



COMMUNITY OVERSIGHT BOARD REPORT

Rules and Procedures COMMITTEE MEETING AGENDA

Tuesday April 30, 2019 – 4:00 PM CDT to 6:00 PM CDT

Davidson Room

Metro Office Building

800 Second Avenue, South

Nashville, Tennessee 37209

Members (5)	Present	Absent	
	(X)	()	Adele M Lewis
	(X)	()	Danita Marsh
	(X)	()	Andres Martinez
	(X)	()	Brenda Ross
	(X)	()	Matt Sweeney, Chair

Also in attendance, William Weeden, Executive Director

With quorum present, the Rules Committee met as scheduled at 4:00 and conducted the following business

1. Administrative matter. None.

2. Rules discussion. The committee discussed the current draft and underpinnings the COB's new director. We have decided

--to continue the drafting process incorporating operational aspects of the MNPDP OPA process and others from the current Chicago Office of Police Accountability as credible sources.

--intake needs to be a flexible process and not one restricted to a form that a complainant will fill out. Most complaints will probably come in by phone and then will need to be fleshed out through the intake process to put into an actionable format.

--Rule 6 re training needs to be revised to distinguish orientation and other training and the Board from the staff.

-- Mr. Weeden will meet this week with MNPDP police chief Steve Anderson and his team to discuss how COB and the OPA will coordinate/cooperate/work together in their respective operations, including whether MNPDP will cede all civilian complaints to the COB for investigation.

COB RULES COMMITTEE MEETING

April 30, 2019

--once we have what we believe to be a actionable set of rules, we will convene a forum or other community participatory group to discuss them and seek input. Such process will not necessarily delay implementation, but will be a basis along with operational experience for modification.

Matt Sweeney will send to other committee members the Chicago Office of Police Accountability code provisions and rules which Mr. Weeden brought to the meeting.

Materials considered at the meeting are attached.

5:30 adjourned



Matt Sweeney

Discussed Generally
At 4/24 Board
Meeting. Public
Comment/Community
Engagement Rules
is more detailed

RULES OF THE NASHVILLE COMMUNITY OVERSIGHT BOARD

SECTION 1. Definitions

The following definitions shall apply in these procedures:

- A. **Aggrieved Person**--is anyone alleged to have been mistreated by an MNPD officer or employee, or the department generally.
- B. **Board**--the governing body of the Community Oversight Board.
- C. **Community Oversight Board (also referred to as the COB)**--generally, the staff supervised by the Board, which implements the Board's policies, and which is led by an Executive Director.
- D. **Complaint**--the formal written claim made to the COB by or on behalf of an Aggrieved Person of alleged MNPD Misconduct.
- E. **Complainant**--an Aggrieved Person who has filed a Complaint or on whose behalf a Complaint has been filed.
- F. **Director**--the Executive Director of the Community Oversight Board, who reports to the Board and oversees the other COB staff.
- G. **Jurisdiction**--the authority of the Board to consider a matter as set forth in Sec. 11.1302 of the Charter of the Metropolitan Government of Nashville and Davidson County.
- H. **Mediation, Conciliation and/or a Restorative Justice programs**--are voluntary informal ways to directly address and resolve disagreements between two people in a way that is mutually acceptable to each of them. Each of these methods is different and works in its own way.
- I. **MNPD Misconduct or Misconduct**--means improper behavior by an MNPD officer or employee or MNPD itself, which violates MNPD policies, criminal laws or civil rights laws.
- J. **Petition for Rehearing**--a request made to the Board to reconsider its decision regarding a Proposed Resolution Report.
- K. **Policy Advisory Reports**--see Section 3 of these rules.
- L. **Proposed Resolution Report**--the draft of a Resolution Report which has been prepared by the COB and submitted to the Board for its review and action.
- M. **Resolution Report**--The decision by the Board on an investigation of a claim by an Aggrieved Person.

SECTION 2. Investigations and Resolution of Complaints of Alleged MNPD Misconduct

Misconduct allegations shall be investigated and resolved in accordance with the procedures established by the COB, subject to the following requirements:

A. Complaints and Initiation of Investigations

(1) The COB may initiate a Misconduct investigation against a MNPD officer or employee, or the department, based on a written complaint ~~in English or Spanish~~ made by (a) an Aggrieved Person; or (b) by another person on behalf of an Aggrieved Person, who is incompetent or physically unable to make the complaint; efforts will be made to accommodate and assist other non-English/Spanish speakers in filing complaints. An unsigned, anonymous complaint may be the basis for initiating an investigation, but it will not be used as the sole basis for substantiating any charge of Misconduct. Additionally, the Director may initiate a Misconduct investigation based upon media reports, other public information, or a request of the Board.

(2) The written complaints shall be dated on the day received and shall be numbered sequentially and labeled to identify both when received and the general nature of the complaint. Director initiated investigations also will be included in the sequential numbering system. An electronic file system will be developed for the maintenance and tracking of each complaint and its status at all stages through response by any entity to whom a Resolution Report is referred; the system also will be developed to receive common types of audio and video files.

(3) Written complaints shall be made only to the COB office and on forms provided by the COB, but may be submitted in person, by mail, by facsimile or by email. Additionally, the COB will develop and implement an online system to receive complaints. Letters, emails, texts, telephone calls or personal discussions with Board members are not ~~complaints~~ Complaints and will not initiate investigations.

(4) Complaints must allege facts claiming that Misconduct by an MNPD officer or employee or the MNPD generally has occurred which affected an Aggrieved Person.

(5) Complaint forms will conclude with the following words: "To the best of my knowledge the statements I have made in this complaint are true."

(6) The COB will investigate Misconduct Complaints only for events which allegedly occur on or after April 1, 2019, which are submitted to the COB within thirty (30) calendar days after the alleged Misconduct. The Director, however, may extend the thirty (30) day period for an equivalent time for good cause shown.

(7) All personnel employed by the COB will maintain strict confidentiality about COB matters at all times and at no time outside of the performance of their duties will disclose or discuss the contents of any files or documents they have access to. Breach of confidentiality or failure to comply with this provision may result in disciplinary action or termination.

(8) The COB has the authority to investigate the following categories of alleged Misconduct by MNPDP officers and employees or the department generally:

- a. violations of MNPDP Rules
- b. crimes
- c. civil rights violations

B. Investigations

(1) Within _____ (____) calendar days of receipt, the COB will acknowledge to the Complainant in writing that the Complaint has been received and will provide a copy to the MNPDP officer or staff member identified or to the Chief of Police if the department generally is identified; the acknowledgment will include the identifying number of the Complaint. The Complainant shall be kept informed ~~concerning~~ about the status of a Complaint.

(2) The Director will review each Complaint to determine whether the COB has Jurisdiction to conduct an investigation. If not, then with the approval of the Board Chair, the Director will dismiss the Complaint. If authority exists, or if it is unclear whether authority exists, the Director will assign the case to an investigator. Director initiated investigations will be assigned automatically to an investigator. Complaints in other than English shall be translated to English. The Director will give written notice of each investigation undertaken, including a copy of the Complaint or if not in English, the translated Complaint, to the MNPDP Office of Professional Accountability.

(3) Investigations will be stayed if a criminal investigation of the alleged MNPDP Misconduct is undertaken, either before or after the COB Complaint has been filed. The COB may or may not commence the investigation after the criminal investigation has concluded depending upon the outcome.

(4) The Director may stay an investigation if a civil lawsuit is filed, either before or after the COB Complaint, alleging the same MNPDP Misconduct. The COB may or may not commence the investigation after the civil litigation has concluded depending upon the outcome.

(5) The Director will advise the Board of all stayed investigations and the reasons therefore. A stayed investigation may be closed and the matter dismissed upon the written request of the Director with the ~~permission~~ written approval of the Board Chair.

(6) In all cases except those alleging excessive force, serious bodily injury or in-custody deaths, the COB may offer, and if it does, the Director will advise the Complainant and the accused MNPDP officer/employee of the availability of, Mediation, Conciliation and/or a Restorative Justice program, and what they entail, as an alternative to an investigation and possible Board hearing. Those alternatives shall be for the purpose of fully, thoroughly and frankly discussing the alleged Misconduct and attempting to arrive at a mutually agreeable resolution of the Complaint. During such a process, which must be completed within _____ days, the

investigation is suspended. Any of these alternative processes will involve the Complainant, the Subject Officer, and a facilitator chosen by the Director. No other person may be present, and no recording will be made. Witness statements may be presented in writing. Complaints resolved through such a process to the mutual satisfaction of the parties will be deemed withdrawn. Otherwise the Complaint will be referred for investigation.

(7) All investigations which have not been stayed, or referred to Mediation/Conciliation/Restorative justice alternatives, will be completed and submitted to the Director within forty-five (45) calendar days of assignment, unless that time is extended by the Director in writing for good cause stated.

(8) Investigators will make every reasonable effort to interview all relevant witnesses, obtain relevant audio, photo, and video recorded evidence, and develop any other relevant tangible evidence. All interviews should be recorded if at all practicable, and all interviews with MNPDP officers/employees must be recorded absent extenuating circumstances. In addition to other information and evidence the COB obtains, investigators shall review records provided by MNPDP that reflect: (1) the complete disciplinary history of the officers/employees involved in incidents under review; (2) where their inclusion will aid the investigation, documents, reports, and other materials for incidents related to those under review, such as other incidents involving the same officer/employee; (3) all applicable MNPDP policies and training materials; and (4) where their inclusion will aid the investigation, documents, reports, and other materials for incidents that may indicate an overall trend in MNPDP's use of force, internal accountability, policies, or training. The investigative file shall be preserved and made part of the Resolution Report. All persons from whom an interview is sought shall be informed before the interview that the information provided to the COB is subject to disclosure as a public record.

(9) Both Complainants and the subjects of Complaints may be represented throughout the investigation by private attorneys.

(10) Complaints that are duplicative, or investigations cannot be conducted because of the lack of information in the Complaint, or cooperation from the Complainant may be administratively closed by the Director with the consent of the Board Chair.

C. Proposed Resolution Report

(1) Within ___ days after receipt of an investigative Report, the Director, in concert with the Investigator, will prepare and submit to the Board a Proposed Resolution Report with factual findings based on the investigation. The Director shall ensure that investigation is as thorough as necessary to reach reliable and complete findings, and are objective, fair, impartial, and free from political influence. The Director will consider all relevant evidence, including circumstantial, direct, and physical evidence and will apply a reasonable "basis to believe" standard in making his findings. There will be no automatic preference for a MNPDP officer's or employee's statement over other statements, nor will the Director or investigator disregard a witness's statement merely because the witness has some connection to the Complainant or

because of any criminal history or any concern regarding mental illness. During its investigation, the COB will take into account any convictions for crimes of dishonesty of a civilian Complainant or any witness, but only as relevant to credibility. The COB also will take into account the record of any involved MNPD officers/employees who have been determined to have been deceptive or untruthful in any legal proceeding, Misconduct investigation, or other investigation. reasonable “basis to believe” is a belief supported by trustworthy evidence which would justify a person of average caution charged with this same investigative responsibility to believe that the alleged Misconduct occurred. The Proposed Resolution Report will include the following at a minimum:

- a. Summary of the misconduct allegation, the Complaint and any response to the Complaint;
- b. A conclusion as to each alleged act of Misconduct as:
 1. “sustained” -- the factual findings support the allegation
 2. “not sustained” -- the factual findings do not support the allegation
 3. “policy exoneration” -- the factual allegations in the Complaint do not violate MNPD policy
 4. “justified” -- the factual findings support the allegation, but that it was lawful, justified and proper
- c. Summary of the COB’s investigation of the alleged Misconduct;
- d. The COB’s factual findings regarding the alleged Misconduct, including any MNPD policies, criminal laws or civil rights statutes violated;
- e. Copies of any recorded testimony, written statements, interview reports, audio or video recordings, or other exhibits;
- f. A recommended remedy for any sustained MNPD Misconduct policy violations, whether disciplinary, non-disciplinary or both;
- g. Any non-disciplinary remedy implemented directly by the COB, as well as an assessment of the perceived outcome and effectiveness of that remedy;
- h. Determination regarding whether to refer criminal Misconduct to the District Attorney, Grand Jury, or U.S. Attorney;
- i. Determination of whether to recommend MNPD policy changes based on the Misconduct investigation

D. Board Review of the Director's Proposed Resolution Report

(1) The COB will post the Proposed Resolution Reports on its website at least _____ (____) calendar days before a scheduled hearing by the Board. The Aggrieved Person and the accused MNPDP officer/employee will be given contemporaneous notice of the posting and of the scheduled date for the Proposed Report's consideration by the Board. No later than five (5) calendar days before the hearing the Aggrieved Person or the accused MNPDP officer/employee, or their representatives, may request permission to speak on the at the Board meeting. Permission will not be granted ~~as a normal course~~ regularly, but the Board Chair may grant permission for brief comments--not exceeding ~~minutes~~ _____ (____) minutes--each for good cause shown.

(2) The Board will review each Proposed Resolution Report. In most situations, the Board will make its decision based upon the Proposed Resolution Report and any comments by the Director without any further submission or argument by the Aggrieved Person ~~of~~ or the accused MNPDP officer/employee, as each has had the opportunity to present information to the COB during the investigation. the Board may take one of the following actions:

a. Accept the Proposed Resolution Report as submitted and send it to the agency(ies) identified in the report.

b. Accept, but modify, the Proposed Resolution Report based on information contained in the report, and as modified send it to the appropriate agency(ies).

c. Reject the Proposed Resolution Report and based on information contained therein reach a different conclusion, directing that the Director revise the report, and as modified send it to the appropriate agency(ies).

d. Return the Proposed Resolution Report to the staff for further investigation and/or analysis.

(3) No Board member shall communicate outside a hearing with the Complainant, the accused or their respective representatives about a Complaint or a matter under investigation.

(4) No Board member shall conduct their own investigations or add their own evidence to the record of the Proposed Resolution Report.

(5) Regardless of outcome, all Resolution Reports approved by the Board shall be sent by the COB to the MNPDP Chief of Police and the MNPDP Office of Professional Accountability.

E. Petition for Rehearing

(1) Within _____ (____) calendar days following the Board's announced decision on the Proposed Resolution Report at the hearing, the Aggrieved Party or the accused may petition the Board in writing, with grounds set forth, for a reconsideration. Such rehearing may be granted by the Board if it is shown that there is newly discovered evidence that is material to the investigation for the party making the application which could not have been, with reasonable diligence, discovered and provided to the COB during the investigation, or that there was substantial procedural error likely to have affected the outcome.

(2) Upon the COB's receipt of a Petition for Rehearing, the Board Chair in consultation with the Director will promptly decide whether to grant or deny the request. When a rehearing is granted, the matter shall be taken up at the next regularly scheduled Board meeting.

(3) No Board member will knowingly communicate with a member of the public, the accused, their respective representatives or an organization about the subject of the request for reconsideration. Information and correspondence that is not in the record at the time the request for reconsideration is submitted only may be considered in making a decision if it is accepted as new evidence on remand from the Board to the COB.

F. Advocacy on Behalf of COB Resolution Reports

The Director and COB ~~staff~~ may advocate on behalf of the findings and recommendations contained in COB Resolution Reports that are forwarded to MNPDP, the District Attorney, the Grand Jury, or U.S. Attorney's Office.

SECTION 3. Policy Advisory Reports

A. The COB may review and investigate any aspect of the Davidson County Criminal Justice system without need for anyone having filed a Complaint as to any policy or practice. To assure the best use of resources, however, before undertaking such a matter, the Director shall advise and seek input from the Board.

B. The COB may publish Policy Advisory Reports addressing any aspect of Davidson County's Criminal Justice System, after presentation to and approval by the Board.

C. Such reports shall be based on the following considerations:

(1) Community input, which should be actively solicited from those communities that are most directly affected by the policies at issue.

(2) Policy research and analysis, which shall take into account insights from the fields of criminology, criminal justice, law enforcement theory, civil rights, and racial justice. Such analyses shall, to the extent practicable, assess the costs and benefits of the policies at issue,

including the potential harms that may be imposed by the investigation, arrest, incarceration, and/or prosecution of members of the community.

(3) Legal analysis of the policy at issue in relation to Tennessee and/or federal law.

D. The Board will review such Proposed Advisory Reports. In conducting such reviews, the COB may solicit the input of affected criminal justice agencies, community representatives, professionals in the field, or other experts. The COB may also conduct public hearings on the proposal at issue.

E. If the COB approves the proposal, the COB will publish the Policy Advisory Report. Publication of such report will authorize the Director to work with the affected criminal justice agencies toward implementing any recommendations in the Advisory Report.

SECTION 4. Community Comments at Board Meeting

A. The Board will regularly provide a time for public comment at its meetings, although not necessarily at every meeting. Board meeting agendas will note time provided for public comment. At those meetings, any ~~Metro resident may speak without making any request before the meeting. Before the meeting begins, however, the COB staff will ask those residents who want to speak to sign up,~~ person or organization with a direct local interest in an issue the Board has authority to consider may speak, except as to matters noted in Part C below; those interested in speaking at the Board meeting will be asked to sign in on a speakers sheet 30 minutes before the Board meeting begins so an orderly process for the speakers may be arranged. The public comment time will be limited so the Board may discuss its other scheduled matters. Each resident may speak for three (3) minutes, although in unusual situations that time may be ~~adjusted~~ modified by the Board Chair depending on the number of people who wish to speak and the Board's agenda.

B. Anyone resident who wants to speak at a Board meeting who is not fluent in English may request the COB ~~staff~~ to provide the assistance of an interpreter. Requests for the assistance of an interpreter will need to be made at least ___ days before a Board meeting. While the COB cannot guarantee that an interpreter will be available, it will make every reasonable effort to meet timely requests at no cost to the requesting resident.

C. ~~C.~~ Public comment by an Aggrieved Person or an MNPD officer/employee about a Proposed Resolution Report, which has been submitted to the Board for review, is addressed ~~in Section _____ of these rules~~ separately in Rule 2, Part D. If someone wants to speak about an alleged incident of police misconduct at a Board meeting, the Chair will ask the person whether they have filed a Complaint with the COB. If the answer is no, the person will be asked to make a Complaint so it may be investigated, rather than discussing it at the meeting. If the person says yes they have, then the Chair should tell them that once the investigation is completed, a report will be sent to the Board for its consideration, rather than it then be discussed. If a Resolution Report has

been submitted to the Board for consideration, the Chair should explain to the speaker how to request to speak about the report when it comes to the Board.

D. ~~D. Periodically, and at least once~~ Periodically, and at least twice a year, the Board will hold public forums ~~to hear from in~~ the community. Those forums may be about a specific issue or issues, or it may be a general meeting to ~~hear whatever Metro residents wish to discuss~~ listen and discuss any matter of local concern about law enforcement and conduct, other than those matters addressed in Part C above. Those interested in speaking at the forum will be asked to sign in on a speakers sheet 30 minutes before the meeting begins so an orderly process for the speakers may be arranged. The Board may limit the number of speakers and the time each may speak at a forum depending on number of people who wish to speak.

SECTION 5. Community Education and Involvement

A. The COB will prepare and distribute to the public an informational document about the COB and the Board, and specifically outlining the Complaint process. This ~~is to include ways of filing~~ document will describe the methods for making a Complaint and a brief description of the investigative process. The document will be distributed to the public online and made available in the police stations, the Davidson County Courthouses, and in other Metropolitan Government departmental and private sector offices. The information will also be available to the news media.

B. ~~Members of the COB~~ While only the Board Chair and the Executive Director can officially speak for the Board, members of the Board and the staff generally will be available to attend various community and professional group meetings for the purpose of ~~education~~ sharing information about the Board and the COB, ~~its role~~ their roles and responsibilities.

SEPARATE OUR BOARD FROM STAFF

SECTION 6. Training

Board members and COB employees will receive, and are required to undertake, the following training:

- (A) Metropolitan Nashville's Citizen Police Academy or an equivalent training, including a ride along
- B. Tennessee Bureau of Investigation shooting simulator training
- (C) Ongoing civil rights and equity training from entities concerned with police oversight
- D. Equity, cultural sensitivity and unconscious bias training
- E. Civil rights training, including the Fourth Amendment right to be free from unreasonable searches and seizures, including unreasonable use of force

1/10/19

TOO MUCH BOARD

OTHER RECOMMENDATIONS

F. Training provided to MNPB officers on use of force, including a review and familiarization with all MNPB policies related to use of force, and including policies related to MNPB's internal review of force incidents

G. Training on MNPB rules, policies, and procedures, and Internal Affairs procedures.

SECTION 7. Annual Reports

The COB's annual report will include, at a minimum, the following:

A. A statistical report on the COB's resolutions of allegations of MNPB misconduct. This report should provide the following information both in summary, and detailed by the race, gender, and ethnicity of Complainant:

- (1) The number of Misconduct Complaints received;
- (2) The number of Misconduct investigations initiated;
- (3) The number of Misconduct investigations resolved;
- (4) The average number of days required to resolve Misconduct Complaints, from receipt of the Complaint to final resolution;
- (5) The number and percentage of Complaints resulting in a finding of "Sustained," "Not Sustained," and "Policy Exoneration";
- (6) The number and percentage of Complaints alleging the following Misconduct categories resulting in a finding of "Sustained," "Not Sustained," and "Policy Exoneration":
 - a. Excessive Force;
 - b. Violation of Civil Rights;
 - c. False Arrest;
 - d. False statements;
 - e. Race Discrimination.
- (7) The number and percentage of "Policy Exoneration" determinations resulting in a review of the relevant MNPB policy(ies);
- (8) The number and percentage of Complaints resulting in a finding of criminal Misconduct by an MNPB officer;

(9) The number of MNPD Misconduct cases referred to the District Attorney's Office, Grand Jury, or U.S. Attorney's Office;

(10) The number and percentage of Complaints resulting in the imposition of non-disciplinary remedial measures implemented directly by the COB;

(11) The number and percentage of Complaints resulting in a recommendation of discipline;

(12) The number and percentage of Complaints resulting in a recommendation of the following categories of discipline:

- a. Reprimand;
- b. Suspension;
- c. Termination.

(13) The number of matters resolved by Mediation/Conciliation/Restorative justice programs

B. A report on community engagement and input received during the year, including:

- (1) The initiatives taken by the COB to actively engage with the community;
- (2) The criminal justice concerns raised by the community, and the identity of those organizations and/or individuals endorsing the concerns who wish to be identified;
- (3) The actions taken in response to concerns raised by the community.

C. A listing of all Policy Advisory Reports issued by the COB during the year, and the following information regarding each Advisory Report:

- (1) A summary of the relevant criminal justice institution(s)' receptiveness and response to the Advisory Report;
- (2) A summary of any specific feedback provided by the institution which was the subject of the report;
- (3) A summary of the steps taken to work with the relevant institution toward implementation of the Advisory Report;
- (4) A summary of any policy or other changes implemented by the relevant institution in response to the Advisory Report;

(5) A determination regarding whether each existing Policy Advisory initiative merits continuation into the following year.

D. A report on the COB' s efforts to develop and maintain positive relationships with Davidson County's criminal justice agencies, and any reciprocal efforts by those agencies.

Comparison Details	
Title	pdfDocs compareDocs Comparison Results
Date & Time	4/15/2019 4:10:07 PM
Comparison Time	1.11 seconds
compareDocs version	v4.2.0.25

Sources	
Original Document	c:\Users\mjs\AppData\Local\Temp\ND\Nashville COB Rules Governing Policies, Procedures and Protocols.docx
Modified Document	c:\Users\mjs\AppData\Local\Temp\ND\Nashville COB Rules Governing Policies, Procedures and Protocols(1).docx

Comparison Statistics	
Insertions	14
Deletions	6
Changes	15
Moves	0
TOTAL CHANGES	35

Word Rendering Set Markup Options	
Name	BDBC Standard
<u>Insertions</u>	
Deletions	
<u>Moves / Moves</u>	
Inserted cells	
Deleted cells	
Merged cells	
Formatting	Color only.
Changed lines	Mark left border.
Comments color	By Author.
Balloons	True

compareDocs Settings Used	Category	Option Selected
Open Comparison Report after Saving	General	Always
Report Type	Word	Formatting
Character Level	Word	False
Include Headers / Footers	Word	True
Include Footnotes / Endnotes	Word	True
Include List Numbers	Word	True
Include Tables	Word	True
Include Field Codes	Word	True
Include Moves	Word	True
Show Track Changes Toolbar	Word	False
Show Reviewing Pane	Word	True
Update Automatic Links at Open	Word	False
Summary Report	Word	End
Include Change Detail Report	Word	Separate
Document View	Word	Print
Remove Personal Information	Word	False
Flatten Field Codes	Word	False

CHAPTER 2-78
CIVILIAN OFFICE OF POLICE ACCOUNTABILITY

2-78-100 Definitions.

2-78-105 Civilian office of police accountability – Establishment and composition.

2-78-110 Purpose.

2-78-115 Chief administrator – Qualifications and appointment.

2-78-120 Office and chief administrator – Powers and duties.

2-78-125 Subpoenas.

2-78-130 Decisions, recommendations.

2-78-135 Investigations not concluded within six months.

2-78-140 Cooperation in investigations.

2-78-145 Reports open to public inspection.

2-78-150 Quarterly and annual reports to legislative and executive branches.

2-78-151 Appearance before committee.

2-78-155 Chief administrator – Conditions for removal from office.

2-78-160 Retaliation, obstruction or interference prohibited – Penalty.

2-78-165 Violation – Penalty – Discharge or other discipline.

2-78-170 Rules and procedures.

2-78-175 Accountability.

2-78-180 Transition.

2-78-185 Public policy.

2-78-100 Definitions.

The following terms wherever used in this chapter shall have the following meanings unless a different meaning appears from the context:

“Chief Administrator” means the Chief Administrator of the Civilian Office of Police Accountability or the Chief Administrator's designee.

“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.

“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.

“Excessive force” means a police officer'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.

“Final Summary Report” means the report summarizing an investigation conducted by the Office concerning an incident of alleged police misconduct or another incident that is within the Office's jurisdiction that is made available to the public pursuant to Section 2-78-145, which shall contain, as applicable: (i) a description of the officers and subjects involved in the incident; (ii) the date, time and location of the incident; (iii) a description of the allegations and applicable rules; (iv) a narrative summary of the incident; (v) a narrative summary of the investigation; and (vi) the Office's findings and conclusions.

“Military status” has the meaning ascribed to the term in Section 2-160-020.

“Office” means the Civilian Office of Police Accountability established in this chapter.

“Police Board” means the Police Board established in Chapter 2-84 of this Code.

“Police Department” means the Department of Police established in Chapter 2-84 of this Code.

“Superintendent” means the Superintendent of Police or the Superintendent's designee.

“Transition Date” means the date when, in the discretion of the Chief Administrator, the Office has been established and is functioning to the point that it can assume the duties and investigations previously discharged by the Independent Police Review Authority, which shall be as soon as possible after January 1, 2017, but no later than September 30, 2017.

“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.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-105 Civilian office of police accountability – Establishment and composition.

There is hereby established an office of the municipal government to be known as the Civilian Office of Police Accountability, which shall include the Chief Administrator and such deputies, assistants and other employees as required to perform the Office's powers and duties as set forth in this chapter. The Office shall be located in a facility separate from the Police Department.

The appropriations available to pay for the expenses of the Office during each fiscal year shall be determined by the City Council as part of the annual City budget process, but shall not be less than one percent (1.0%) of the annual appropriation of all non- grant funds for the Police Department contained in the annual appropriation ordinance for that fiscal year.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-110 Purpose.

The mission of the Civilian Office of Police Accountability is to provide a just and efficient means to fairly and timely conduct investigations within its jurisdiction, including investigations of alleged police misconduct and to determine whether those allegations 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 reduce incidents of police misconduct.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-115 Chief administrator – Qualifications and appointment.

The Chief Administrator shall be the chief executive officer of the Office, shall serve a term of four (4) years, and at the conclusion of such term may be considered for reappointment. The Chief Administrator may be removed from office prior to the conclusion of such term only for cause in accordance with Section 2-78-155.

Upon the effective date of this Ordinance, the individual serving as the Chief Administrator of the Independent Police Review Authority shall become the first Chief Administrator of the Office. Such Chief Administrator, or, if such individual shall resign or otherwise vacate such office, a successor selected by the Mayor and approved by the City Council, shall continue to serve as Chief Administrator of the Office until a permanent method of selecting the Office's Chief Administrator shall be enacted by the City Council and become effective.

The Chief Administrator shall have the following minimum qualifications:

- (a) An attorney with substantial experience in criminal, civil rights, and/or labor law, or corporate and/or governmental investigations; or an individual with substantial experience in law enforcement oversight, or investigating employee or other wrongdoing;
- (b) Knowledge of law enforcement, particularly of internal investigations of wrongdoing and use of force;
- (c) A commitment to and knowledge of the need for and responsibilities of law enforcement, as well as the need to protect basic constitutional rights of all affected parties;
- (d) Demonstrated integrity, professionalism, sound judgment, and leadership; and
- (e) The ability to work with diverse groups and individuals.

The Chief Administrator shall not be a current or former sworn employee of the Police Department, a non-sworn employee of the Police Department within the last five years, or an employee of the Cook County State's Attorney's Office within the last five years.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-120 Office and chief administrator – Powers and duties.

The Office and Chief Administrator shall have the following powers and duties:

- (a) To receive and register all complaints filed against members of the Police Department;
- (b) To conduct investigations into complaints against members of the Police Department alleging domestic violence, excessive, force, coercion, or verbal abuse;
- (c) To conduct investigations into all 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;
- (d) To conduct investigations into 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;

(e) To conduct investigations into all incidents of an "officer-involved death," as that term is defined in 50 ILCS 727/1-5;

(f) To conduct investigations into complaints against members of the Police Department alleging improper search or seizure of either individuals or property, or unlawful denial of access to counsel;

(g) To forward all complaints filed against members of the Police Department, other than those set forth in paragraphs (b) - (f) of this section, to the Police Department's Bureau of Internal Affairs;

(h) In the Chief Administrator's discretion, to review lawsuits or claims against the Police Department, or one or more of its members, or against the City alleging police misconduct that falls within the Office's jurisdiction, where such lawsuit or claim was subsequently settled or resulted in a judgment against such member, the Police Department or the City, for the purpose of reopening a prior investigation or opening a new investigation of alleged police misconduct;

(i) To refer a complaint against a member of the Police Department within the Office's jurisdiction to mediation or such other methods of alternative dispute resolution that may be adopted in the Chief Administrator's discretion, except for complaints alleging the use of excessive force that results in death or serious bodily injury and cases of domestic violence involving physical abuse or threats of physical abuse. The Office shall promulgate rules governing such mediations and other dispute resolution methods, which shall provide that participation shall be voluntary for all parties, and that the complainant, if any, shall be provided an opportunity to participate in the mediation process or other alternative dispute resolution process;

(j) To conduct investigations within its jurisdiction in a manner consistent with Article IV of Chapter 2-84 of this Code, the rules established by the Police Board, and any other applicable laws and rules;

(k) Subject to applicable law, to review the complaint history of a member of the Police Department in order to inform a current investigation;

(l) To recommend to the Superintendent, with respect to incidents within its jurisdiction, appropriate disciplinary or other remedial action against members of the Police Department found to be in violation of any applicable Police 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. Such remedial action may include, but is not limited to, reassignment, additional training, or counseling;

(m) Based on information obtained through investigations conducted pursuant to this section, to recommend to the Superintendent, the Chairman of the City Council Committee on Public Safety, and the Police Board revisions to the Police Department's policies, practices, collective bargaining agreements, programs and training in order to improve the accountability, effectiveness, integrity and transparency of the Police Department;

(n) To conduct investigations to determine whether members of the Police Department are engaging in patterns or practices of misconduct, and, where a pattern or practice of misconduct is found, recommend revisions to the Police Department's policies, practices, programs, and training in order to address and eliminate such patterns or practices;

(o) Subject to applicable law, to have full access to all information in the possession or control of the Police Department, the Police Board, and any other City department or agency in order to conduct investigations within the Chief Administrator's jurisdiction;

(p) To issue subpoenas to compel the attendance and testimony of witnesses and the production of documents and other items relevant to an investigation within its jurisdiction. Issuance of subpoenas shall be subject to Section 2-78-125;

(q) To retain counsel to enforce and defend against subpoenas and to advise and represent the Office with respect to its investigations, provided:

- (i) such counsel are selected from a pool of no fewer than five firms previously approved by the Corporation Counsel after consultation with the Office;
- (ii) such counsel are retained pursuant to the standard terms of engagement then used by the Corporation Counsel, including any limitations on fees or costs;
- (iii) the costs of such representation are paid from the appropriations of the Office; and
- (iv) the Office provides the Corporation Counsel with notice of the engagement, including the firm selected and a copy of the engagement agreement.

Nothing in this provision shall be construed to alter the exclusive authority of the Corporation Counsel to either defend and supervise the defense of claims against the City and/or individual City defendants, or to provide the Office or the Chief Administrator with the authority to settle monetary or other claims against the City and/or individual City defendants.

(r) To promulgate rules and procedures for the conduct of the Office and its investigations consistent with due process of law, equal protection under the law, and all other applicable local, state and federal laws, and in accordance with Section 2-78-170;

(s) To set minimum qualifications and appropriate screening procedures for all persons to be considered for employment by the Office, and to set appropriate staffing levels to carry out the powers and duties set forth herein, provided, however, that no investigator employed by the Office shall be a current or former sworn member of the Police Department within the last five years;

(t) To address Police Department personnel and community groups, and inform the public, on the mission, policies and ongoing operations of the Office;

(u) To develop and implement a process for allowing citizens to file complaints by various means, including submission of complaints using the Internet, by telephone, and in person at locations or meetings in the community;

(v) In the Chief Administrator's discretion, to 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 the Office's jurisdiction;

(w) To appear before the Committee on Finance at public hearings at which proposed settlements of lawsuits and controverted claims against the Police Department or its members are submitted for approval, and, subject to any applicable legal constraints regarding confidentiality, reply to questions related to Office or Independent Police Review Authority investigations involving Police Department members who are named parties to said lawsuits or controverted claims; and

(x) Subject to applicable law and in the Chief Administrator's discretion, to reopen any closed Office or Independent Police Review Authority investigations if:

(i) 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;

(ii) The Chief Administrator determines that the manner in which the investigation was concluded has resulted in a gross miscarriage of justice; or

(iii) Following a review or audit of an investigation by the Deputy Inspector General for Public Safety, the Deputy Inspector General for Public Safety recommends that the investigation be reopened. If the Chief Administrator declines to reopen a closed investigation pursuant to this subparagraph (ii), the Chief Administrator shall provide a written explanation of its reasons to the Deputy Inspector General for Public Safety.

Nothing in this chapter shall preclude the Chief Administrator from referring a complaint or information concerning a member of the Police Department to the Office of the Inspector General, or to appropriate federal, state or local law enforcement authorities. Nor shall anything in this chapter preclude the Office from conducting an investigation within its jurisdiction concurrently with an active criminal investigation.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-125 Subpoenas.

The Office may administer oaths and secure by subpoena both the attendance and testimony of witnesses and the production of relevant information. A subpoena shall be served 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.

A subpoena issued under this chapter shall identify the person to whom it is directed and the documents or other items sought thereby, 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 shall the date for examination or production be less than seven days after service of the subpoena.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-130 Decisions, recommendations.

(a) Disciplinary-related recommendations.

(i) If the Chief Administrator issues a recommendation of discipline, or other, nondisciplinary remedial action with regard to one or more members of the Police Department, the Superintendent shall respond to such recommendation within 60 days (for purposes of this section, the "Review Period"). The Superintendent's response shall include either: (1) a confirmation that the recommendation was followed with respect to the employee in question, and, if applicable, a description of any additional disciplinary or other action imposed by the Superintendent; (2) a request that the Chief Administrator conduct additional investigation, specifying the additional investigation that is requested, and the reason(s) for that request; or (3) if the Superintendent intends to take no action, or intends to take action that differs in substance and/or scope from the recommendation, the information required under subsection (a)(ii) of this section. Upon request of the Superintendent, such Review Period may be extended for up to 30 additional days, for a total Review Period not to exceed 90 days.

(ii) If the Superintendent intends to take no action, or intends to take action different from that recommended by the Chief Administrator, the Superintendent shall describe the proposed different action and explain the reasons for it in a written response.

The Superintendent's response shall be submitted to the Chief Administrator within the Review Period.

(iii) Within ten business days after the submission of a response that proposes no action or different action than that recommended by the Chief Administrator, the Superintendent and the Chief Administrator shall meet to discuss the Superintendent's response. If, after meeting, the Chief Administrator and the Superintendent do not agree to the Chief Administrator's recommendation, the Chief Administrator shall, within five business days of such impasse, send the Superintendent's response, along with the Chief Administrator's written objections to the response, to a member of the Police Board selected by the Police Board from its membership, with notice and a copy of all such materials to the Superintendent. The selected member shall, within ten business days of receipt of such response and objections, review the Chief Administrator's recommendation, the Superintendent's response, and the Chief Administrator's objections. Upon request of the member, the Superintendent and Chief Administrator may be required to present additional documentation or arguments in support of their positions. If, in the opinion of the member, the Superintendent does not meet his burden of overcoming the Chief Administrator's recommendation for discipline, the recommendation shall be deemed accepted by the Superintendent. The final decision of the member shall be announced at the next regular public meeting of the Police Board, and shall be promptly posted on the Police Board's website. If, in the opinion of the member, the Superintendent has met his

burden, the Superintendent's response shall be implemented. The member shall recuse himself from any future involvement with the case by the full Police Board.

(iv) A response of the Superintendent that proposes to take no action or action different from that recommended by the Chief Administrator shall not be valid or effective until the process of subsection (a) (iii) of this section is completed.

(v) If the Superintendent does not respond to the Chief Administrator's recommendation within the Review Period, such recommendation shall be deemed accepted, and shall be implemented, by the Superintendent.

(vi) Nothing in this chapter shall limit the Superintendent's ability to impose additional action to that recommended by the Chief Administrator, including discipline that is more severe than that recommended by the Chief Administrator or non-disciplinary remedial actions in addition to the discipline recommended by the Chief Administrator.

(b) *Policy, program and practices recommendations.* If the Chief Administrator issues a recommendation or report to the Superintendent concerning a policy, program, or practice of the Police Department, the Superintendent shall respond to such recommendation or report within 60 days of receipt. Such response shall include a description of the actions the Superintendent has taken or is planning to take, if any, with respect to the issues raised in the report or recommendation. If the Superintendent declines to implement one or more of the Chief Administrator's recommendations, such response shall explain the reasons for doing so. In addition, at the request of at least three aldermen, the Chairman of the City Council Committee on Public Safety shall request that the Superintendent or his designee appear at a hearing of the Committee on Public Safety to explain and respond to questions concerning such response.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-135 Investigations not concluded within six months.

If the Office does not conclude an investigation of alleged misconduct within six months after its initiation, the Chief Administrator shall notify, within five days after the end of the six-month period, the Mayor or his 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 the Office's failure to complete the investigation within six months. Thereafter, the Office shall provide an update to such notice, including the same information and notification to the same individuals, every six months until the investigation is completed.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-140 Cooperation in investigations.

It shall be the duty of every officer, employee, department, and agency of the City to cooperate with the Office in any investigation undertaken pursuant to this chapter. Any employee or appointed officer of the City who violates any provision of this chapter shall be subject to discipline, including but not limited to discharge, in addition to any other penalty provided in this chapter.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-145 Reports open to public inspection.

All Final Summary Reports of the Office shall be posted on the Office's website and open to public inspection, except to the extent that information contained therein has been redacted because it is exempted from disclosure by the Illinois Freedom of Information Act or any other applicable law. Such reports, as redacted, shall be posted on the Office's website and open to public inspection, along with the response of the Superintendent thereto, if any, promptly after, but not before, the process set forth in Section 2-78-

130(a) is completed and disciplinary charges, if any, are served on the employees in question. The Office also shall provide a copy of the report to the complainant, if there is one.

Reports of the Office concerning its recommendations as to a Police Department policy, practice, or process, or training pursuant to Section 2-78-120(m) or (n) shall be posted on the Office's website and open to public inspection, except to the extent that information contained therein has been redacted because it is exempted from disclosure by the Illinois Freedom of Information Act or any other applicable law. Such reports, as redacted, shall be posted on the Office's website and open to public inspection, along with the Police Department's response thereto, promptly after, but not before, the process set forth in Section 2-78-130(b) is completed.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-150 Quarterly and annual reports to legislative and executive branches.

(a) *Quarterly reports.* No later than the fifteenth day of April, July and October of each year, the Chief Administrator shall post on the Office website for public review and file with the Mayor or his designee, the Superintendent, the Chairman of the City Council Committee on Public Safety, and the office of the City Clerk, a quarterly report providing information based on data through the end of the preceding month on: (1) the number of investigations initiated during that quarterly reporting period; (2) the number of investigations concluded during that quarterly reporting period, and of those investigations, the number that took more than six months to conclude; (3) the number of investigations pending as of the end of that quarterly reporting period; (4) the number of complaints not sustained during that quarterly reporting period; (5) the number of complaints sustained during that quarterly reporting period; (6) the number of complaints filed as to each Police Department district during the quarterly reporting period; (7) without identifying any individual police officer, the number of complaints filed against each police officer in each Police Department district during the quarterly reporting period; and (8) the number of complaints referred to other agencies during the quarterly reporting period and the identity of such other agencies. Such quarterly reports shall also summarize any reports or recommendations issued to the Superintendent concerning the policies, programs, and practices of the Police Department, and the Superintendent's response to such reports or recommendations.

(b) *Annual reports.* No later than the fifteenth day of February of each year, the Chief Administrator shall post on the Office's website for public review and file with the Mayor or his designee, the Superintendent, the Chairman of the City Council Committee on Public Safety, the Office of the City Clerk, and the Deputy Inspector General for Public Safety, an annual report providing information based on data during the prior calendar year on: (1) the number of investigations initiated during the prior calendar year; (2) the number of investigations concluded during the prior calendar year, and of those investigations, the number that took more than six months to conclude; (3) the number of investigations pending as of the last day of the prior calendar year; (4) the number of complaints not sustained during the prior calendar year; (5) the number of complaints sustained during the prior calendar year; (6) the number of complaints filed as to each Police Department district during the prior calendar year; (7) without identifying any individual police officer, the number of complaints filed against each police officer in each Police Department district during the prior calendar year; and (8) the number of complaints referred to other agencies during the prior calendar year and the identity of such other agencies.

Such annual reports shall also describe and summarize the results of the Office's investigations and the Office's other activities and performance during the prior calendar year.

Finally, such annual reports shall summarize any reports or recommendations issued to the Superintendent concerning the policies, programs, and practices of the Police Department during the prior calendar year, and the Superintendent's responses to such reports and recommendations.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-151 Appearance before committee.

Within 45 days of issuance of the quarterly or annual report required in Section 2-78-150, the Chief Administrator or his designee shall appear at a hearing of the City Council Committee on Public Safety to respond to questions concerning such report.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-155 Chief administrator – Conditions for removal from office.

Prior to serving a complete term, the Chief Administrator may be removed only for cause and in accordance with this section. The Mayor shall give written notice to the Chairman of the City Council's Committee on Public Safety and the Chief Administrator of his intent to remove the Chief Administrator, and the reason for the proposed removal. Within ten days after receipt of the notice, the Chief Administrator may file with the Chairman of the City Council's Committee on Public Safety a request for hearing on the cause for removal. If no such request is made within ten days, the Chief Administrator shall be deemed to have resigned his or her office as of the tenth day after receipt of the notice of intended removal. If such a request is made, the City Council Committee on Public Safety shall convene a hearing on the cause for removal of the Chief Administrator, at which the Chief Administrator may appear, be represented by counsel, and be heard. The hearing shall be convened within ten days after receipt of the request for the hearing and conclude within 14 days thereafter. The Mayor's notice of intended removal shall constitute the charge against the Chief Administrator. Removal of the Chief Administrator for cause after the hearing shall require the affirmative vote of a majority of the members of the City Council.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-160 Retaliation, obstruction or interference prohibited – Penalty.

(a) *Retaliation.* No person shall retaliate against, punish, intimidate, discourage, threaten or penalize any other person for reporting misconduct, making a misconduct complaint, conducting an investigation, complaining to officials, providing information, testimony or documents in an investigation, or cooperating with or assisting the Office in the performance of its powers and duties as set forth in this chapter.

(b) *Obstruction or interference.* No person shall willfully refuse to comply with a subpoena issued by the Office, or otherwise knowingly interfere with or obstruct an investigation conducted by the Office.

(c) *Penalty.* Any person who willfully violates this section shall be subject to a fine of not less than \$1,000.00 and not more than \$5,000.00 for each such offense, or imprisonment for a period of not less than 30 days and not more than six months, or both a fine and imprisonment. Each day that a violation continues shall constitute a separate and distinct offense. Actions seeking the imposition of a fine only shall be filed as quasi-criminal actions subject to the provisions of the Illinois Code of Civil Procedure. Actions seeking incarceration, or incarceration and a fine, shall be filed and prosecuted as misdemeanor actions under the procedure set forth in Section 1-2-1.1 of the Illinois Municipal Code, 65 ILCS 5/1-2-1.1.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-165 Violation – Penalty – Discharge or other discipline.

Any employee or appointed officer of the City who violates any provision of this chapter shall be subject to discipline, including but not limited to discharge, in addition to any other penalty provided in this chapter.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-170 Rules and procedures.

The Chief Administrator is authorized to adopt such rules and procedures as the Chief Administrator may deem appropriate for the proper administration and enforcement of this chapter. All such rules and procedures shall be adopted only after posting of the rules and procedures proposed to be adopted on the Office website at least 30 days prior to the effective date of such rules and procedures. Upon adoption, the Chief Administrator shall maintain a copy of the rules and procedures on file at the Office, which copy

shall be made available for public inspection during regular business hours. The Chief Administrator shall also publicly post such rules and procedures on the Office website, subject to any limitations imposed by applicable law.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-175 Accountability.

The Chief Administrator and the Office are subject to review and audit by the Deputy Inspector General for Public Safety pursuant to Chapter 2-56 of the Municipal Code.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-180 Transition.

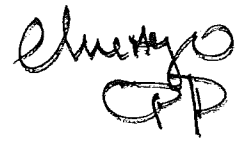
Upon the Transition Date, the Chief Administrator of the Office and the Office, respectively, shall assume all rights and powers of the former chief administrator of the Independent Police Review Authority and the former Independent Police Review Authority. All books, records, property and funds relating to the former Independent Police Review Authority and such rights and powers are transferred to the Office. Without limitation, the Chief Administrator and the Office shall succeed the former Chief Administrator of the Independent Police Review Authority and the Independent Police Review Authority in administering and investigating all pending matters under the jurisdiction of the former Independent Police Review Authority, in addition to new matters within the jurisdiction of the Office pursuant to this chapter.

(Added Coun. J. 10-5-16, p. 34471, § 3)

2-78-185 Public policy.

The public policy of this chapter is to make certain that complaints concerning police misconduct and abuse are resolved fairly and timely. All collective bargaining agreements must be in accord with this policy.

(Added Coun. J. 10-5-16, p. 34471, § 3)



**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. Closed – means an investigation that COPA or BIA has concluded and, if applicable, the Chicago Police Board has adjudicated;
- e. 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;
- f. Complainant – means any individual making allegations of misconduct regarding a member of the Chicago Police Department;
- g. Concluded – means an investigation that COPA has made a determination on, which may include findings, disciplinary recommendations, or an administrative disposition;
- h. Department – means the Chicago Police Department;
- i. 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;
- j. 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;
- k. Final Summary Report – means the report which summarizes the content and outcome of the investigation;
- l. 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;
- m. Police Board – means the police board established by MCC Chapter 2-84;

- n. Superintendent – means the Superintendent of the Chicago Police Department or the Superintendent’s designee;
- o. Unlawful denial of access to counsel – means a denial of access to counsel in violation of established law;
- p. 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
- q. 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, 4th Floor
Chicago, Illinois 60622

e. **Online:** By visiting the COPA website homepage at 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. 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 concluded.

§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 concluded or 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 concluded or 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 concluded or 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 concluded or 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(I), 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 concluded, 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.¹

¹ *Graham v. Connor*, 490 U.S. 386 (1989).

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;
- 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. If there are no allegations of officer misconduct related to the use of deadly force and if, based on the totality of the circumstances, the officer's use of deadly force was objectively reasonable and within policy, COPA's finding in the investigation will be "within Department policy."

For officer-involved shooting incidents with allegations of officer misconduct related to the use of deadly force, COPA's investigation will result in one of the following findings:

- **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.²

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;

² 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.

- 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;
- 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(l), 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 information³ 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

³ 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).

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.

§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.