

Chicago's other code of silence

By **Michael Baird**

Chicago Daily Law Bulletin

December 19, 2017

Police officers don't say bad things about other police officers. Sometimes, they repeat untruthful stories to back their fellow officers' accounts. The so-called code of silence has gotten a fair amount of press.

But, there is another scandal buried in the story. It's been going on for years. It is the code of silence among the lawyers representing the city of Chicago.

My first experience with this code of silence came in a case that started with a minor traffic collision. According to witnesses, two men in plainclothes stepped out of a nearby tavern and approached the driver of the car on the through street. No one heard what was said. But the man at the driver's window pulled the driver out of his car and slammed his head against the hood. Out came the cuffs, and the woozy driver was taken away. He was found later in a jail cell with a fractured skull and a subdural hematoma.

The arresting officers (both in uniform) said they had the driver transported back to the district "so they could investigate the crash in a more impartial manner."

Their report made no mention of the plainclothes individuals. Witnesses at the scene were adamant that the driver was arrested (and manhandled) by plainclothes officers, who then turned him over to uniformed officers. So, I deposed the squadrol driver.

He told me he had been dispatched to transport a prisoner being held by a "plainclothes" unit. The address given was to an intersection of two streets that did not in fact intersect.

He came up to the crash scene and asked two uniformed officers if they had seen a plainclothes unit with a prisoner. They said no, and the squadrol kept driving.

He was called back to the crash scene because the uniformed officers now said they had a prisoner to be transported.

The squadrol driver did not know the names of the plainclothes officers, but said their unit number for the officers requesting a wagon would be recorded on a "dispatch card." In response to my request for the dispatch card, the city's attorney answered "none."

Tragically, the two uniformed officers were killed in the line of duty a short time later. They were not deposed. Their only (produced) report was for the traffic crash. This was notwithstanding the fact the driver they charged with negligent driving was taken from his cell to an intensive care unit with irreversible brain damage.

Police general orders require that jailers check to make sure prisoners are not in need of medical care when they are placed in a cell. The general orders also require a report telling when a prisoner is taken to an emergency room. When asked for these documents, the city's lawyers again answered "none."

At trial, the city called someone from their communications office to give a reasonable excuse for their failure to produce the dispatch card. On direct examination, he said they were in the process of transferring the cards to their computer and the card was temporarily unavailable.

On cross-examination, I asked when this transfer started. He said about six months ago — which was two years after the city told me there was no card.

I asked him that since the transfer had been completed, could someone easily answer the question about the identity of the plainclothes unit. He said, "Yes — it could be easily done." Question: Did the city's lawyers ask you to give them the names of the plainclothes officers who called for a wagon? Answer: No.

The "missing witness" instruction was given to the jury, and they returned a plaintiff's verdict in less than an hour.

Fast forward 20 years. I represented the estate of a pedestrian killed when a high-speed chase through downtown Chicago over a stolen purse resulted in a crash. The driver was in custody, charged with murder. In my initial production request, I asked for any video the police had obtained from any of the businesses along the chase route. They answered "none."

I then went looking for video cameras. I found several on the [Social Security Administration](#) building right next to the crash site. The chief of building security told me the police stopped by the day after the crash and viewed several hours of recorded video. He said he could make me a copy of what he gave the police. When the CD arrived, it was marked "[CPD](#)."

Every once in a while, the city ends up paying a hefty price for its lawyers' following their code of silence. Is their default answer to deny the existence of any unfavorable evidence and hope to not get caught?

Have they decided that an occasional big loss is an acceptable price to pay? This would not keep happening — unless they usually get away with it.