. One can argue that the reason why the line-painting nudging works in the context of Chicago's DuSable Lake Shore Drive is because nudging doesn't require the consideration of specific information about drivers to efficiently nudge them: slowing down is more-or-less universally beneficial. This approach might not, however, be the best choice for the medical field, where the patient population is diverse and heterogeneous, and each patient's situation is unique.

Personalized nudges – one of the features of Nudge 2.0 – hold the potential to lead to better outcomes, helping to overcome the challenge posed by an excessively general nudge.<sup>46</sup> In a 2013 journal article, Sunstein himself explores this challenge to general nudges and suggests “personalized nudges” as a response to heterogeneity.<sup>47</sup> Sunstein sees the opportunity for personalized nudges to arise when enough information is available about an individual's circumstances to enable effective targeting.<sup>48</sup> In contrast to a general nudge, personalized nudges would produce tailored nudges specific to each individual and increase the effectiveness of nudge interventions.<sup>49</sup>

In the field of heart disease diagnosis, personalization is possible and even necessary. In cardiology and in healthcare at large, the population is comprised of individuals with varying medical characteristics and histories, which can influence appropriate diagnoses and treatment plans. Effective nudges must be personalized in the sense of taking this complex and multidimensional information into account. Instead of producing a uniform nudge based on coarse information, personalization recognizes the uniqueness of each patient in terms of backgrounds and needs, and can produce a suggestion that reflects the medically-important elements of that information.

## **Personalized Nudging and Medical Data Privacy**

Given that Nudge 2.0, in implementing a personalized nudging approach, takes into consideration sensitive medical information, ensuring the privacy and security of this information become a paramount consideration. The sensitivity of health data has already generated significant data protection regulations in the United States. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a federal law which required the establishment of national standards to safeguard confidential patient health information.<sup>50</sup> One of the goals of HIPAA is preventing unauthorized disclosure without patient consent, and the resulting HIPAA Privacy Rule was issued by the US Department of Health and Human Services (HHS) to serve that end.<sup>51</sup> HIPAA rules are regularly updated to reflect improvements in cybersecurity and changes to threats to information privacy.<sup>52</sup> To add an extra layer of protection against the risks that personalized nudging might bring, state-of-the-art data encryption and secure infrastructure technologies for the storage and transmission of sensitive data must continue to be adopted.

## **AI-assistance for Personalized Default Nudges**

The value of the personalization of nudges for improved outcomes is intuitively reasonable and backed by research. Desiraju and Dietvorst, however, note the difficulties of collecting detailed information during the decision-making process and making sense of this information in a predictive way.<sup>53</sup>

Advances in AI in recent years suggest that the challenge of processing large amounts of information can be overcome, and hence that decision nudges themselves can be greatly improved. In a vast sea of medical data, more concretely, AI stands as a crucial tool for efficiently analyzing and appropriately responding to a multitude of patient-specific and related cases – a task challenging for doctors alone. In the medical arena, professionals encounter challenges synthesizing large and diverse pieces of information.<sup>54</sup> Decisions often have to be made quickly and under pressure, rendering it hard to effectively deliberate. Doctors are people, and hence are subject to “bounded rationality”<sup>55</sup>, where the immense overload of information becomes unmanageable for them<sup>56</sup>. In short, medical diagnosis is a context in which decision errors can be (and empirically are) common. Thaler and Sunstein’s basic nudges, personalized and enhanced with AI – Nudge 2.0 – represent a potential game-changer in reducing misdiagnoses of heart disease. Improved coronary diagnosis, in turn, could significantly reduce the prevalence of mortality from heart disease.

Nudge 2.0 can be used not just for diagnosis but for generating information that will be helpful for diagnosis and treatment. A frequent medical quandary is when to recommend that a patient undergo a potentially intrusive and expensive test, one that, it is hoped, will provide more information about the nature of the medical problems and appropriate treatments. Errors are costly on both sides, testing when there is little to be gained or not testing when the benefits exceed the costs. Once again, personalized default recommendations, powered by AI, can improve targeting and reduce both errors of testing. These Nudges 2.0, too, can be accompanied with explanations, degrees of confidence, and markers for potential errors. And as always, the recommendations can be overridden in light of the private information of the patient and physician.

### **Navigating Concerns: Addressing Issues Related to AI in the Implementation of Nudge 2.0**

When machines become competent at a task previously the exclusive domain of humans, humans are likely to reduce their own inputs into the task. Nudge 2.0, which relies on AI for diagnosis suggestions, raises concerns regarding the erosion of doctors' skills. Nudge 2.0 may diminish the necessity of certain skills associated with doctors, and possibly reduce their overall proficiency as they increasingly depend upon technology for medical diagnoses. Since Nudge 2.0 is designed to complement physician judgment rather than replace it, there would seem to be a built-in constraint on the erosion of doctors' skills. (Further, the problem only arises to the extent that Nudge 2.0 generally works, that is, that patients and physicians become comfortable with the quality of the recommendations.) In the long run, however, a shift in physician training to ensure that they become especially proficient in areas where AI does not excel could prove beneficial.

### **The Demonstrated Success of Using Machine Learning as a Tool to Reduce Medical Error in Heart Attacks**

Machine learning – a subfield of AI – already has been used by researchers to identify shortcomings in testing in the context of heart attacks.<sup>57</sup> An article that employs machine learning methods is especially enlightening in tying together many features of Nudge 2.0 and indirectly illustrating how default recommendations might improve testing decisions in a heart disease setting.

Sendhil Mullainathan and Ziad Obermeyer published in 2022 the article “Diagnosing Physician Error: A Machine Learning Approach to Low-Value Health Care”. Mullainathan and Obermeyer note that physicians’ testing decisions deviate from what predicted risk would prescribe with respect to heart attacks. The authors employ machine learning to identify decision shortfalls. Mullainathan and Obermeyer present the reader with a situation in which a patient arrives at the emergency room with nausea and chest pain<sup>58</sup>. In predicting the chances of a heart attack, the doctor must consider a diverse set of information. The physician's decision is crucial: the patient can die from not being tested, while testing brings its own risks. Testing for heart disease, for example, can result in a new blockage in the coronary arteries.<sup>59</sup>

Mullainathan and Obermeyer describe the decision-making situation for doctors as being especially difficult. Many medical conditions possess symptoms that are similar to those of a heart attack.<sup>60</sup> The difficult decision-making environment leads to errors in both directions, where low-risk patients receive tests and where high-risk patients are not tested.<sup>61</sup> Doctors appear to adopt an overly simplistic model when making medical diagnostic decisions.<sup>62</sup> Because the errors are not systematically of one type, imposing a simple rule like “lower the threshold for testing” or “raise the threshold for testing” would not improve matters. Further, the machine learning algorithm does not always perform better than physicians: information unavailable to the machine but available to physicians and patients often is important. Doctors need to maintain discretion.

Chicago ranks among the most heterogeneous populations in the U.S. Heterogeneity is significant from a medical perspective, as the complexity of information that needs to be considered for an accurate medical diagnostic increases with diversity among patients and their circumstances.<sup>63</sup> Coarse decision heuristics become even more of an issue.

In addressing medical diagnostic errors in heart disease in Chicago, all aspects of Nudge 2.0 would come into play. First, “personalization,” or a personalized default nudge would allow for specific information about Chicago’s diverse population of patients to be considered in the diagnosis process: diagnoses and treatment plans can be individually specific, and data based. The diagnosis default generated by Nudge 2.0 would draw from (as in Mullainathan and Obermeyer's article) demographics, historical health information on diagnoses, procedures, laboratory results, and quantitative vital signs. Nudge 2.0 would also be responsive to symptoms documented

at the triage desk when the visit commenced.<sup>64</sup> AI would be used to construct such a personalized nudge – a task impossible for humans on their own to replicate<sup>65</sup>.

Nudge 2.0 would provide a default diagnosis to guide cardiologists, with the goal of increased diagnostic accuracy. Doctors would retain individual judgment and autonomy. By incorporating successful findings in the field, the default feature of Nudge 2.0 will present, alongside a default diagnosis, information that will be provided to the medical staff. The information will consist of the rationale as to why the proposed default diagnosis was chosen by Nudge 2.0, the health information that the personalized nudge considered most relevant when making a diagnosis, along with information about specifics that Nudge 2.0 identifies as unusual within the multitude of data. Complementary to this information will be the level of confidence the AI algorithm has in generating its Nudge 2.0. Transparency would thus be enabled, and physicians will be able to use their private information to override the default recommendation when they deem such an override appropriate.

## **Conclusion**

I propose Nudge 2.0 as a personalized default nudge enhanced by contributions from AI in response to the high toll imposed by heart disease in Chicago and elsewhere. To address the feasibility of Nudge 2.0 in tackling this problem, I demonstrated that the incorporation of a nudge is appropriate in the context of health policy and heart disease, where current modes of decision making lead to a surfeit of diagnostic errors. A personalized nudge is requisite to respond appropriately to individual patient characteristics. The personalization could be operationalized and enhanced through AI, which can usefully synthesize the multitudinous amount of pertinent information. The resulting diagnostic suggestion, Nudge 2.0, could complement but not override the physician's private information and judgment, with the promise of enhanced health outcomes.

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## CHAPTER SEVEN

### Policing and Safety at the University of Chicago

Yoohan Ko

Imagine walking the same streets you have walked for the past three years. You could walk them with your eyes closed and still get from point A to point B; except, now you can't even look at that intersection: Woodlawn Avenue and 54th Street. It was just like every other night. You've been out alone so many times, even in the late hours. You've never feared roaming the neighborhood alone, night or day, and the thought of getting mugged seemed unimaginable. Regrettably, to my misfortune, it became a reality. A man ran out of the passenger seat of a parked car on Woodlawn Avenue, charging toward me. A handgun was pointed at my abdomen and the heavy metal touching my skin felt cold, sending shivers across my body. He aggressively snatched my bag from my shoulder and as I clung to my phone tightly, refusing to give it up, he waved his gun to my head in a shaking manner, and I gave up my phone. My body was in a state of temporary paralysis as he drove away, while my brain failed to process what had just happened. I crouched down to the ground in a state of shock. As I replayed the night repeatedly in my head, I was unable to fathom that so many students have experienced this trauma and continue to experience it.

Ensuring the safety of students, protecting them from this anguish, is a high priority for universities. The University of Chicago is located in Hyde Park, Chicago, within the South Side of the city – the South Side often known for higher levels of crime (as depicted, for instance, in the Chicago Data Portal's Crime Map).<sup>1</sup> Despite the resources devoted to crime control throughout the city, crime remains a major problem in Chicago: official statistics indicate an overall rise of 75% in crime in the city of Chicago since 2021.<sup>2</sup> College students across the city have fallen victim to this upsurge in the violent crime rate. In particular, the increasing frequency of muggings of UChicago students in Autumn quarter of 2023 compared to the previous school year has called for heightened safety measures and intensified patrolling both on and off campus. The University recognizes the need for robust policing and safety programs to address various concerns, including crime prevention, emergency response, and the establishment of secure environments for learning and living.

Considerable resources are invested in programs to promote student and community safety. Nevertheless, their effectiveness remains a subject of contention, and crime involving students is far from eradicated.

This chapter delves into the complex relationship between policing and safety initiatives on college campuses, shedding light on the factors contributing to their perceived ineffectiveness. By examining the resources and programs provided by the University of Chicago and its method of communication about incidents, I aim to better understand the challenges and limitations they face when tackling crime, as well as why the public's perspective of crime and anti-crime measures shifts. In conclusion, I seek to identify potential avenues for improvement in the administration's communication and transparency surrounding security, and how the University can better reassure students and address their safety concerns.

### **Recent Crime at the University of Chicago**

Crime, especially armed robberies, is nothing new at the University of Chicago. “Mugging” is a term regularly circulated around campus: students fear being robbed while walking on campus and in the neighborhood, especially at night. The Associate Vice President for Safety and Security at the University, Eric M. Heath, delivers a daily e-mail summary of the previous day's serious reported neighborhood crimes to the community, in addition to occasional alerts concerning perceived ongoing security issues, such as a spate of seemingly related robberies.

In the first two weeks of October 2023, there were over fifteen [armed] robberies reported to the University of Chicago Police Department (UCPD). On October 19, 2023, UCPD relayed an email to the subscribers of its “University of Chicago Police Department Crime Bulletin,” describing four robberies that happened in a span of six hours. The Department of Safety and Security (DSS), which overlooks campus safety and investigates reports of crime on campus, suspected that (at least) three of the four robberies were conducted by the same people: three of the reports indicated that victims were approached by four or five suspects and the perpetrators' vehicle was a “black or dark sedan.”<sup>3</sup> The suspects are still at large (as of December 2023) but the University has increased police coverage in off-campus areas where UChicago members reside and implemented more security technology to identify vehicles connected to crimes.

Between January 1 and October 31, 2023, UCPD received over 1500 crime reports, while there were 1254 reported crimes in 2022.<sup>4</sup> Hyde Park and South



Kenwood have experienced a more than 20%<sup>5</sup> increase in crime rates since 2022.<sup>6</sup> The most common types of reported violent crime include armed robbery, theft, battery, and damage to property. There has also been a notable increase in fatal and non-fatal shootings in the last ten years, with four reports of victimizations in 2013, nine reports in 2022, and a jump to 18 reports in 2023.<sup>7</sup> The available crime data for the University and its neighborhood provide justification for the heightened concerns about campus safety.

The University funds its own substantial campus police force (UCPD), while the City of Chicago police also patrol the campus and surrounding areas. Further, the university hires private security officers to guard intersections around the neighborhood.

### **The Clery Act of 1990**

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (or, the Clery Act) was enacted by Congress in 1990. After first-year Lehigh College (Bethlehem, Pennsylvania) student Jeanne Clery was raped and murdered in her campus residence in 1986, there was heightened awareness surrounding the lack of formal reporting and statistics concerning crimes on university campuses. As a layer of protection for student safety and crime awareness, the Clery Act requires colleges and universities (that receive federal funds, including the University of Chicago) to compile, classify, and report campus crime data, notify their constituencies via campus alerts, and publicly draft security and safety initiatives and policies.<sup>8</sup>

Failure to comply with the Clery Act can result in hefty fines, loss of federal funding and financial aid, and damage to a university's reputation. Perhaps most importantly, there would be less transparency surrounding campus crime, compromising the safety of the community.<sup>9</sup> Additionally, non-compliance can hinder the ability of students and parents to develop accurate perceptions about campus safety, exacerbating the concerns and vulnerabilities that the Act was designed to mitigate.

In accordance with the Clery Act, the Department of Safety and Security (DSS) at the University of Chicago promulgates crime and safety information through their website via annual security and fire safety reports, a daily crime and fire log, and emergency notifications using the cAlert system.<sup>10</sup> Differing from the e-mail summary delineating incidents, the cAlert system is the University's electronic mass notification

system via text message, which allows for the campus to immediately contact and relay information to University members in the case of an emergency.<sup>11</sup> The cAlert system is just one example of the University's numerous safety programs and strategies.

### **The University of Chicago Police Department**

The University of Chicago Police Department (UCPD) is designated to serve the university and the surrounding neighborhoods. UCPD was formally established in the 1960s in response to requests from the University and members of the Hyde Park community to address public safety.<sup>12</sup> Its responsibilities include a safety escort program, patrolling, reporting daily crime incidents, and attending to the needs of the UChicago community.

The stationing of UCPD officers across campus buildings and throughout Hyde Park responds to crime hot spots. DSS and UCPD assign groups of police officers, referred to as “power squad missions,” to areas and at times where there have been patterns of high levels of crime, and any suspicious activity is shared with the other police departments. Officers are also required to log any report of an incident through the UCPD's daily log, to ensure transparency surrounding crime data in Hyde Park.

Apart from these roles on and near campus, UCPD also cooperates with the Chicago Police Department (CPD) and the Metra Police Department (MPD) in investigating reports of crime in the neighborhood. (The MPD is a professional force responsible for the safety of the passengers of the Metra Metropolitan Rail, the public rail system for Chicago's metropolitan area.<sup>13</sup>) In an October, 2023 webinar discussing campus safety, Eric Heath describes UCPD as “a support to the CPD; we're kind of like an additional eyes and additional law enforcement function.”<sup>14</sup> Many students and campus members utilize the Metra and the Chicago Transit Authority buses. The UCPD works closely with the CPD and the MPD in patrolling surrounding areas to apprehend suspects and prevent crime. To better cooperate and assist one another with these investigations, the city and university have worked to make technological upgrades in their security systems around Hyde Park.

## **Safety Initiatives and Strategies**

### *UChicago Campus Police and Allied Universal*

Private security officers are dispatched across campus to provide additional coverage by safety personnel. These private officers, known as safety ambassadors, are a branch of the Safety Ambassador Program, an initiative aimed at increasing security by assigning contracted security authorities in exterior locations throughout the campus area.<sup>15</sup> The University partners with Allied Universal as the contracted security and staffing company to facilitate the program.<sup>16</sup>

As an added safety measure following the recent robberies, the University has increased the number of campus police and security officers across Hyde Park and South Kenwood, and geographically expanded their beat.<sup>17</sup> These officers patrol both by foot and by vehicles. The University's students and members may approach these officers at all times of the day, especially when they are experiencing an emergency or feeling unsafe.

### *P4 Security Solutions' Green Light Vehicles*

Complementing the Safety Ambassador Program are the “green light” safety ambassador cars that patrol the campus and the Hyde Park area seven days a week, mainly during the afternoons and evenings. Green light vehicles are highly visible security patrol cars where the bright lights allow for easy identification in the case of an emergency. One of their responsibilities is administering safety escorts, which ensures safe transportation to students' or campus members' final destination in a case where they feel unsafe to get there by other means. As a supplement to Allied Universal, a second contract security provider, P4 Security Solutions, dispatches these officers and vehicles.<sup>18</sup> Students are provided with safety escorts if they request them, and the green light vehicles will take them to their destination if it is within the UCPD patrol area. Although the use of these escorts is not common, students are offered this safe alternative option whenever they sense danger. The green light vehicles and officers also work closely alongside UCPD, serving as still another pair of eyes for reporting any incidents or suspicious activity.

### *Weekly Meetings*

The DSS's leadership board and investigation teams meet weekly to address recent issues and develop ongoing strategies to ensure that safety protocols put in place are efficient and effective in combating crime. After the Autumn 2023

muggings, new strategies and procedures were implemented to try to apprehend at-large suspects. More officers have been placed in high-crime locations for heightened security presence, 32 more cameras have been installed by the City of Chicago to increase surveillance, and the deployment of shuttle buses is being re-evaluated for more efficiency.<sup>19</sup> The University offers numerous free transportation programs that are convenient for many students and enhance security by providing a safe means of commuting.

### **Transportation Programs at the University of Chicago**

Various programs provide affordable and efficient transportation from point A to point B and can serve as alternatives to walking during late hours. Three main transportation initiatives attract student and staff participation:

#### *Campus Shuttle Service*

The UGo Shuttle Program provides free transportation services to University-affiliated students, faculty, and staff. The shuttle schedules and routes differ based on the time of day: eight Daytime Shuttles operate with hours that range from 5 AM to 12:30 AM, while six NightRide Shuttles run from 4 PM to 4 AM.<sup>20</sup> All shuttles can be tracked on the web-based TransLoc application, which provides both shuttle locations on live routes and estimated wait times. UGo has been the most accessible service for students and staff when in need of transportation late at night as it serves as a safe alternative to walking the whole way home.

#### *CTA Bus Route Partnership*

The University has partnered with the Chicago Transit Authority (CTA) for years to provide a safe and convenient mode of transportation in and around campus grounds. Upon the expiration of its former arrangement, as of August 2023, they drafted a new five-year contract with three main bus routes that service University-affiliated commuters around campus: the #171 U. of Chicago/Hyde Park, the #172 U. of Chicago/Kenwood, and the #192 U. of Chicago Hospitals Express.<sup>21</sup> The first two routes circle the UChicago campus and areas most populated by students: the #171 passes through campus and into residential areas where most off-campus students live, while the #172 also passes through campus (on the same route) but branches off to commercial areas such as 53rd and 57th Street where students eat, shop, and spend time. The #192's main route connects passengers from the

University of Chicago Hospital to downtown transportation hubs stations such as Union Station and the CTA Roosevelt Station; however, the bus only operates southbound (downtown to campus) in the AM and northbound (campus to downtown) in the PM.<sup>22</sup> These routes are available from August 20th to mid-June and run from 7:15 AM to 6 PM<sup>23</sup>, in keeping with typical academic timetables. Anyone who is affiliated with the University of Chicago is exempt from ride payments on the #171 and #172, as long as they show a University-issued ID; on the #192, normal fare prices are applied to all riders.<sup>24</sup> The maps of the three CTA bus routes are shown in Figure 1. The abundance of CTA buses has allowed for a fairly consistent schedule that the community can rely on, whereas the shuttle service may be sporadic in its timeliness due to limited vehicles and unforeseeable delays from traffic.

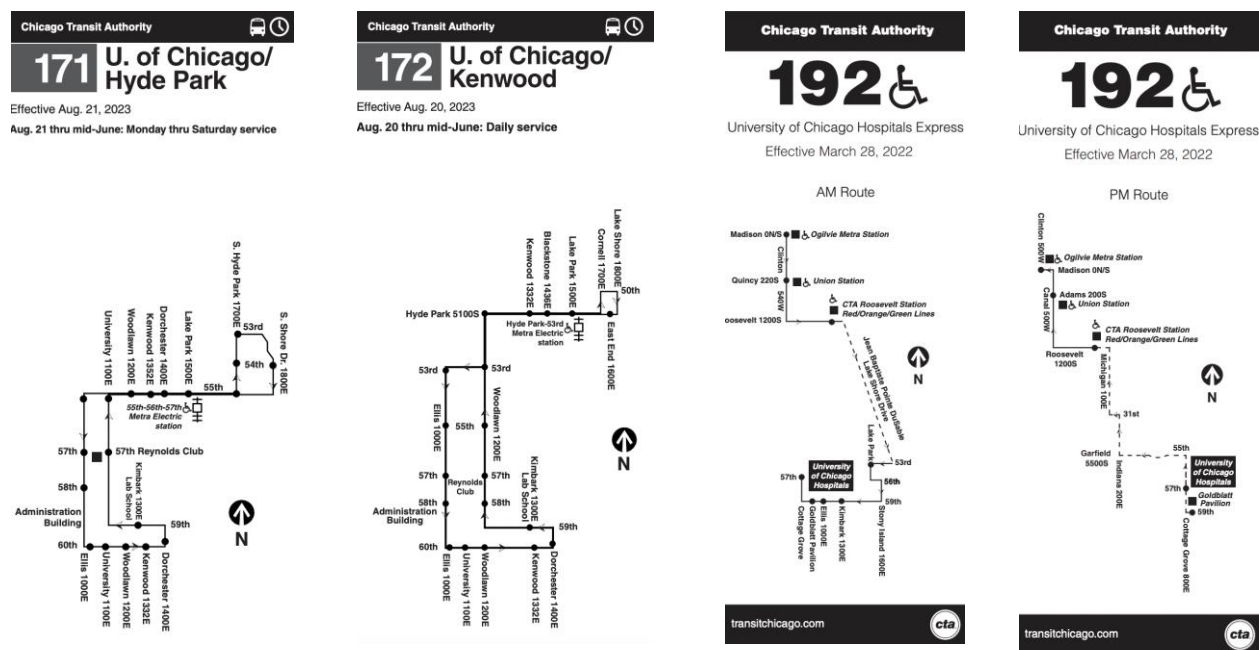


Figure 1: #171, #172, #192 Bus Routes by the Chicago Transit Authority

### *Lyft Ride Smart*

In September 2021, the University announced the ride-share company *Lyft* as their exclusive ride-share partner in an Autumn Safety Message. In an email on September 21, 2021, DSS stated that “The Lyft Ride Smart at UChicago program allows students to take up to 10 free Lyft rides each month anywhere in the current UGo NightRide Shuttle service area on Thursday, Friday, and Saturday evenings and

late nights during the academic year.” The maximum subsidy per ride was set at \$15, which generally is enough to fully cover a journey within Hyde Park and neighboring communities. Students have actively taken advantage of this program but have expressed concern via UChicago community social media applications and the safety webinar that ten free rides a month are not enough; not only was this concern unaddressed, in 2023, the number of monthly passes decreased to seven per-student with a decreased per-ride maximum subsidy of \$10.<sup>25</sup> Many students sought an answer regarding the puzzling contraction of Lyft passes while muggings were on the rise. No formal explanation was given for why this change was made, but Dean of the College Melina Hale<sup>26</sup> emphasizes that the Lyft program is a *complement* to the transportation resources provided by the University: it was never intended to be a standalone transportation system.

### **Improving Security Technology**

Security technology plays a critical role in mitigating crime and complementing resources that promote student safety. Some of these systems can act as vigilant, unblinking eyes that monitor campus grounds around the clock, serving as a deterrent to potential threats while providing valuable evidence in the event of incidents. Security cameras enhance situational awareness for both campus police and the campus community, enabling quick responses to crime, emergencies, and suspicious activities. Furthermore, they can aid in investigations and evidence collection, which can be vital in resolving cases of crime or misconduct. The technologies noted below have expedited the search for vehicles involved in numerous student muggings on campus.

#### *Security Cameras and CompStat Program*

Security cameras have been a vital input into investigating campus crime. The DSS refers to the addition of more cameras to the campus and Hyde Park area as a key operational strategy.<sup>27</sup> The Computer Statistics program, better known as “CompStat,” involves analytic software that allows investigation teams to quickly review any information or footage. This software simplifies detecting crime patterns and speeds up footage review. According to Heath, the University has added new security cameras since the Autumn 2023 string of incidents in an effort to efficiently interface with local law enforcement.<sup>28</sup> The University announced that it would soon donate \$3 million to the city as part of a request for the installation of over 100 of

these enhanced cameras and license plate readers around the campus and surrounding neighborhoods.<sup>29</sup>

### *License Plate Readers*

License plate readers (LPR) can serve as a key technology for guiding the search for suspects. After a vehicle is identified and logged into the LPR system, the readers search traffic for the matching license plate; upon identifying a match, the police are immediately alerted. These alerts allow for the dispatching of patrols or police officers to apprehend suspects. In a case regarding some Autumn 2023 robberies, the LPR was able to detect the suspects' stolen vehicle within minutes and the Strategic Operations Center sent a series of locations to UCPD for the pursuit of the vehicle.<sup>30</sup> Although that pursuit was unsuccessful, LPR technology allowed for the detection of the car's license plate and CPD is continuing the investigation in collaboration with UCPD given this information. The city is in the process of installing more LPRs across the UCPD extended patrol area<sup>31</sup>; already, however, the functioning readers have proven to be a critical technology in arresting suspects.<sup>32</sup>

### **Preparing Students for Crime Prevention**

The University takes proactive measures to prepare its students for crime prevention around campus, recognizing the unpredictable nature of crime patterns. Incoming students are equipped with the knowledge and resources they need to help keep them safe. During orientation, first-year students are introduced to the university's safety and security resources through a mandatory safety module. Residence hall heads specifically address various aspects of safety, such as how to access the dean on call or contact UCPD if necessary, as well as providing guidance on safe navigation of the city using public transportation. Security protocols and safe commuting routines are discussed in house meetings and through regular dormitory house-wide emails. The UChicago Safe mobile app is described as a "Swiss army knife on your phone," by Dean Hale, offering features such as requesting a safety escort and reaching the dean on call or emergency services. Additionally, students are encouraged to subscribe and sign up for UChicago Safe's social media accounts and opt into the cAlert system to stay informed.

## Student Perceptions of Campus Safety

The University devotes a significant amount of resources to providing a safer environment for the campus community. Despite the multiple programs and resources implemented by the university to mitigate the frequency of crime, some students at the University of Chicago have adopted a negative perception of how the administration is addressing certain incidents. Some students have been using Sidechat – an anonymous public forum app – to denounce the untimeliness of informing the campus community of muggings and the decision to prioritize sharing less serious crimes in school-wide emails, perhaps as a way to maintain a positive reputation.

Sidechat is an anonymous app where students can share their opinions on any issue. For the UChicago channel, students are required to log in with their UChicago email to guarantee that there are no strangers or non-University-affiliated members within the closed group. The app requires a college-issued email address or valid location data and asks one's age to join a certain college's community channel<sup>33</sup> to deter faculty and staff from utilizing the app.

Following the October 2023 webinar on campus safety, students used Sidechat to vent their frustrations: “Amazing how they have failed to answer a single question students actually care about” or, “the safety webinar is embarrassingly bad.” These two posts were upvoted by over 138 students as a sign of their agreement with the expressed sentiments. Students seem to feel that their safety concerns aren't being addressed. What many people considered to be a failure to notify the campus community about the chain of muggings in a timely manner led students to assume that the University prioritized its reputation over issues of safety. An email regarding the chain of multiple muggings that occurred during UChicago's Family Weekend was not forwarded until after the weekend came to an end; however, an email warning students of paintball attacks was sent that weekend, triggering angry posts across Sidechat. 624 students upvoted a post that claimed, “So I guess UChicago cares more about paintball guns than real ones!” and 285 students upvoted another post stating, “Thank you Eric M Heath for protecting us from paintball guns, so glad we only have to worry about armed robberies now.” Students seem to believe that the University's priorities in communicating about safety do not meet the students' priorities.

Perceptions are often shaped by personal experiences, and so students are adopting pessimistic perceptions because they are having negative experiences with the University and their responses to student concerns. A critical element of building trust between the community and the University is voicing concerns and giving and



receiving feedback. Students are feeling that their voices are being unheard, and some members of the community are not content with the responses to the recent crime wave. If the University hopes to gain support within its community, I suggest that it listen to the questions and concerns that are being raised by its students.

### **Unintended Consequences of Enhanced Campus Safety Measures**

The University's campus safety measures, while essential for the protection of the community, can sometimes result in unintended consequences that merit consideration. Over the years, UCPD's actions have raised public concerns about profiling the mentally ill and racial minorities that reside in the neighborhood. Two separate UCPD-police-involved shootings occurred, one in 2018 and one in 2022; both incidents involved the same UCPD officer as the shooter. The victims – then-UChicago student Charles Soji Thomas in 2018 and 28-year-old Rhysheen Wilson in 2022 – were experiencing mental health episodes at the time of their respective incidents. The 2018 shooting triggered the ongoing “#CareNotCops” campaign at the University, where students and other activists demanded that UCPD be abolished.<sup>34</sup> A heightened police presence may lead to the unfair targeting of residents more frequently in the surrounding area, potentially creating more police-involved shootings of mentally ill individuals.

Another potential unintended consequence of enhanced safety measures concerns how the regularity with which a university delivers news about safety incidents can shape perceptions. Overemphasis on rare and unconfirmed occurrences can create unnecessary panic, while downplaying incidents can lead to complacency. The infrequency of alerts via the cAlert system led to some confusion and panic on April 25, 2023, when students were sent a text around 7:31 PM indicating police activity in the area of the main campus library. A follow-up was sent at 7:51 PM, stating that “Police received an anonymous report. No evidence of a shooting at this time. Continue to avoid the area.”<sup>35</sup> A third message was received by cAlert subscribers at 8:17 PM: “Police searched numerous buildings in response to an anonymous report and found no sign of threat. cAlert canceled.”<sup>36</sup> At the same time that these official alerts are being disseminated, social media also becomes active with messages from people near the scene. In this case, social media posts about a gunman appeared prior to the first official alert.<sup>37</sup>

Rapid messaging is necessary and potentially lifesaving in the face of a report, even a plausible but unconfirmed report, of an active shooter. At the University of

Chicago, the April 25, 2023 alerts led to students seeking safety, some by staying in place and others by rushing out – perhaps with some increase in risk. This event (or what turned out, thankfully, to be a non-event) played out over about 45 minutes, and stoked some disruption and even some chaos on campus.

Frequent alerts with little distinction among their potential severity can cause avoidable disarray, while threatening to undermine prudent responses to more dangerous events via a cry-wolf effect brought on by numerous “false” alarms. Striking the right balance in communication is essential to keep the campus community informed and safe without unnecessarily causing alarm. But identifying and implementing that right balance in the face of incidents that are more-or-less random in their timing and severity is no easy matter. Transparent and frequent reporting of recent or ongoing incidents and timely follow-up communications will not only notify the community of the news but better prepare them for future situations that may arise.

### **Further Reforms**

Responding to campus crime and improving the security infrastructure and strategies are productive steps toward protecting the University community and its neighbors; however, there are aspects of the University’s campus safety approach that could be improved by further reforms.

#### *Transportation*

The University of Chicago provides numerous transportation options. Those options serve as an element of the safety infrastructure as well as the transportation system.

There might be a case for fewer but better transportation options. In particular, the CTA routes and the shuttle routes possess a fair amount of overlap in terms of neighborhoods served – though the shuttles can operate on smaller streets. A more effective approach for both safety and efficiency could be to expand the shuttle system by purchasing more shuttles and providing a more frequent and accessible service on a regular schedule. By enhancing the shuttle network, students would have a reliable and sustainable transportation option that caters to their needs at all hours, day or night. This approach not only streamlines the transportation infrastructure, making it more convenient and cost-effective for the University and its students, but investing in eco-friendly vehicles can reduce the environmental impacts relative to the

current system. Consolidating transport resources into an enhanced shuttle system can lead to greater efficiency, improved commuting for members of the campus, and a more sustainable and cohesive approach to addressing transportation needs on campus.

### *Communication*

The University of Chicago could achieve better results by being more transparent with crime-related incidents and issues around campus. The other side of communication would involve the University actively listening to the concerns of its neighborhood, especially its students who make up the majority of the campus community. For example, answering students' questions and addressing their concerns in the campus safety webinar – which is not what happened in the webinar, as interpreted by many students – may have opened a door for healthier discussions between the administration and its community members. Encouraging an open and responsive dialogue with University members and the broader, local community would provide valuable insights into the challenges and the needs of those it serves. Listening to which initiatives are valued by the community will also conserve funding, which can be allocated to the programs that are making the most impact. This approach not only allows for a more targeted, community-centered response but also promotes a sense of shared responsibility for campus safety and well-being.

### **Conclusion**

Campus safety is a multifaceted and challenging issue. Although the University allocates a significant amount of funding to provide reliable security and transportation services, its perceived effectiveness lies in its community members and whether they place trust in the hands of the University's administration. High rates of muggings and other crimes will undermine trust. But irrespective of crime rates, transparency and proper two-way communication will instill greater trust in the security situation. Consistent communication will also alleviate students' doubts and fears of where the administration prioritizes safety, reducing misunderstandings.

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- <sup>37</sup> “Reg, Hutchinson Commons Evacuated Following Police Report of Armed Person.” The Chicago Maroon. 25 Apr. 2023, <https://chicagomaroon.com/39019/news/reg-hutchinson-commons-evacuated-following-police-report-of-armed-person/>.

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## CHAPTER EIGHT

# Return to Rapid Transit: Mobilizing Chicago's South Side with the Metra Electric

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### Introduction

The City of Chicago has one of the largest public transit systems in the country. Its expansive train network is made up of two rail giants: the Chicago Transit Authority (CTA), with its rapid transit “L” trains, and Metra, the commuter rail system. Together, these systems provide access to large swaths of Chicago’s various neighborhoods and suburbs. But not all parts of Chicago feature easy train transport. Disparities in public transportation and questions of equitable access by rail have been a longstanding issue in Chicago, especially in the South Side. Transit advocates have placed particular focus on the Metra Electric (ME) line’s potential to increase rail accessibility in the city’s southernmost region and suburbs.

This chapter seeks to explore the idea of restoring rapid transit service to the ME line through unification with the CTA to improve rail access on Chicago’s South Side. A brief history is provided of rail transit development in the city, with emphasis on the shift of the ME line from a rapid rail to a commuter rail line in the mid-to-late 20th century. After reviewing the line’s development to date, the policy history related to the unification of the ME and CTA, along with the failure of previous unification proposals to gain traction, is analyzed. Finally, the potential benefits of restoration for increasing rail access in the South Side are investigated and scrutinized with respect to how unification barriers can be overcome.

### Why the Metra Electric? The Case for Restoring Rapid Transit Service

#### *The State of Rail Today: Imbalances in Public Transportation*

Though most parts of Chicago and its neighboring suburbs contain some form of rail transit, not all regions are served equally. Access and quality of transit vary wildly from neighborhood to neighborhood, particularly between the North and South Sides of the city – a discrepancy that leaves entire communities underserved

and thousands of residents facing substantial hurdles to adequate transportation. A unified or restructured ME line could help address such disparities by bringing back rapid transit to areas on the South Side.

One of the most noticeable rail disparities is the difference in number of rapid transit stations between the North and South Sides. Exact delineations for the boundaries of both sides vary by source, though they typically follow the standard divisions set by branches of the Chicago River.<sup>1</sup> The North Side generally encompasses 25 communities by the northern branch, and the South Side encompasses 42 communities south of the river.<sup>2</sup> These regions contain similar populations of 1.5 and 1.2 million, though the North Side comprises a much smaller area geographically, making it more population-dense.<sup>3</sup> One might speculate that the South Side would feature a more robust and interconnected transit system to compensate for its relative sprawl, but the opposite is the case: it contains far fewer train stations and lines than the North Side, leaving many areas unserved by trains. The North Side holds 55 of the CTA's 145 stations, excluding the Loop and northern suburbs; the suburb stops add another 10 stations. In comparison, the South Side has a total of 29 stations.<sup>4</sup> This division means that while most North Side residents have a large network of trains offering easy access to public transportation, the South Side's relative scarcity leaves many of its residents with limited transit options. Out of the 42 community areas on the South Side, 25 have no CTA train stops at all; a similar absence of stations applies to only 8 community areas on the North Side.

Rapid transit also differs in its reach in certain areas of Chicago. The Red Line, for example, is by far the CTA's most popular line and the only one that traverses the city north to south and vice versa; however, it ends its service on the South Side at 95th Street, nearly 5 miles before Chicago's actual southern boundary at 138th Street. On the North Side, however, the line merges with the Purple Line to extend well past the northernmost part of the city into the suburb of Wilmette.<sup>5</sup> This 95th Street boundary severely hinders South Siders from accessing rail service, isolating the over 200,000 people who live south of 95th.

In general, South Siders face greater challenges commuting to work, attending school, or accessing healthcare and other essential services than their North Side counterparts because of the limitations in rapid transit – challenges that can exacerbate disparities in income, education, and health outcomes.<sup>6</sup> Studies have found that transit deserts – regions severely lacking public transportation options while having high-transit-need populations – in Chicago were most prominent in the south



and southwest parts of the city, in often-poor neighborhoods like Englewood and the Far South Side where residents are less likely to own cars and have a higher makeup of older or disabled residents who cannot drive.<sup>7</sup> The limitations on rail leave South Siders more dependent on buses; but CTA bus service is notoriously slower and less reliable than rail, often doubling the commute time of a comparable train ride.<sup>8</sup>

In the pursuit of more equitable rapid transit access in underserved communities, a restructured ME line therefore presents a promising solution. The South Side lacks the North Side's integrated train system; without the ME, virtually all regions east and south of Martin Luther King Drive and the I-94 Expressway – where the Green and Red Lines end – have no rapid rail service. The ME's restoration could mean bringing fast and efficient rail service to these areas and once again interconnecting them with Chicago's broader transit network. South Siders would be better able to access a wider range of employment, education, and other additional opportunities much more easily within the city; enjoy significant reductions in commute times that can be put towards other endeavors; and benefit from overall social integration and mobility beyond immediate practical considerations. Investment in the ME could also stimulate neighborhood revitalization and community development in the South Side. An enhanced transportation system can provide opportunities for transit-oriented development around stations, increasing population densities and attracting businesses that create walkable communities such as those in the North Side – investments that can create a cycle of growth and development in southern neighborhoods. By restoring the ME to bring rapid rail service to such communities, the Metra initiative becomes more than a gateway to faster transportation: it becomes a tool for fostering socioeconomic change.

### *Overview of Rail Development in Chicago & History of Metra Electric Line*

The history of the development of public transportation in Chicago, particularly of the Metra Electric and its fall as a rapid rail line, is in part responsible for the underdevelopment of the South Side's transportation today. The advent of rail in Chicago traces back to the mid-1800s, when the first commuter and passenger trains coming in and out of the city were built. Commuter rail took off after 1851 with the charter of the Illinois Central Railroad (IC). As the longest commuter railroad in the world at the time, the IC connected Chicago south to Mississippi and west to Nebraska.<sup>9</sup> In 1856, the IC began to operate local passenger service from downtown at what is now Millennium Station to Hyde Park, about 8 miles south, and over the

next century expanded further into Chicago's south, reaching its now-final stop past the city's southern boundary at University Park.<sup>10</sup>

Mass rapid transit only began later in the 19th century, with the founding of the first "L" trains in 1882 and construction of the Loop in 1897.<sup>11</sup> "L" service grew substantially during the first half of the 20th century, especially after the creation of the city-owned CTA following financial shortfalls threatening bankruptcy. Through the mid-1900s, the CTA modernized its system – closing underused stations, opening new underground subway stops downtown, replacing streetcars with the CTA buses known today – and expanded primarily into the northern and western parts of Chicago.<sup>12</sup> Though the CTA launched its Red Line in 1969 and brought "L" service for the first time to Chicago's more distant South Side, the line ended far before the IC's terminus.

A major part of why rapid rail service from the "L" system was not extended into Chicago's South Side in the same way as in the North is due to the IC line. First, several components of the IC's infrastructure distinguished the line from its commuter rail counterparts and would eventually set it up for popularity in the future Metra system. As early as 1893, in preparation for the World's Columbian Exposition, the IC put substantial investments into the line: by the time of the fair, the line featured elevated tracks, high-level platforms, multiple-door cars, and new express trains to run faster service. The main branch was also completely grade separated, meaning the entire line had no level crossings with roads, streets, or pedestrian pathways.<sup>13</sup> By the early 1900s, approximately 300 steam train cars were running on the IC line daily, and by 1926, the line was completely electrified to lessen smoke pollution.<sup>14</sup>

The combination of the IC's high-quality infrastructure and sophisticated operating system made the IC one of the most advanced rail systems in the world, allowing it to benefit from high ridership and low operational costs. By the 1940s, the IC was more popular than all other Chicago commuter railroads, and most of its riders traveled within the city itself. Downtown Chicago, Hyde Park, South Shore, and South Chicago were the most common destinations for passengers. In 1946, train schedules show that the IC's South Chicago branch ran trains every 10 minutes during the day and every 20 minutes in the evening; ridership peaked that year at 47 million trips.<sup>15</sup> By running so often, and much more frequently than other commuter rails in Chicago, the IC effectively functioned as a light rail system. The "L" had little reason

to expand in the south because the IC covered the rapid transit market in the region; South Side residents could rely on the IC as a steady form of daily transportation.

An additional rapid transit characteristic of the IC included ticket collection. While commuter rails lines typically employ conductors to check passenger tickets on-board, the IC established an automatic fare collection system in 1966. Most of the line's stations had automatic fare gates, and in the 1970s the IC installed turnstiles similar to those in CTA stations.<sup>16</sup> This infrastructure allowed for faster onboarding of riders and eliminated the need for multiple station agents per train, making the IC run more efficiently. Furthermore, the spacing of the IC's stations in Chicago reflected that of rapid transit systems: in 1979, the stations were approximately every half mile from each other, as opposed to stations in the suburbs which were twice as far apart. Even today, the ME has the highest number of stations of any Metra line, typically spaced between half a mile and one and a half miles apart.<sup>17</sup> Had the 1970s ticketing method been maintained alongside the IC's unique station characteristics, it would have completed the IC's transformation into a true rapid transit system.

Unfortunately, the post-war suburban growth and increasing prevalence of automobiles undermined rail systems across the country. The IC and CTA trains suffered similar fates, as decreasing ridership levels began affecting the agencies' economic stability. In response, the Illinois General Assembly created the Regional Transportation Authority (RTA) in 1974 to serve as the governing finance body for public transportation in Illinois.<sup>18</sup> Efforts to help the IC were insufficient, however. By 1976, IC service had fallen to every 30 minutes during the day, and hourly in the evenings. IC passenger numbers were further compromised by the Red Line's opening in 1969, as the IC began losing riders to the more frequent CTA trains: a trend that demonstrated a clear desire from South Siders for rapid transit. Because the IC line was not yet subsidized while the CTA had been under public ownership for decades, the Red Line could afford to offer greater off-peak service, lower fare rates, and full integration with CTA buses, rendering it a more desirable option for many South Siders.<sup>19</sup> Caught in a vicious cycle of lower revenue requiring operational cuts, the IC increased fares while reducing services, a combination that brought still lower ridership. The IC went back to checking tickets on-board in 1981 due to budget constraints, as using conductors was cheaper than maintaining the automatic fare system at the time.<sup>20</sup>

In 1984, the RTA created "Metra," short for Metropolitan Rail, to oversee commuter trains in Illinois under one unified system. The IC tried to keep pace, but

as a private company now competing against other government-owned or subsidized rail companies, it was not sustainable as a standalone railway. The IC sold the line to Metra for \$28 million in 1987, officially becoming the ME. By then, service had fallen to every hour Monday through Saturday and every two hours on Sundays outside rush hour service, marking the end of the line's rapid transit days.

### *Timeline of the Unification Movement*

The glory days and the success of the ME in its heyday serve as evidence of its potential to solve the transportation problems in Chicago of today, and there have been multiple historical projects that aimed at this solution. The concept of unifying the ME line with the CTA to restore rapid rail service is not a recent innovation; for decades, such unification has been the subject of numerous proposals and initiatives advanced by various stakeholders, ranging from local community advocates to Illinois lawmakers. A long history of unification demands and recurring policy themes form a backdrop to a comprehensive understanding of the specific transportation needs and aspirations of Chicago residents and rail advocates. Recognizing these commonalities across time enables the design of targeted policy solutions that align most closely with the articulated demands.

One of the first unification movements to gain traction began nearly 30 years ago. Mike Payne, a South Side local and rail advocate, launched his “Gray Line” proposal in 1996, outlining a plan to convert the ME from a commuter rail line to a CTA-style “L” rapid transit system.<sup>21</sup> The initiative centers around the idea of utilizing the existing ME line and infrastructure to create rapid service in the South by running the trains more frequently – every 10 to 15 minutes instead of hourly – like an “L” train. The “Gray Line” appellation draws from the CTA's color-coded rail system, and the plan involves a full integration of the ME line with the CTA.<sup>22</sup> In line with this vision, schedules and fares of the two systems would be integrated, and turnstiles and fareboxes would be installed at ME stations to mirror CTA infrastructure. Payne's other proposed modifications are to the railcars themselves, including eliminating the bathroom inside each ME car to create more vestibule space, redesigning the seats to avoid wear, and removing indoor vestibule doors to facilitate rider distribution. These changes would eliminate the need for conductors to collect tickets after boarding, allowing for easier boarding and facilitating transfers from other CTA lines without paying additional fares.<sup>23</sup> Payne's proposal envisions changes for the South Chicago branch and part of the University Park branch of the ME line, which would bring

rapid transit all the way down to 93rd Street and 115th Street, in the South Chicago and Pullman neighborhoods.<sup>24</sup> These regions are currently not serviced by CTA trains.<sup>25</sup>

In 2002, Payne's Gray Line proposal was featured in the Chicago Metropolitan Agency for Planning (CMAP)'s "Shared Path 2030" list of 300 projects for improving public transit in the city.<sup>26</sup> The following year, it was ranked first among other transit projects in a study by the Chicagoland Transportation and Air Quality Commission. Nonetheless, the Gray Line was ultimately rejected by the CTA, which claimed its proposed Red Line extension would better address transportation needs on the South Side.<sup>27</sup>

Payne's outcast proposal resurfaced in the Chicago Department of Transportation (CDOT)'s 2012 South Lakefront Corridor Transit Study, created to identify plausible transit improvements in the city's southern region. The proposal was listed under "candidate projects," but was not analyzed further "because of the high cost expected to be associated with conversion" of commuter rail to light rail transit technology.<sup>28</sup> The study said the proposal could be worth reexamination in the future, but did not end up making final recommendations for the project.<sup>29</sup> Since the study's publication, no new developments regarding the proposal have been announced or posted to the Gray Line website.

Akin to the Gray Line, the "Gold Line" project proposes to transform the ME into a rapid transit service by aligning with the CTA system. The plan originated in 2009, spearheaded by the group Southsiders Organized for Unity and Liberation (SOUL) as talks began about Chicago's candidacy as a host for the 2016 Olympic games.<sup>30</sup> The Gold Line project also called for integrating the ME with CTA fares and schedules, running the ME trains more frequently during non-peak hours, and allowing for low-cost transfers with other lines. New train cars and station upgrades were proposed (as with the Gray Line), including faregates and turnstiles; further, a new station was envisioned for 35th Street.<sup>31</sup> Unlike the Gray Line, the Gold Line project does not call for a complete transfer of the ME to CTA management; rather, the Gold Line would contract with the CTA to provide service. Nor is the entirety of the ME encompassed in the Gold Line proposal: only the ME's South Chicago's branch, going down to 93rd Street, would be converted.<sup>32</sup> Still, the proposal expands rapid rail transit deeper into the South Side for communities lacking those services, while making use of existing infrastructure.

Metra rejected SOUL's request for a study to examine the Gold Line's feasibility in 2009, close to when Chicago's bid for the Olympics failed.<sup>33</sup> In 2012, the project was featured in the same South Lakefront Corridor Transit Study that noted the Gray Line plan: the Gold Line was the only proposed project to be closely analyzed by CDOT. After performing a coarse cost-benefit analysis of the plan, however, CDOT recommended not to advance the Gold Line proposal, suggesting instead that it remain "considered in Metra's ongoing strategic planning process" by the department.<sup>34</sup>

Nonetheless, the campaign for a Gold Line continued. In 2016, the new Coalition for a Modern Metra Electric (CMME) launched its own campaign, effectively reigniting SOUL's proposal. The coalition consists of 14 transit advocates, community groups, and other Chicago organizations pushing for greater transit mobility in the South Side, including the Active Transportation Alliance and Center for Neighborhood Technology.<sup>35</sup> CMME marks by far the largest group yet created advocating for the ME's conversion. The coalition's petitions echo the previous requests for integration and increased service frequency, emphasizing the ME's potential for bringing rapid transit to underserved communities.<sup>36</sup>

The CMME presented its proposal at a Metra board meeting in May 2016, asking for an analysis of the project's operational costs. The meeting ended up "[drawing] the interest of Mayor Rahm Emanuel" and initiated a preliminary evaluation by the RTA.<sup>37</sup> Despite this early enthusiasm, there is almost no new media coverage on the CMME proposal after the summer of 2016: the last news report on the campaign listed on the CMME website is an article from 2019.<sup>38</sup> No reports after that describe any new developments with regards to the Gold Line or the CMME's proposals.

### *Metra Electric's Existing Infrastructure*

Because of its history with the IC, the ME has (literally) already laid the groundwork for a return to rapid transit. Its current infrastructure makes it ideal for CTA unification or general restructuring; most obvious is the fact that the ME has a much greater reach in Chicago's South Side than the Red Line. Multiple rail projects have been proposed to extend the CTA in the south, most recently with the Red Ahead program. This proposal would extend the Red Line by 5 miles with 4 new stations to reach 130th Street, much closer to the city's southern boundary.<sup>39</sup> But the project has been long and arduous – such an extension has been promised for

decades, since the Red Line's opening in 1969. Still in the early stages of planning, it is currently expected to cost over \$2.3 billion and only reach completion by 2029. In contrast, the ME's existing infrastructure already goes past Chicago's border, covering many of the same areas as the proposed Red Ahead extension. Both the extension and the ME would have stops at 107th, 111th, and 115th Street, all within around a mile of each other. The ME also has a stop in Riverdale, where the Red Line extension would terminate, and 12 additional stations to University Park.<sup>40</sup> A Metra restoration project would thus build upon an existing framework; there would be no need for additional infrastructure by laying down tracks or building new stations, as the Red Line extension would require. The comparative lack of significant construction and associated costs give the ME a faster implementation timeline along with its relative cost-effectiveness: the unification movements have proposed restoration projects with budgets ranging from \$160 million to \$500 million, significantly lower than the multi-billion-dollar Red Line extension.<sup>41</sup>

The corridor of the ME's mainline (until 75th Street) and South Chicago branch lies almost all along the lakefront, a desirable route with increasingly popular destinations like the Museum of Science and Industry and the newly built Obama Center and a projected residential growth of 26% by 2050.<sup>42</sup> This growth anticipates an increase in demand for ME service, which emphasizes the line's potential for rapid transit. Some CTA buses already follow the same or similar routes; the J14 Jeffery Jump, for example, is a relatively new bus line that offers express service closely following the ME's mainline through Hyde Park and its South Chicago branch, all the way to 103rd Street.<sup>43</sup> As one of the CTA's busiest bus lines, it demonstrates a need for rapid transit along the ME corridor to the southern parts of the city. A restructured ME could thus provide a faster alternative to residents who rely on the bus service and allow the CTA to reallocate some of the J14 buses to other lines that lack rail alternatives.

The line itself also boasts features that make the ME ideal for running rapid transit service. As the only Metra line to be completely electrified, its trains run faster and quieter compared to diesel-powered locomotives. The ME features a dedicated right-of-way, which means it operates on separate tracks exclusive to passenger trains – it is the only Metra line to not share its tracks with freight trains. This separation increases safety and minimizes the risk of delays due to freight train traffic, ensuring the more consistent and reliable service that characterizes effective rapid transit.<sup>44</sup> The grade-separated, four-track mainline also gives the ME the unique capacity to add

more cars or run trains more frequently to increase service, and the stations' high-level platforms allow for quick boarding.<sup>45</sup> Additionally, the ME possesses the most stations and trains of any Metra line, and it is the only line with two downtown stations: Van Buren and Millennium. As mentioned, the line's stations are on average less than a mile apart, like the "L." Such frequent stops allow for wide geographical coverage of destinations. In short, the conversion of the ME line to rapid transit presents a viable and efficient solution to improve transit access on the South Side.<sup>46</sup>

## **Why Hasn't Restoration Happened? Barriers to Implementation and Overcoming Them**

### *Budgetary Constraints*

The biggest obstacle to moving forward with an ME unification or restoration project, at least as cited by the transit agencies, has been budgetary challenges. The most comprehensive, and recent, analysis of this issue has been in the 2012 South Lakefront Corridor Transit Study, in which the CDOT evaluated – and ultimately rejected – the Gold Line proposal. The study found that to implement the proposed changes of increasing service on the existing ME line to match that of CTA rapid transit would entail an estimated capital cost of \$350 million. This figure includes track improvements, station upgrades, fare collection equipment, and purchasing new train cars. An additional \$60 million was estimated for annual operating costs.<sup>47</sup> The study acknowledged that a “detailed operational simulation... outside the scope of this study” would be necessary to properly “determine the extent of capital and operating costs associated with the Gold Line proposal,” so these numbers are quite speculative.<sup>48</sup> Nevertheless, these preliminary cost estimates are more than double the \$160 million envisioned by SOUL.<sup>49</sup>

The 2012 study gives indications that it started from a position of highlighting barriers to ME improvements rather than genuinely investigating them. Notably, the study assumes that existing “L” and Metra services would remain unchanged if the Gold Line were implemented. Under this assumption, the study found that around 14,000 weekday riders would use the improved service: an increase from the at-the-time 8,000 daily riders that “does not indicate that the project would have a large impact.”<sup>50</sup> This assumption, however, not only disregards the operational savings that would come from route consolidation of other trains and buses, but artificially lowers the estimated Gold Line ridership, allowing the study to conclude that the Gold Line would not be economically viable.



The study's estimated \$350 million cost also includes two station improvements that had already been on the Metra's project improvement list (at 59th and 63rd Street), and two other stations that would serve all trains, not just those of the Gold Line (at 18th and 49th Street) – each at \$18 million.<sup>51</sup> Subtracting these costs that are not attributable to the Gold Line from the proposed budget lowers it by \$72 million.

The South Lakefront Corridor Study exclusively used CTA loading standards and ridership to measure the frequency at which ME service should be increased and “to evaluate whether this demand is warranted.”<sup>52</sup> This tool is once again misleading as it measures existing ridership without accounting for how other schedules would change with the Gold Line; it also ignores the history of the ME/IC's ridership, and how historical figures greatly exceed ridership levels today. Finally, the study fails to make any mention of labor reform and the lowered costs that come from rapid transit's ability to function with fewer crew members than commuter rail. The IC's substantial cut in station agents with the implementation of automatic fare collection and other rapid transit features is a major reason as to why the line was able to run rapid transit service for so many years – consequently, crew reduction has been a serious consideration in talks of ME restoration proposals, and general commuter-to-rapid-transit conversion projects across the country, for decades.<sup>53</sup> Therefore, the omission of one of the most important factors in the comparative efficiency of rapid transit systems from the Gold Line's estimated costs raises questions about the CDOT study's sincerity in exploring transit improvements.

Moving forward, addressing budgetary constraints with ME restoration requires conducting a proper study to thoroughly analyze all the discrepancies and omissions listed above. The study should examine existing ridership patterns, taking into account historical data, and perform a detailed operational simulation to accurately estimate ridership and make cost deductions associated with ME restoration. Moreover, a new study should not operate within the confines of assumptions or hold language heavily biased against a restoration proposal as the 2012 Corridor Study does – it must explore scenarios where both the CTA and Metra services are subject to change, recognizing the need for a holistic approach to transit improvement on the South Side.

The RTA and CDOT have so far approached cost-benefit analyses of such improvements with the wrong intentions: public transit is meant to serve people, not seek profit. Improving transit access on the South Side is not merely an expense; it is an investment in the entire region, which can lead to increased economic activity, job

creation, and overall improvements in the quality of life of thousands of residents. The Corridor Study's finding of a "small" estimated ridership increase of 6,000 post-ME renewal, despite being a conservative figure, is not negligible.<sup>54</sup> Even if accepted as a baseline increase, this number represents the transformation in rail accessibility and connectivity for thousands of South Siders.

### *CTA-Metra Tensions*

Apart from budgetary constraints, interagency tensions between the CTA and Metra can hinder any ME restoration project. Coordination between the two agencies is vital for any efforts to bring rapid rail service to the ME; unfortunately, transit in Chicago has been plagued by competition, not cooperation, for decades.<sup>55</sup> These tensions reflect the complex interplay of organizational interests, jurisdictional boundaries, and differing priorities that together inhibit the progress of the ME initiative; the strains are connected to the CTA and Metra's governing bodies as well as RTA oversight.

Despite acting as their parent agency, the RTA has very limited authority over the Metra and CTA. The limitation of its power dates to its creation and the subsequent takeover of Metra's operations in the 1980s. The Eno Center for Transportation writes in its 2015 report analyzing transit governance:

With the passage of the 1983 RTA Act, the Chicago region began pioneering a new approach to transit governance. While transit agencies across the country were consolidating, Chicago took a different tack and devolved its system by creating separate agencies, each operating different but related types of transit service, in different geographies of the same region, and with very different constituencies. The idea in theory was to have RTA coordinate among the three agencies, with power to approve budgets, but this has never actually been achieved. Instead, CTA and/or the suburban agencies retain effective veto power over any RTA action. What was intended to be a regional agency has evolved into a battleground between city and suburbs. The CTA views RTA as protecting the suburban service boards, and the suburban service boards see RTA as favoring CTA.<sup>56</sup>

As a result, while the RTA holds fiscal responsibility over the CTA and Metra, it lacks the intended power to coordinate transit in the Chicago region. The two agencies largely operate autonomously, without virtually any decision-making integration, but compete for money from the same funder.<sup>57</sup> This relationship has left transit service in the city fragmented and disjointed; the current division delineates the CTA as

prioritizing rapid transit in the city and Metra as serving a suburban commuter base. These competing priorities thus make it challenging to align strategies or objectives for ME restoration efforts, since unification or restructuring of the rail system would require reconciling these distinct mandates.

The positioning of the CTA and Metra as competing agencies with competing services has been in place for decades. When the CTA began expanding its rail operations in Chicago's South Side in the late 1960s, it was simultaneously encroaching onto the then-IC's territory. The IC quickly began losing riders, leaving it in the financial state that eventually led to its purchase by Metra. Rather than working together to improve transit access on the South Side, the two agencies remained in competition with each other. In 1982, as the IC was nearing its end, the CTA intensified service with what are now the #6 Jackson Park Express and J14 Jeffery Jump bus lines, bringing further detriment to the IC line – once again ignoring an opportunity to support the IC or work together to improve rail transit.<sup>58</sup> The lack of coordination to improve rail continues today, and manifests in the immensely difficult process of implementing improvement projects like ME restoration.

Moving forward, any integration of both rail systems would require giving the RTA more authority and taking power *away* from the CTA and Metra to coordinate a restructuring. A significant problem, however, arises in the fact that the agencies have different governing boards: most of the CTA's board is directly appointed by the mayor of Chicago, while Metra's board consists of non-mayoral-appointed representatives from 6 counties in Chicago's metropolitan area.<sup>59</sup> This distinction helps to solidify the two agencies' differing priorities in the city's transportation landscape. Any attempt to cut into either individual agency's autonomy is seen as an attack on the "rival" governing body and the constituents it represents. Taking power away from the CTA to increase the RTA's authority, for example, means taking power away from the mayor – an action that would likely face strong bureaucratic opposition and lead to funding gridlocks.<sup>60</sup> The ME line, therefore, situated at the intersection of the agencies' two distinct spheres, becomes a point of contention in terms of operational control. A proposal to transfer a current Metra operation to CTA jurisdiction faces opposition from suburban and other Cook County constituents who see it as an attempt to favor city projects, while a proposal to significantly invest in a current commuter rail line similarly faces opposition from the CTA. The positioning of the CTA and Metra as against one another – coupled with the divergent political interests that control them and the lack of a strong enough RTA to override

interagency tensions – means that there is little incentive to cooperate with investing in transit projects, even if such projects would benefit the people of Illinois as a whole.

Evidence of this lack of desire for coordination is seen in the South Lakefront Corridor Study. When examining the possibility of restoring rapid service to the ME line, the study concluded that even if the demanded changes were implemented, “a share of the ridership would come from existing CTA services that might not be able to be substantially reduced or terminated.”<sup>61</sup> With this framing, the CTA sees the Metra line as competition: it has no incentive to help rehabilitate the ME line or “feed it” passengers if such a divergence is seen as a personal loss to the agency.

An earlier report that briefly looked into ME restoration was the 2009 Red Line Extension Alternatives Analysis Study, conducted by the CTA to examine potential alternatives to the Red Line extension for increasing transit mobility on Chicago’s Far South Side. The study characterized the ME’s restoration to rapid transit as a “no-build alternative,” acknowledging that the line already had 10 stations within the study’s area and would thus require no additional infrastructure.<sup>62</sup> But it did no further research on the project as a feasible alternative to the Red Line extension or make any mention of the extension’s significantly higher cost. The study ultimately fell short of truly exploring transportation alternatives on the South Side by focusing solely on how the CTA could improve transit service – a reflection of the fact that since the CTA is not required to cooperate with other agencies like Metra, considerations of such coordinated efforts are rarely fully explored.

The interagency territorial war has been perpetuated directly by Chicago government officials. At a 2022 meeting of the Cook County Board of Commissioners Transportation Committee, multiple county leaders gathered to propose an integration of fares between the Metra and CTA systems to facilitate transfers for transit riders, particularly those on the South Side. Then-mayor Lori Lightfoot responded to the proposal: “Taking ridership from the CTA and giving it to Metra doesn’t make any sense to me.”<sup>63</sup> Concerns like these are examples of the shortsighted perspectives that hinder the development of meaningful transit improvements and keep projects like ME restoration in gridlock. Public transit exists to serve local residents and communities, not the other way around; the primary goal of transit leaders and politicians should be to serve the public, rather than prioritize the preservation of the status quo. When a project promises to enhance the lives of underserved communities, as ME rehabilitation does with the South Side,

transportation networks should at least be open to adapting to the evolving needs of their constituents. In this case, prioritizing people means recognizing the urgent need for improved transit in underserved areas and setting aside bureaucratic disagreements. The concerns expressed about the “loss” of CTA ridership to the ME should be viewed through the lens of people-centric transit policy, not one of system-by-system profit.

Despite these interagency tensions, the ME line is not a lost cause. Overcoming these barriers and achieving rail restoration represents a transformative goal for transit in Chicago, and steps have already been taken to indicate that such efforts can succeed. One of the major requests from unification organizers – fare integration between CTA and Metra – has been partially addressed by the transit agencies with the introduction of Ventra, an electronic fare payment system, in 2015. Before then, the CTA and Metra had very disjointed fare systems with individual payment methods; the Ventra mobile app now allows customers to pay for rides on both transit systems.<sup>64</sup> The system does not fulfill all the demands organizers sought for better transit integration – Metra does not utilize the physical Ventra cards like CTA, and the app does not allow for free transfers – but it does represent a step in the right direction by simplifying fare payment and allowing for a more seamless transition between the two agencies.<sup>65</sup> The app’s introduction not only reflects a response to public demand for a more integrated transit system, but demonstrates that interagency coordination is possible, marking a potential first step in working towards a more substantial integrated fare system in the future.

Importantly, the idea of restoring rapid service to the ME has garnered support from a diverse array of stakeholders over the years, creating a base of community organizers, university and business interests, and even politicians. This wide-ranging backing reflects a multi-stakeholder approach that both brings diverse perspectives to how to approach the project and demonstrates that the call for greater South Side transit access comes from multiple voices. Community organizers – such as Mike Payne and SOUL – have spearheaded the unification movement from the beginning with grassroots advocacy. By being deeply rooted in the South Side neighborhoods, they have brought to their campaigns recognition of the profound impacts that improved transit access can have on underserved communities.<sup>66</sup> University and business interests have also held significant stakes in the ME restoration movement: members of the University of Chicago have advocated for improved transit access to enhance student mobility from Hyde Park, and businesses see the potential for

economic development and increased foot traffic around ME stations.<sup>67</sup> This support adds a critical economic/educational dimension to the cause that can help convince the transit agencies of the project's economic viability.<sup>68</sup>

Political support for ME unification has also been evident at various levels of government, which is crucial for overcoming agency hesitancy and building momentum towards concrete action. In 2019, Illinois State Representative Marcus Evans Jr. introduced a bill that would lower ME fares and set them equal to the CTA at \$2.50 in an effort to improve transit access in Chicago's South Side. The bill received support from CMME leaders, who saw it as a step towards expanding affordable rail service on the ME.<sup>69</sup> Though the bill itself never moved forward, a similar concept was adopted in 2021 with the Fair Transit South Cook pilot program, which lowered fare rates on the ME and Rock Island Metra lines to \$2 through 2023. The program – targeting regions on Chicago's South Side and southern suburbs – received support from the Cook County Board, county commissioners, and other local elected officials, in addition to CMME members.<sup>70</sup> Like the previous bill, this initiative reflects a commitment to address transit disparities on the South Side through an affordable fare structure and aligns with the broader goals of ME restoration. Support from city and state officials echoes that of transit advocates; partnerships between both groups highlight the potential for collaboration while bringing political leverage that can elevate the ability to enact concrete policy changes that support ME restoration. Ultimately, the collective power of these various perspectives ensures that the project is driven by a deep understanding of the importance of adequate transit and underscores the promise of ME restoration efforts eventually coming to fruition.

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