

**City of Chicago**  
**Civilian Office of Police Accountability Rules and Regulations**

**Article I: Introduction**

**§1.1 Authority, Purpose, and Scope**

These rules and regulations:

- a. are promulgated under the authority provided by the Municipal Code of Chicago (MCC) §2-78-120(r) and in accordance with MCC §2-78-170, to provide guidance and standards concerning activities of the City of Chicago Civilian Office of Police Accountability (COPA);
- b. are promulgated to ensure compliance with the law, promote the use of best practices, foster integrity and independence in the performance of COPA activities, and provide transparency regarding the procedures and standards for the conduct of those activities;
- c. may vary in their application depending on the facts and circumstances of specific investigations based on operational contingency and need;
- d. do not confer any rights upon a subject or witness of a COPA investigation; and
- e. apply to all COPA activities except as otherwise required in the course of activities conducted at the direction of the United States Attorney's Office, the Illinois Attorney General's Office, or the Cook County State's Attorney's Office as part of a joint investigation of Federal, State, or Local criminal law.

**§1.2 Mission**

COPA is an independent agency of the City of Chicago that operates separately from the Chicago Police Department (CPD). It is COPA's vision to contribute to the public safety of all Chicagoans by promoting quality and fair policing and police accountability. COPA performs the intake function for all allegations of misconduct made against members of the Chicago Police Department. COPA is directly responsible for conducting investigations into allegations of the use of excessive force, domestic violence, verbal abuse, coercion, improper search or seizure, and unlawful denial of access to counsel. COPA is also responsible for investigating all incidents, including those in which no allegation of misconduct is made, involving an officer's discharge of a firearm, an officer's discharge of a stun gun or taser in a manner that results in death or serious bodily injury, where a person has died or sustained serious bodily injury while in police custody, and all incidents of an "officer-involved death." COPA also has the power to investigate patterns and practices of misconduct in any form.

The mission of the Civilian Office of Police Accountability is to conduct investigations within its jurisdiction with integrity, transparency, independence, and timeliness. The goal of every COPA investigation is to determine whether allegations of misconduct are well-founded, applying a preponderance of the evidence standard; to identify and address patterns of police misconduct;

and, based on information obtained through such investigations, to make policy recommendations to improve the Chicago Police Department and thereby reduce incidents of police misconduct.

COPA strives to conduct investigations with the highest level of integrity and independence in order to make findings based on a thorough review of the evidence and accurate legal analysis, without regard for political influence.

### **§1.3 Definitions**

The following terms wherever used in these rules and regulations will have the following meanings unless a different meaning appears from the context:

- a. BIA – means the Department’s Bureau of Internal Affairs;
- b. Chief Administrator – means the Chief Administrator of COPA or the Chief Administrator’s designee;
- c. City – means the City of Chicago;
- d. Coercion – means the use of improper or unlawful force or threats, express or implied, in order to compel a person to act against his or her will. As defined herein, “coercion” includes compelling a person to make statements;
- e. Complainant – means any individual making allegations of misconduct regarding a member of the Chicago Police Department;
- f. Department – means the Chicago Police Department;
- g. Domestic violence – means physical abuse (other than sexual abuse), harassment, stalking, intimidation or violations of orders of protection (or similar court orders) involving a sworn officer’s family or household member. As used in this definition, the term “family or household member” means spouses or former spouses; parents, children or stepchildren whether by blood or adoption; persons who share or formerly shared a common dwelling; persons who have or are alleged to have a child in common; or persons who have or have had a dating or engagement relationship;
- h. Excessive force – means a Department member’s application of force which, either because of the type of force employed, or the extent to which such force is employed, exceeds the force that reasonably appears to be necessary under all the circumstances surrounding the incident, including whether any use of force was appropriate;
- i. Final Summary Report – means the report which summarizes the content and outcome of the investigation;
- j. Improper search and seizure – means the improper search and/or seizure of a person, place, or thing in violation of department policy or established law;
- k. Police Board – means the police board established by MCC Chapter 2-84;
- l. Superintendent – means the Superintendent of the Chicago Police Department or the Superintendent’s designee;
- m. Unlawful denial of access to counsel – means a denial of access to counsel in violation of established law;

- n. Serious bodily harm – means an injury of a graver and more serious character than an ordinary battery (see *People v. Carmack* (1977), 50 Ill.App.3d 983, 986, 366 N.E.2d 103.). This may include, but is not limited to, injuries resulting in: extreme pain; unconsciousness; disfigurement; hospital confinement; permanent or protracted loss or impairment of the function of a body part, organ, or mental faculty; or a substantial risk of death (18 U.S.C. § 1365(h)(3)); and
- o. Verbal abuse – means the use of oral or written remarks that are overtly insulting, mocking, or belittling, directed at a person based upon the actual or perceived race, immigration status, color, gender, age, religion, ancestry, national origin, sexual orientation, disability, marital status, parental status, military discharge status, source of income, or gender identity or expression of that person. “Verbal abuse” shall also include any unwelcome sexual advances or requests for sexual favors.

#### **§1.4 Jurisdiction**

Pursuant to MCC §2-78-120, COPA receives all complaints against members of the Chicago Police Department. In addition, as outlined below, COPA investigates:

- complaints against members of the Police Department alleging domestic violence, excessive force, coercion, or verbal abuse;
- incidents, including those in which no allegation of misconduct is made, in which a Police Department member discharges:
  - (i) a firearm in a manner that potentially could strike another individual,
  - (ii) a stun gun or taser in a manner that results in death or serious bodily injury, or
  - (iii) in the Chief Administrator’s discretion, other weapons discharges and other use of Police Department-issued equipment as a weapon that results in death or serious bodily injury;
- incidents, including those in which no allegation of misconduct is made, where a person dies or sustains a serious bodily injury while detained or in Police Department custody, or as a result of police actions, such as during attempts to apprehend a suspect;
- incidents of an “officer-involved death,” as that term is defined in 50 ILCS 727/1-5; and
- complaints against members of the Police Department alleging improper search or seizure of either individuals or property, or unlawful denial of access to counsel.

COPA is authorized to conduct investigations to determine whether members of the Police Department are engaging in patterns or practices of misconduct.

The Chief Administrator, in his or her discretion, may review lawsuits and claims against the Department, or one or more of its members, or against the City, alleging police misconduct that falls within COPA’s jurisdiction, where such lawsuit or claim was subsequently settled or resulted in a judgment against such member, the Department or the City, for the purpose of reopening a prior investigation or opening a new investigation of alleged police misconduct.

Subject to the provisions of any applicable collective bargaining agreement (CBA), the Chief Administrator may also review and investigate the facts of individual civil lawsuits and criminal proceedings involving alleged police misconduct, in order to identify and investigate incidents of police misconduct or to make recommendations to improve Police Department policies and practices within COPA's jurisdiction

## **§1.5 Applicability of City of Chicago Personnel Rules**

All COPA employees are subject to the rules of conduct set forth in the City of Chicago's Personnel Rules.

### **Article II: Complaint Intake**

#### **§2.1 Intake Procedures**

##### **§2.1.1 Complaints From Members of the Public**

COPA will maintain the following methods for the filing of complaints:

- a. **Telephone:** (312) 743-COPA, which will be staffed with an on-duty COPA representative between the hours of 9:00 a.m. and 7:00 p.m., Monday through Friday. For all other hours, the hotline will be enabled to receive recorded messages. Any messages received will be processed as appropriate no later than the following regular business day.
- b. **TTY:** (312) 745-3593
- c. **In person:**
  - i. by visiting the COPA offices located on the 4th Floor of 1615 W. Chicago Avenue between the hours of 9:00 a.m. and 7:00 p.m. Monday through Friday;
  - ii. by visiting any police facility and making a complaint with any police department supervisor. Complaints received at police facilities will be immediately forwarded to COPA; or
  - iii. at meetings in the community or by visiting a satellite location at which COPA investigators are available to take complaints. The times and locations of community meetings at which COPA investigators will be available to take complaints will be made publicly available on the COPA website at least seven days in advance of the community meeting. The hours of operation of COPA satellite locations will be made publicly available on the COPA website.
- d. **By mail:**  
Civilian Office of Police Accountability

Attn: Complaint Intake  
1615 West Chicago Avenue, 4<sup>th</sup> Floor  
Chicago, Illinois 60622

- e. **Online:** By visiting the COPA website homepage at [www.chicagocopa.org](http://www.chicagocopa.org) and clicking on the “File a Complaint” icon.

COPA will accept digital media material related to an allegation of police misconduct (video, digital photos, etc.) via email at the following email address: [COPA-Info@chicagocopa.org](mailto:COPA-Info@chicagocopa.org). COPA will provide an email response to each submission to acknowledge receipt of the submission unless the submitter explicitly directs COPA not to do so in the email submission.

### **§2.1.2 Complaints From Department Members**

Any Department member may report misconduct directly to COPA through the complaint intake procedures described above. In addition, pursuant to the Department General Order G08-01-02, titled “Specific Responsibilities Regarding Allegations of Misconduct,” Department members who have knowledge of circumstances relating to misconduct must submit a written report to a supervisor before reporting off duty on the day the member becomes aware of the misconduct. The report must include all facts relating to the incident known or reported to the member. Any supervisor who receives a report of misconduct from a Department member is required to forward a copy of any such report or document, without unnecessary delay, directly to COPA and to BIA.

### **§2.1.3 Department Notifications**

In addition to taking in complaints of misconduct, COPA receives notifications from the Department related to incidents that fall within COPA’s investigatory jurisdiction, such as officer-involved weapon discharge incidents.

### **§2.1.4 Other Intake Methods**

When the Office of Emergency Management and Communications (OEMC) receives a call from a citizen involving allegations of misconduct by a Department member, the OEMC employee who took the call is required to forward such call to COPA. COPA may also receive notifications or complaints of alleged police misconduct from employees at other government agencies.

### **§2.1.5 Complaint and Notification Processing**

All complaints and notifications received will be assigned a unique Log Number for tracking and reporting purposes.

## **§2.2 Complaint Review and Referral**

Pursuant to MCC §2-78-120(g), COPA investigators review each complaint to determine whether the alleged misconduct falls within COPA's jurisdiction and will refer complaints that are adjudged outside of COPA's jurisdiction to BIA. Pursuant to MCC §2-78-120(x), COPA may also refer matters to the City of Chicago Office of the Inspector General (OIG), or the appropriate federal, state, or local law enforcement authorities for investigation or other appropriate action. If COPA refers a complaint to either BIA or OIG, COPA will promptly forward the complaint information and any related material or evidence that has been received or collected to that agency.

### **§2.3 Notifications to Complainants**

Within five business days of the receipt of a complaint, COPA will provide written notification (either by letter or email) to the complainant acknowledging receipt of the complaint.

### **§2.4 Affidavits in Support of Complaints**

Pursuant to the Uniform Peace Officers' Disciplinary Act (50 ILCS 725/3.8(b)), the applicable collective bargaining agreements, and Department Directives, in order for COPA to proceed with a complaint register investigation of a Department member, COPA seeks to obtain a sworn affidavit from the complainant which certifies that the allegations made in the complaint are true and correct. If the complainant did not actually witness the alleged conduct, they must certify that the facts alleged are true to the best of the complainant's knowledge and belief.

COPA will make a good faith effort to obtain a sworn affidavit from a civilian complainant.

#### **§2.4.1 Affidavit Override**

If, after 30 days from the date the complaint was made, COPA has been unable to obtain a sworn affidavit in support of a complaint, the Chief Administrator will determine whether the complaint will be declined for lack of an affidavit or whether COPA will pursue an affidavit override from the Chief of the Bureau of Internal Affairs, or his or her designee, pursuant to the relevant department rules and collective bargaining agreement provisions. In making this determination, the Chief Administrator will review the evidence gathered pursuant to the preliminary investigation, and may consider factors including, but not limited to, the following:

- the nature and seriousness of the alleged misconduct;
- the credibility, reliability, and accuracy of the information in the complaint based on COPA's knowledge of the facts and circumstances; and
- the degree to which the alleged misconduct concerns the integrity of the officers involved or otherwise may undermine public confidence in the Department.

If, after making this assessment, the Chief Administrator determines that further investigation is warranted, despite the fact that the complainant has not executed a sworn affidavit, the Chief Administrator will request an affidavit from the BIA Chief. In support of such a request, the Chief

Administrator will provide the BIA Chief with objective, verifiable evidence obtained pursuant to the preliminary investigation. The type of evidence the BIA Chief may rely upon will depend on the type of incident, and may include arrest and case reports, medical records, statements of witnesses and complainants, video or audio tapes, and photographs. If, after reviewing and evaluating the evidence, the BIA Chief concurs with the Chief Administrator that continued investigation of the allegation is necessary and lawful, the BIA Chief will execute a sworn affidavit, and the COPA investigation will proceed. If the BIA Chief disagrees that continued investigation is warranted, the complaint will be closed.

## **§2.5 Reopening Investigations**

Pursuant to MCC §2-78-120(x), and subject to applicable law, in the Chief Administrator's discretion, COPA is authorized to reopen any closed COPA or IPRA investigation in any of the following circumstances:

- the Chief Administrator becomes aware of evidence not available at the time the investigation was closed that could materially affect the results of that investigation;
- the Chief Administrator determines that the manner in which the investigation was concluded has resulted in a gross miscarriage of justice; or
- following a review or audit of an investigation by the Deputy Inspector General for Public Safety, the Deputy Inspector General for Public Safety (DIG) recommends that the investigation be reopened.

If the Chief Administrator declines to reopen a closed investigation pursuant to a recommendation by the DIG, the Chief Administrator shall provide a written explanation of its reasons to the DIG within 60 days of receipt of the written recommendation.

Pursuant to §6.1.D of the CBAs, COPA must seek approval of the Superintendent to reopen a closed investigation more than five years from the date the Complaint Register number was issued.

## **§2.6 Recommendations Regarding Police Powers**

An important step in the early stages of a COPA investigation is the assessment of whether the circumstances suggest that the Chief Administrator should make any recommendations to the Superintendent regarding the restriction of duties of an accused Department member. Although only the Superintendent can take action to restrict the duties of a sworn officer, the Chief Administrator may recommend such action if, after reviewing all available allegations and evidence, and considering the reliability and strength of such evidence, the Chief Administrator concludes that:

- continued police powers for the accused officer presents a threat to the community, the Department, or the officer; or

- COPA is likely to recommend that the officer be separated from employment with the Department.

Recommending that any restriction on the duties or police powers of a Department member is an extraordinary measure, and such recommendations are not undertaken lightly. In addition to or in lieu of recommending the restriction of duties or police powers, the Chief Administrator may also recommend enrollment in a behavioral intervention program.

### **Article III: Investigations**

#### **§3.1 Applicable Rules and Law**

Pursuant to MCC §2-78-120(j), COPA investigative activities will be conducted in accordance with:

- Constitution of the United States;
- Constitution of the State of Illinois;
- laws of the State of Illinois;
- Municipal Code of the City of Chicago;
- Department General Orders and Special Orders;
- applicable collective bargaining agreements;
- Police Board Rules;
- City of Chicago Personnel Rules;
- COPA Rules and Regulations;
- COPA Policies; and
- COPA Standard Operating Procedures

COPA will investigate all incidents within its jurisdiction. Moreover, pursuant to MCC §2-78-120(l), the scope of COPA investigations will encompass a comprehensive assessment of the Department member's conduct and potential violations of any applicable Department rules, including rules related to the duty to provide truthful information regarding the officer's own conduct and the conduct of others, and the duty to report the misconduct of others.

#### **§3.2 Investigative Standards**

As expressed in our mission statement, COPA is committed to conducting investigations with integrity, transparency, independence, and timeliness.

Our goal is to gather the evidence and evaluate the facts without regard to personal beliefs or concern for personal, professional, or political consequences. When weighing the evidence, we will attach no greater value to a Department member's statement than that of a civilian. Although we must always be mindful of the reliability of information we receive, we will never disregard a



witness statement merely because the witness has some connection to a complainant, a Department member, or any other person involved in the matter.

COPA investigations will be assigned to investigative staff with the requisite knowledge, skill, training, and ability to conduct a thorough and timely investigation of the matter. COPA investigative staff will use due professional care and conform to the highest legal and ethical standards in the course of their work. COPA Supervisory and Legal staff will ensure that investigations are conducted in full compliance with the law and are thorough, and that Final Summary Reports are of the highest quality.

COPA employees are expected to conduct their work objectively and without bias. COPA investigators are required to bring any potential conflict of interest (actual or perceived) to the attention of the Chief Administrator so that he or she may conduct a thorough assessment to determine what, if any, recusals are required to eliminate the conflict of interest and avoid the appearance of a conflict of interest between a COPA employee and COPA's mission to conduct investigations without bias.

### **§3.3 Timeliness of Investigations**

COPA always strives to complete its investigations as expeditiously as possible. Pursuant to MCC §2-78-135, if COPA does not conclude an investigation within six months after its initiation, the Chief Administrator will notify, within five days after the end of the six month period, and each six month period thereafter until the investigation is closed, the Mayor or his or her designee, the Superintendent, the Chairman of the City Council Committee on Public Safety, the complainant, and the employee named in the complaint, or his or her counsel, of the general nature of the complaint or information giving rise to the investigation and the reasons for failure to complete the investigation within six months.

All members of COPA Investigations staff are accountable for ensuring that investigations are conducted in an efficient, yet effective manner and are concluded expeditiously.

COPA will implement internal reporting and control processes designed to monitor and manage the timeliness of COPA investigations. COPA is also committed to transparently reporting on the timeliness of its investigative work.

### **§3.4 Duty to Cooperate with COPA Investigations**

Pursuant to MCC §2-78-140 and Department rules and policies, it is the duty of every officer, employee, department, and agency of the City to cooperate with the Chief Administrator in any COPA investigation undertaken pursuant to COPA's ordinance. Any employee or appointed officer of the City who violates any provision of this section is subject to discharge (or such other discipline as may be specified in an applicable collective bargaining agreement) in addition to any other penalty provided in MCC §2-78.

Such duty to cooperate includes that each department will make its premises, equipment, personnel, books, records, and papers available to COPA as soon as is practicable and permissible under the applicable department rules and collective bargaining agreements and as permitted by law.

In addition, MCC §2-78-120(o) provides that, subject to applicable law, COPA will have full access to all information in the possession or control of the Department, the Police Board, and any other City department or agency in order to conduct investigations within the Chief Administrator's jurisdiction.

### **§3.5 Subpoenas**

Pursuant to MCC §2-78-120(p) and §2-78-125, COPA is authorized to issue subpoenas to compel the attendance of witnesses and/or the production of documents and other items. A COPA subpoena will identify the person to whom the subpoena is directed and the documents or other items sought, if any, and the date, time, and place for the appearance of the witness and production of the documents or other items described in the subpoena. In no event will the date for examination or production be less than seven days after service of the subpoena.

#### **§3.5.1 Service**

COPA will serve subpoenas in the same manner as subpoenas issued under the Rules of the Illinois Supreme Court to compel appearance of a deponent, and subject to the same witness and mileage fees fixed by law for such subpoenas.

#### **§3.5.2 Objections to a COPA Subpoena**

The person or entity to whom a subpoena is directed may submit a written objection in advance of the date scheduled for the appearance or production required by the subpoena. The objection must be in writing, delivered to the COPA office at 1615 W. Chicago Avenue, Chicago, Illinois, and must specify the grounds for the objection.

The filing of an objection to a subpoena and negotiations pursuant to an objection do not constitute refusal to comply with the subpoena, or interference with, or obstruction of, an investigation.

For seven days after receipt of a timely submitted objection to a subpoena, COPA will take no action to enforce the subpoena or initiate prosecution of the person or entity to whom the subpoena is directed.

During this seven-day period, COPA will consider the grounds for the objection and may attempt to resolve the objection through negotiation with the person or entity to whom the subpoena is directed.

The seven-day period may be extended by COPA in order to allow completion of any negotiations. COPA will provide written notice of the extension to the person or entity to whom the subpoena is directed. Such notice will specify the date on which the negotiation period will end.

Negotiations may include such matters as the scope of the subpoena and the time, place, and manner of response thereto.

### **§3.6 Gathering Evidence**

In order to ascertain the facts necessary to make findings and recommendations as required by law, a COPA investigation is based on the acquisition and analysis of information and evidence gathered from a variety of sources, including, but not limited to:

- interviews with complainants, witnesses, and subjects;
- relevant Department reports and other documents;
- observations made at the scene of an incident within COPA's jurisdiction;
- canvass of a scene to identify witnesses and other relevant evidence;
- analysis of digital evidence, including audio and video recordings;
- physical evidence; and
- forensic analysis of evidence.

Pursuant to MCC §2-78-120(k), subject to applicable law, COPA investigators may review the complaint history of a member of the Department in order to inform a current investigation.

The COPA investigator will attempt to ascertain all the facts relevant to the allegation or the incident that has occurred. The investigation will include a broad review of an incident or allegation with the objective of understanding the role of each of the Department members involved in the incident or the alleged conduct. The review of any incident or allegation may include an assessment of any aspect of the Department member's (or, if applicable, members') conduct including the truthfulness of Department member statements and reports relevant to the incident or allegation. The conduct of each Department member will be assessed and evaluated separately and individually.

#### **§3.6.1 Interviews**

As part of an investigation, COPA may conduct interviews of persons with potentially relevant information, including complainants, witnesses, and subjects. COPA investigators are authorized to administer oaths and examine the interviewee under oath. All interviews will be conducted in accordance with applicable law. Interviews of members of collective bargaining units or unions will be conducted in accordance with any applicable CBA. COPA's aim is to interview all involved parties as expeditiously as possible.

##### **§3.6.1.1 Status of Department Member Interviewee**

The status of a Department member interviewee depends on a number of circumstances and may change as additional information is gathered and evaluated throughout the course of an investigation. COPA defines officer statuses as follows:

- a. Accused Department member – means a Department member against whom allegations have been formally presented prior to an interview.
- b. Witness Department member – means a Department member who, at the onset of the interview, was involved in the subject incident or may have information relevant to the subject matter being investigated. Witness Department members are officers against whom formal action (including disciplinary, administrative, or criminal sanctions) is not reasonably contemplated.

Depending on the evidence gathered and as the investigation into the incident proceeds, the status of a Department member originally identified as a Witness to an investigation may change to an Accused Department member.

### **§3.6.1.2 Recording of Interviews**

**Civilian Interviews:** COPA will seek permission to record, via either an audio-recording or video-recording device, all interviews conducted of civilians. Prior to conducting an interview, the following steps will be taken:

1. The investigator will ask the witness for consent to audio or video record the interview.
2. If the witness declines to give consent, the interview will not be recorded. However, at the conclusion of the interview, the COPA investigator will create a written statement that summarizes the content of the interview and will provide the interviewee with an opportunity to review and sign the written statement.
3. No adverse action will be taken or adverse inference drawn against any witness who declines to consent to record an interview.

**Department Member Interviews:** Pursuant to the applicable CBAs, sworn, non-exempt Department members are required to provide audio-recorded statements, provided that interviews are otherwise conducted in a manner consistent with the applicable CBA. Other Department members are subject to COPA’s rules and regulations pertaining to civilian interviews.

### **§3.6.1.3 How Department Members are Advised of Their Rights**

Certain rights (“Advisements”) will be provided to all Department members who are interviewed pursuant to a COPA investigation. COPA makes the determination of which set of rights to give on a case-by-case basis, taking into consideration such factors as the status of the Department member being interviewed, the nature of COPA’s investigation and its relationship, if any, to a pending criminal investigation, and any other relevant factors. This determination may be

informed by recommendation of a prosecutorial partner. COPA defines each set of rights as follows:

- a. **Administrative Rights** – means that the Department member is advised that he or she must respond truthfully to all questions posed during a COPA interview, but that such statements or any evidence gathered as a result of such statements cannot be used against the member in a criminal proceeding.
- b. **Criminal Rights** – means that the Department member is advised that he or she is not obligated to answer questions posed during a COPA interview, but that any statements made during the interview can be used against him or her in a criminal proceeding.

COPA investigators will read the appropriate Advisement (administrative rights or criminal rights) aloud and provide a written copy of the Advisement for review before requesting a signature acknowledging that the Advisement has been provided. Signed acknowledgement forms will be included in the investigative file.

### **§3.6.2 Forensic Analysis of Physical Evidence**

COPA staff will gather all relevant physical evidence in a timely manner that preserves such evidence for analysis. If another agency gathers the evidence, COPA will liaise with other investigative and law enforcement partners to ensure the timely processing of evidence.

Where expert opinions on the forensic analysis of evidence would be helpful for an investigation, COPA will procure the services of the appropriate subject matter experts.

### **§3.7 Case File Maintenance**

All investigative activities will be documented in the appropriate investigative case file in a timely, accurate, and complete manner consistent with COPA policies and procedures.

COPA will undertake to collect all relevant physical evidence and to preserve the chain of custody to protect its availability for use in any subsequent proceedings.

COPA will promulgate policies and procedures for the maintenance of case files and will implement quality control measures to ensure case files are maintained properly.

### **§3.8 Allegations Provided to Accused Members**

Pursuant to the applicable CBAs and prior to taking the statement of a Department member under investigation, COPA will notify the Department member in writing regarding the nature of the allegations and other such information and as the applicable CBAs may require. In addition, pursuant to the CBA, any Department member who is a member of the Service Employees International Union and is identified as the subject of a registered complaint must be notified in writing within 10 work days.

### **§3.9 Representation**

Every person, including Department members, interviewed by COPA may request that a union or a legal representative be present during an interview with COPA investigators.

A person requesting representation at a COPA interview will be given a reasonable amount of time to obtain union representation or an attorney (as applicable).

If a person elects to bring a union representative or an attorney, that representative may not answer questions for the interviewee and may not obstruct the interview. Interviewees will be advised that they are permitted to request a temporary break to consult with their representative. Representatives are permitted to request the clarification of questions and may provide additional information at the conclusion of the interview.

If an accused Department member chooses to proceed with a COPA interview without a union representative or attorney present, the COPA interviewer will request that the Department member sign a waiver memorializing the waiver of representation for that interview.

### **§3.10 Types of Investigations**

COPA is responsible for conducting investigations into allegations of the use of excessive force, domestic violence, verbal abuse, coercion, improper search or seizure, and unlawful denial of access to counsel. COPA is also responsible for investigating the following incidents, including those in which no allegation of misconduct is made.

#### **§3.10.1 Weapons Discharge Incidents**

Pursuant to MCC §2-78-120, COPA conducts investigations into all incidents, including those in which no allegation of misconduct is made, in which a Department member discharges (i) a firearm in a manner which could potentially strike an individual, (ii) a stun gun or taser in a manner that results in death or serious bodily injury, or (iii) in the Chief Administrator's discretion, other weapons discharges and other use of Department-issued equipment as a weapon that results in death or serious bodily injury.

#### **§3.10.2 In-custody Incidents Resulting in Injury to Civilian**

Pursuant to §2-78-120(d), COPA is authorized to conduct investigations into incidents where a person dies or sustains a serious bodily injury while detained or in Department custody, or as a result of police actions, such as during attempts to apprehend a suspect. Upon receipt of notification of such an incident resulting in the death of a civilian, COPA will follow the protocols outlined in Section §3.10.3 that follows herein.

The Department will notify COPA when an injury in custody occurs. Upon receipt of notification during business hours of an incident resulting in the injury of a civilian, the intake investigator will consult with the Deputy Chief of Intake who will determine whether the incident warrants a response to the scene of the incident. If the Deputy Chief of Intake determines that a scene response is necessary, the Deputy Chief of Intake will direct at least two COPA investigators to respond to the scene as soon as practicable to initiate COPA's investigation.

Upon receipt of notification after business hours of an incident resulting in the injury of a civilian, the COPA staff member who receives the notification will consult with the on-call Deputy Chief who will determine whether the incident warrants a response to the scene of the incident. If the Deputy Chief determines that a scene response is necessary, the Deputy Chief will direct at least two COPA investigators to respond to the scene as soon as practicable to initiate COPA's investigation.

### **§3.10.3 Major Case Incident Investigations**

#### **§3.10.3.1 Authority**

Major Case Incidents include incidents in which a civilian has died or sustained serious bodily injury during an interaction with a Department member. Investigations related to Major Case Incidents are among the most serious investigations COPA undertakes.

Major Case Incidents include:

- any incident involving the discharge of a weapon by a Department members that results in the death or serious bodily injury of a civilian;
- any incident involving the death or serious bodily injury of a civilian while in Department custody, or during the course of an arrest;
- any police-involved motor vehicle accident resulting in the death of a civilian while exercising police powers or acting under the color of law; and
- any incident during which a civilian dies or sustains serious bodily injury as the result of the use of force by a Department member while on- or off-duty.

More specifically, in compliance with the Police and Community Relations Improvement Act (PCRIA), 50 ILCS 727, COPA is charged with conducting investigations of all "officer-involved deaths."

#### **§3.10.3.2 Response to the Scene**

COPA initiates a Major Case Incident investigation when OEMC notifies COPA that a Major Case Incident has occurred.

When a Major Case Incident occurs within the City of Chicago, COPA personnel will respond immediately to the scene of the incident to initiate its investigation. At the Chief Administrator's

discretion (and after preliminary information about an incident has been received), COPA personnel may also respond immediately to the scene of an officer-involved firearms discharge incident where no injuries were sustained by a civilian as well as an incident where a civilian sustained a non-fatal injury while in police custody. Once OEMC notifies COPA about a Major Case Incident, COPA's investigative response team will assemble at the scene of the incident. COPA's response team will be comprised of:

- a Deputy Chief Administrator;
- a Supervising Investigator;
- two Major Case Specialists;
- as needed, additional COPA investigators; and
- as needed, an Evidence Specialist and/or a Digital Forensic Analyst.

If a Major Case Incident occurs outside of the City of Chicago, COPA personnel may respond only at the direction and at the discretion of the Chief Administrator.

### **§3.10.3.3 Initial Investigative Activities**

Within the first 48 hours following a Major Case Incident, the COPA investigative team will develop an investigation plan, seek to obtain all relevant Department reports related to the incident, and all available audio and documentation from OEMC or other City departments and agencies related to the incident.

Within 96 hours following a Major Case Incident (unless the required personnel are unavailable within that timeframe) the COPA investigative team will confer with the Illinois State Police regarding the analysis and testing of physical and forensic evidence including, but not limited to, gunshot residue testing, fingerprint recovery and analysis, ballistic testing and analysis, and DNA or other biological testing and analysis.

### **§3.10.3.4 Interviews of Civilian Witnesses**

Over the days and weeks following a Major Case Incident, COPA investigators will interview as many civilian witnesses to the events as can be identified. Such witnesses may include individuals who were at the scene and may have observed the incident, the events leading up to the incident, or the conduct of the involved officers after the incident. COPA investigators will be respectful of the needs of the families of the individuals impacted by the events when attempting to schedule witness interviews. COPA will follow all applicable Department rules and CBAs when attempting to interview City employees (including those in other City departments, such as emergency response personnel) who may have information related to an investigation.

### **§3.10.3.4 Interviews of Department Members**

During the course of an investigation, COPA attempts to interview all Department members who have discharged a weapon or officers who were directly involved in a Major Case Incident as well



as the Department members who may have witnessed the events leading up to, during and after the incident. Depending on the circumstances of the incident, Department member interviews may occur early on in the investigation, or may be conducted at a later time after COPA has gathered and reviewed sufficient evidence to allow for a productive and comprehensive review of the incident. In most cases, COPA will strive to interview all involved Department members within six months of the incident. COPA will adhere to all applicable CBAs and Department General and Special Orders.

With respect to officer-involved shootings, a sworn officer who may have information relevant to the incident, but did not discharge a weapon, may, except as set forth below, postpone his or her interview with COPA, but for only up to two hours. However, where such officer makes a good-faith claim that he or she is physically or emotionally unable to provide a statement within that two-hour time period, pursuant to the CBAs, COPA will accept such good-faith claim and postpone the interview beyond two hours but not longer than forty-eight hours.

Pursuant to the Department Members' Bill of Rights, COPA may request, but cannot require, any officer who discharged a firearm during an officer-involved shooting incident to be interviewed sooner than twenty-four hours after the incident. Interviews may only be conducted between the hours of 6 a.m. and 6 p.m. However, if such officer makes a good-faith claim that he or she is unable to make a statement after twenty-four hours has elapsed following the incident, COPA will evaluate such claims on a case-by-case basis and will accept at face value any such good-faith claims about the member's inability to make a statement at that time. COPA, in its sole discretion, may opt to conduct such interviews at a later time.

### **§3.10.3.5 Standard for Excessive Force Cases**

The legal standard that COPA applies in the context of administrative investigations involving allegations of the use of excessive force is grounded in the Fourth Amendment to the United States Constitution. See *Graham v. Connor*, 490 U.S. 386 (1989). Under this legal standard, the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the benefit of 20/20 hindsight. The assessment of reasonableness is based on the totality of the circumstances related to the incident. By law, these determinations must allow for the fact that police officers are often forced to make split-second decisions in circumstances that are tense, uncertain and rapidly evolving.<sup>1</sup>

In analyzing the evidence of each incident, the following factors are among those COPA considers:

- the seriousness of the crime or suspected offense;
- the level of threat or resistance presented by the subject;
- whether the subject was posing an immediate threat to officers or a danger to the community;
- the potential for injury to citizens, officers, or subjects;
- the risk or apparent attempt by the subject to escape;

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<sup>1</sup> *Graham v. Connor*, 490 U.S. 386 (1989).

- the conduct of the subject being confronted (as reasonably perceived by the officer at the time);
- whether the conduct of the officer could have increased the risk that the subject would engage in violent or aggressive behavior;
- the time available to an officer to make a decision;
- the availability of other resources;
- the training and experience of the officer;
- the proximity or access of weapons to the subject;
- the characteristics of the officer or group of involved officers relative to the those of the subject including, but not limited to, age, size relative strength, skill level, injury/exhaustion, and number; and
- the environmental factors and/or other exigent circumstances

#### **§3.10.4 Officer-involved Death Investigations**

COPA's investigation of officer-involved death incidents often necessitates collaboration and coordination with the Department.

The applicable Department General Order clarifies that when an officer-involved death incident contains multiple concurrent investigations, the below order of the investigative priority, with identified lead agencies, will be followed:

1. The public safety investigation will be commenced immediately and will be led and coordinated by Department personnel. This investigation will take precedence over any other investigation.
2. The investigation of the underlying criminal offense and the officer-involved death investigation will be conducted concurrently.
  - a. The investigation of the underlying criminal offense will be led and coordinated by Department personnel.
  - b. The officer-involved death investigation will be led and coordinated by COPA personnel with the requisite training.
  - c. The Department's internal investigation will be led and coordinated by Department personnel but will not interfere with the COPA investigation.

To ensure the proper coordination of activities and investigations, the assigned Street Deputy, appropriate Bureau of Detectives Area Commander, and responding COPA personnel will confer at the scene about the conduct of concurrent investigations.

The COPA response team will seek access to the scene of the incident once Department personnel have secured the scene. At the scene, COPA will conduct necessary investigative steps, which include, but are not limited to:

- canvassing the scene to identify witnesses and any available video recordings;

- coordinating with the Department’s Forensic Services Evidence Technicians regarding the collection of physical evidence and the documentation of the scene via photographs and video; and
- interviewing available witnesses either at the scene or at the closest Bureau of Detectives Area facility.

### **Officer-involved Motor Vehicle Accident Related Death Investigations.**

The legal framework governing the assessment of a Department member’s conduct related to an officer-involved motor vehicle accident that resulted in the death of a civilian includes the Department directives governing motor vehicle pursuits, and state criminal law, such as 720 ILCS 5/9-3, relating to the criminal charges of Involuntary Manslaughter and Reckless Homicide.

The Department’s Major Accident Investigations Unit (MAIU) notifies COPA when these incidents occur. The Department’s Crime Prevention Information Center or OEMC may also notify COPA of these incidents. Consistent with PCRIA, an investigation related to an officer-involved motor vehicle accident resulting in death must include one investigator from an independent agency (COPA), and at least one investigator certified as a Crash Reconstruction Specialist. As such, COPA collaborates with representatives from the MAIU on these investigations.

### **§3.10.5 Investigations Relating to a CPD Pattern or Practice**

COPA is authorized to conduct investigations to determine whether members of the Department, as an individual, as a discrete group, or as an entity, are engaging in patterns or practices of misconduct, and, where a pattern or practice of misconduct is found, COPA may recommend revisions to the Department’s policies, practices, programs, and training in order to address and eliminate such patterns or practices.

At the Chief Administrator’s discretion, a COPA pattern and practice investigation may be initiated based on any of the following:

- 1) a recommendation by the COPA Deputy Chief of Intake based on evidence arising from complaint intake information;
- 2) a recommendation by the COPA First Deputy Chief of Investigations based on evidence arising from investigative findings;
- 3) a request by the Deputy Inspector General for Public Safety;
- 4) a request by the COPA General Counsel based on evidence arising from matters of civil or criminal litigation;
- 5) a request by the COPA Community Council;
- 6) a request by the Department;
- 7) a request by a group of at least three members of the Public Safety Committee of the City Council; or

8) a request by the Corporation Counsel.

Where any member of the COPA investigative or legal staff believes there is evidence supporting a pattern or practice of misconduct by Department members, they may report such evidence to a Deputy Chief for the purpose of preparing a recommendation to the Chief Administrator.

In determining whether a pattern or practice investigation is warranted, the Chief Administrator will consider any relevant facts, including but not limited to:

- the seriousness of the alleged pattern or practice;
- the prevalence of the alleged pattern or practice;
- the existence and adequacy of Department rules, directives, training or orders relevant to the pattern or practice;
- the risk to the public inherent in allowing the pattern or practice to continue unchecked;
- the liability to the City inherent in allowing the pattern or practice to continue unchecked; and
- the impact of the pattern or practice on the Department's ability to fulfill its mission.

The Chief Administrator may choose to refer evidence regarding a pattern or practice of misconduct to the Office of the Inspector General for investigation by that office.

At the conclusion of a pattern or practice investigation, COPA will issue a report to the Department. As with other investigations, the Department shall have 60 days in which to respond to the Report and any recommendations made therein. COPA will make the Report and the Department's response publicly available after the Department's response has been received.

### **§3.11 Legal Support of Investigations**

COPA's Legal Section assists investigators on a range of issues related to COPA's investigative mission. Members of the Legal Section will assist with identifying and interpreting the legal framework for the investigations to which they are assigned. They also actively help investigators by identifying investigative steps, securing evidence through the issuance of subpoenas; reviewing or drafting the allegations against a Department member, assisting in the preparation of witness statements, analyzing statements and materials from related civil and criminal cases, and collaborating with investigators on the drafting of the final Summary Report of Investigation.

### **§3.12 Referrals to the CCSAO and the USAO**

As a matter of course, COPA refers all officer-involved firearm discharges that strike an individual to the Cook County State's Attorney's office (CCSAO). This referral is usually achieved within the initial two to three weeks following the incident once sufficient evidence has been gathered and analyzed during COPA's preliminary investigation. COPA may conduct additional investigative steps at the request of the CCSAO. When there is a good faith basis to believe that the officer-involved shooting was in violation of any individual's civil rights, COPA will refer that

shooting matter to the Federal Bureau of Investigation (FBI) and/or the U.S. Attorney's Office for the Northern District of Illinois (USAO). COPA may conduct additional investigative steps at the request of the FBI and/or the USAO.

COPA may refer all other investigations within its jurisdiction to the CCSAO and/or the USAO for potential criminal charges or federal civil rights violations based on, among other things, the nature of the complaint, the seriousness of the injury and the availability of video evidence.

### **§3.13 Concurrent Investigations**

Because significant legal issues may arise where COPA seeks to pursue administrative action against a Department member prior to the conclusion of a federal or state criminal investigation, COPA may temporarily delay making findings in its administrative case. However, COPA recognizes the importance of its mission to pursue administrative actions in a timely manner against officers who have violated Department policies. By ordinance, COPA is required to actively pursue an administrative investigation within its jurisdiction concurrently with an active criminal investigation. Thus, where a criminal investigation is underway, COPA will proceed with its administrative investigation in a manner that avoids impacting the related criminal investigation.

In addition, COPA may defer issuing findings until all relevant forensic testing has been completed and analyzed. Because these important investigative processes are conducted by other law enforcement organizations, COPA cannot control how quickly these tasks are completed. However, COPA investigators will take all possible steps to ensure that forensic testing is undertaken in an expeditious manner.

## **Article IV: Investigative Findings, Review and Reporting**

### **§4.1 Investigative Findings**

#### **§4.1.1 Investigation Outcomes**

At the conclusion of a COPA investigation, the COPA investigative staff will make an assessment as to whether there is sufficient evidence to prove or disprove the alleged misconduct. To sustain an allegation against a Department member, COPA must find that there is a preponderance of evidence showing the misconduct occurred. COPA categorizes its findings as follows:

- Sustained – when the allegation is supported by substantial evidence.
- Not Sustained – when there is insufficient evidence to either prove or disprove the allegation.
- Unfounded – when the allegation is false or not factual.
- Exonerated – when the incident occurred but the actions of the accused were lawful and proper.

**Officer-Involved Shooting Investigations.** Officer-involved shooting investigations will be evaluated based upon the totality of the circumstances, in accordance with Department directives and all applicable municipal, state and federal law. The COPA investigation will seek to determine if, based on the totality of the circumstances, the officer's use of deadly force was objectively reasonable and within policy as defined by the Department's orders and directives governing the Use of Force. For officer-involved shooting incidents, the outcome of the inquiry will be determined based on an analysis of the evidence showing whether an allegation that the officer's improper use of deadly force was:

- Sustained: There is a preponderance of evidence showing that the officer's conduct was objectively *unreasonable* based on the totality of the circumstances, and therefore, NOT within Department policy;
- Exonerated: There is a preponderance of evidence showing that the officer's conduct was objectively *reasonable* based on the totality of the circumstances, and therefore, WITHIN Department policy;
- Not Sustained: There is *insufficient evidence* to prove by a preponderance that the officer's conduct was either reasonable or unreasonable based on the totality of the circumstances, therefore, the allegation can be neither Exonerated nor Sustained.
- Unfounded: There is a preponderance of evidence showing that the conduct as alleged did not occur in that the officer did not, in fact, use deadly force.<sup>2</sup>

In addition to making a specific finding as to each allegation based on the above possible outcomes, the COPA investigative staff may also assess if:

- the conduct in question complied with Department training;
- a better outcome might have been achieved had the officer's conduct been different;
- the officer's conduct indicates a need for specific additional training; or
- the conduct in question reflects gaps or other deficiencies in Department policies or training.

#### **§4.1.2 Mediation**

Pursuant to MCC §2-78-120(i) and subject to the applicable CBAs, the Chief Administrator may refer a complaint against a Department member that falls within COPA's jurisdiction to mediation. However, COPA will not seek mediation for cases that involve the following:

- instances in which a person dies or sustains a serious body injury;
- willful and wanton civil rights violations;

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<sup>2</sup> Such findings should be exceedingly rare because, pursuant to the Department's Use of Deadly Force policy, "[t]he firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm" is by definition, the use of deadly force.

- instances of domestic violence or intimate partner violence involving physical abuse or threats of physical abuse, including historical allegations or fact patterns involving physical abuse or threats of physical abuse;
- allegations of excessive force;
- intentional firearm discharges; or
- pending litigation.

COPA will only pursue mediation after a sufficient preliminary investigation of the matter has been completed to ascertain that serious misconduct warranting a penalty of 30 days or more is unlikely to be found. COPA does not consider an officer's willingness to participate in mediation as a mitigating factor for disciplinary considerations. All participation in mediation is voluntary for all parties.

COPA will not seek mediation for officers that have three or more cases that have gone through mediation in the previous five years.

#### **§4.2 Investigative Reports**

At the conclusion of a COPA investigation, a Final Summary Report (FSR) is prepared outlining the allegations brought against the Department member(s) and identifying which Department rules or directives are alleged to have been violated, if any. The FSR also summarizes and analyzes the relevant evidence, and concludes with the recommended finding (Sustained, Not Sustained, Unfounded, Exonerated) for each allegation.

#### **§4.3 Recommendations**

Pursuant to MCC §2-78-120(1), with respect to incidents within its jurisdiction, COPA will recommend appropriate disciplinary up to and including discharge from the Department, or remedial action against Department members found to be in violation of any applicable Department rules. Such remedial action may include but is not limited to, reassignment, additional training or counseling.

In fashioning a disciplinary recommendation, COPA will consider a victim impact statement or information provided by a complainant or any other citizen impacted by the misconduct, so long as such statements or information are provided in writing and are made part of the official case file.

##### **§4.3.1 Recommended Disciplinary Action**

A COPA recommendation regarding the appropriate disciplinary or other remedial action for a Department member shall be based on a fair and accurate assessment of the nature and scope of the misconduct. The recommendation shall not be influenced by any personal bias or any external factors or concerns about how such recommendations will be perceived.

COPA disciplinary recommendations will be set forth in writing, either via comments within the Department's case management system, or via a written memo.

Where applicable provisions apply, COPA disciplinary recommendations will be based on the Department's Complaint Register (CR) Matrix. COPA will use the CR Matrix as a set of guiding principles in the administration of discipline. However, the CR Matrix will not preclude COPA from recommending a different sanction where unique and exceptional circumstances may warrant.

All disciplinary recommendations made by COPA are subject to review by the Department.

#### **§4.3.2 Recommended Remedial Action**

In certain incidents, COPA investigative findings may result in a recommendation of remedial action in addition to or in lieu of a disciplinary sanction. Subject to applicable CBAs and Department General and Special Orders, remedial action may take one of several forms including, but not limited to, reassignment within the Department, employee assistance programs, professional counseling service, and additional training programs.

All remedial recommendations made by COPA are subject to review by the Department.

#### **§4.3.3 Department Response to Disciplinary-Related Recommendations**

Pursuant to MCC §2-78-130, if the Chief Administrator issues a recommendation of discipline or other, non-disciplinary remedial action regarding a Department member, the Superintendent must respond with 60 days. The Superintendent may request an extension of time in which to respond by up to an additional 30 days.

The Superintendent may request additional investigation. In such case, the Chief Administrator will confer with the investigative staff to assess whether COPA agrees that additional investigation is warranted. If so, COPA will undertake the additional investigative steps requested. If not, the Chief Administrator will reply to the Superintendent's request in writing.

#### **§4.3.4 COPA Response to Superintendent Non-Concurrences**

If the Superintendent responds to a COPA disciplinary recommendation by stating that he or she intends to take no action or a different action than recommended by COPA, within 10 business days after receiving such response, the Chief Administrator and the Superintendent will meet to discuss such response. If after such meeting, the Chief Administrator and the Superintendent still do not agree on the appropriate disciplinary action, the Chief Administrator will, within five business days of such meeting, send the Superintendent's response, along with the Chief Administrator's objections, to the Police Board to initiate a review by a member of the Police Board.



COPA will report on the number and outcome of such non-concurrences in its quarterly and annual reports.

#### **§4.4 COPA Policy Recommendations**

Pursuant to MCC §2-78-120(m), the Chief Administrator of COPA is empowered to and has a duty to make recommendations to the Superintendent, the Police Board, and the Chairman of the City Council committee on Public Safety concerning revisions to the Department's policies, practices, CBA's, programs and training. The Superintendent is required to respond to such recommendations within 60 days of receipt and detail the actions taken or that will be taken to implement such policy recommendations. All such policy recommendations (together with any response received by the Superintendent) will be published on COPA's website.

##### **§4.4.1 COPA Advisory Letters**

At the conclusion of an investigation, the Chief Administrator may issue an Advisory Letter to the Superintendent if such investigation uncovered a problem that hinders the effectiveness of Department operations and programs or if the investigation has identified a verifiable potential liability or risk that warrants attention by the Department.

The Advisory Letters do not identify, or make any specific disciplinary recommendations about, any individual Department members. Each Advisory Letter will request a response from the Department within 60 days. An Advisory Letter will not be posted publicly until the Department has had an opportunity to respond, and any public posting will include the Department's response, if any.

##### **§4.4.2 Other COPA Policy Recommendations**

In the Chief Administrator's discretion, COPA may make recommendations regarding Department policies and practices that, while not necessarily arising from investigative findings, are otherwise intended to:

- promote best practices in policing and the Department's police accountability system;
- address specific gaps in policy and training; or
- improve the integrity and transparency of the Department's operations and performance.

Any such recommendations will be made in writing and may be directed to any of the following: the Superintendent, the Chairman of the City Council Committee on Public Safety, and the Police Board.

##### **§4.4.3 Department Responses to COPA Policy Recommendations**

Pursuant to MCC §2-78-130(b), the Superintendent will respond to such recommendations within 60 days of receipt. Such responses will include a description of the actions taken or planned in respond to the recommendation.

In addition, at the request of at least three alderman, the Chairman of the City Council Committee on Public Safety may request that the Superintendent or his or her designee appear at a hearing of the Committee on Public Safety to explain and respond to questions concerning the Superintendent's response to a COPA policy recommendation.

#### **§4.5 Public Reports**

Pursuant to MCC §2-78-145 all Final Summary Reports (FSR) will be open to public inspection, except to the extent that information contained therein is exempted from disclosure by the Illinois Freedom of Information Act (5 ILCS 140/), CBA, or any other applicable law.

All FSRs, as redacted, will be posted on COPA's website, along with the response of the Superintendent, if any, promptly after, but not before, the process set forth in §4.3.4 above is completed and disciplinary charges, if any, are served on the Department member(s) in question. A copy of the redacted FSR will also be provided to the complainant, if there is one.

Pursuant to MCC §2-78-150, COPA will publish quarterly and annual reports to provide information about the investigations conducted by the agency.

Within 45 days of publishing such quarterly and annual reports, the Chief Administrator or his or her designee will appear before the City Council Committee on Public Safety to respond to any questions concerning such reports.

### **Article VI: Transparency & Communications**

#### **§6.1 Confidentiality and Information Release Policy**

Confidentiality, particularly at the early stages, is important to the integrity of all COPA investigations. All COPA investigatory files and reports are confidential and will not be divulged to any person or agency, except to the United States Attorney, the Illinois Attorney General or the State's Attorney of Cook County, as required by any relevant formal policy adopted by the City of Chicago, as required by law, or as otherwise directed by the Chief Administrator.

However, COPA recognizes the public interest in timely and accurate information about the manner in which members of the Department interact with citizens. COPA also recognizes that individuals involved in incidents and their families may have privacy interests that warrant consideration. COPA abides by the Video Release Policy (defined in §6.1.1 below), to the extent that such policies are consistent with applicable CBAs and municipal, state and federal law.

COPA personnel are permitted to access COPA files, reports, and other confidential, privileged, or personal information in the possession, custody, or control of COPA solely in connection with an official and duly authorized matter that is relevant to the performance of an employee's assigned tasks. As required by COPA Policies and Standard Operating Procedures, all COPA employees

are required to sign a confidentiality and non-disclosure agreement at the outset of their employment and on an annual basis. Access to COPA files, reports, and other confidential, privileged, or personal information in the possession, custody, or control of COPA is permitted only in connection with an official and duly authorized matter that is critical to the performance of an employee's assigned tasks. COPA employees are prohibited from discussing or disclosing investigative matters and materials or other confidential, privileged, or personal information, except as required by their employment or provided by law. COPA employees are subject to disciplinary action, up to and including discharge, or other legal sanction for any violation of COPA's confidentiality policy.

### **§6.1.1 Video Release Policy**

Any information<sup>3</sup> covered by this policy will be released to the public no more than sixty calendar days from the date of the incident unless a request is made to delay the release of any or all of the information pursuant to this policy for thirty additional days. Where any video or audio recording covered by this policy made using cameras or equipment not owned or controlled by the City comes into the possession of the City after the date of that incident, it will be released to the public no more than sixty days after it comes into the possession of the City.

Prior to the release of the information, COPA will attempt to notify any person who was the subject of the police action and is depicted in any video recording, or if that person is deceased or otherwise unavailable, that person's legal representative and/or next of kin, that the video recording and any related information will be released and the date of release. COPA will also offer to promptly show such individuals (and/or, if applicable, their legal representative and/or next of kin) the video recording(s) in which that person was depicted, and to play any related audio, in advance of its public release, and to answer questions and provide other information concerning the incident and the status of any investigation of the incident, to the extent that information can be provided without compromising any investigation

### **§6.2 Requests for Information**

#### **§6.2.1 Freedom of Information Requests**

COPA is complies with all Freedom of Information Act (FOIA) requests, subject to available exemptions, including to protect the integrity of an open investigation.

FOIA requests may be submitted to COPA by personal delivery or sending a written request to COPA's FOIA Officer via mail, e-mail, or fax.

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<sup>3</sup> Information per the Video Release Policy includes all video and audio recordings relating to the incident, including tapes of 911 calls, OEMC dispatch recordings, CPD radio calls, video and audio from CPD dash or body cameras, videos from CPD or OEMC POD cameras, as well as any video or audio recordings made using cameras or equipment not owned or controlled by the City that come into the possession or control of CPD or COPA; and any arrest reports, original case incident reports, tactical response reports (TRRs), and officer's battery reports (OBRs).

### **§6.2.2 Subpoenas directed to COPA**

COPA responds to all subpoena requests in a timely manner and a manner that complies with state and federal laws, and rules and policies promulgated by the City and COPA.

### **Article VII: Review and Amendment**

The Chief Administrator and the senior leadership of COPA will review COPA's Rules and Regulations at least every two years and make suggested revisions or additions. Any amendments to these Rules and Regulations will be posted on COPA's website for a period of not less than 45 days to allow for notice to, and comment from, the public prior to becoming final.